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Wednesday
October 24, 1979

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue. An interpreter for hearing impaired persons will be present for the November 16 briefing.

61167 US-China trade relations agreement Presidential proclamation

61161 US-China trade relations agreement Executive order

61159 National Farm-City Week, 1979 Presidential proclamation

61157 Energy Emergency in Florida, Extension Presidential memorandum

61171 Technical Assistance and Energy Conservation Measures DOE changes closing date of first grant program cycle for schools, hospitals, and buildings owned by units of local government and public care institutions; applications by 3-15-80

61259 National Demonstration Projects HEW/OE invites applications for projects under the Upward Bound and Special Services for Disadvantaged Students; applications by 3-14-80

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Highlights

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61208 **Community Development Block Grants** HUD transmits interim rule to Congress

61176 **Mortgage and Loan Insurance** HUD increases maximum allowable finance charge on property improvement, mobile home loans and combination and mobile home lot loans for programs under National Housing Act; effective 10-15-79

61178 **Mobile Home Loans** VA increases maximum permissible interest rate; effective 10-22-79

61230 **Commercial Television Network Practices** FCC solicits comments on preliminary reports; comments by 1-14-80, reply comments by 1-29-80

61169 **Motor Gasoline** DOE/ERA amends retailer price information and posting rules; effective 10-24-79, comments by 12-11-79

61243 **Natural Gas Authorities** DOE/ERA increases coal and non-petroleum fuel usage and heavy oil production; comments by 12-21-79

61188 **Alternative Fuel Demonstration Facilities** DOE holds hearing and requests comments on proposed rule regarding Federal loan guarantees; comments by 12-12-79, hearing 11-28-79, requests to speak by 11-19-79

61312 **Mined Land in Steep Slope Areas** Interior/OSM proposes rules regarding backfilling and grading to achieve approximate original contour; comments by 11-23-79, hearing 11-16-79 (Part III of this issue)

61190, 61205 **Small Power Production and Cogeneration** DOE/FERC proposes rates for sale of electric energy, and requests further comments on proposed rules regarding qualifying status; comments by 12-1-79 (2 documents)

61317 **Energy Audits, Technical Assistance and Energy Conservation Measures Grants** DOE/Conservation and Solar Energy Office issues technical and editorial corrections for programs for schools, hospitals, and buildings owned by units of local government and public care institutions; effective 10-24-79 (Part IV of this issue)

61304 **Sunshine Act Meetings**

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61312 **Part III, Interior/OSM**
61317 **Part IV, DOE/Conservation and Solar Energy Office**

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Presidential Documents

Title 3—

The President

Memorandum of October 19, 1979

Determination Under Section 110(f) of the Clean Air Act—Florida

Memorandum for the Administrator, Environmental Protection Agency

Based on a request submitted to me by the Governor of the State of Florida to extend my July 6, 1979 determination that a regional energy emergency continues to exist in the State of Florida of such severity that a temporary suspension of certain air pollution control regulations which apply to fossil-fuel fired electric generating plants under the Florida Air Quality Implementation Plan may be necessary, and that other means of responding to the energy emergency may be inadequate, I hereby extend that determination from October 15, 1979, to and including December 31, 1979. This extension is limited by the same conditions as my July 6, 1979 determination.

If, during the extension, I find that a regional energy emergency no longer exists in Florida, I will direct that this extension be rescinded, and that all suspension orders issued by the Governor be terminated on the day of that rescission. Please continue to work with State officials to monitor carefully the residual oil supply in Florida and to inform me if the emergency should cease to exist. You will continue to retain full authority to disapprove temporary suspension of regulations in Florida and to exercise your emergency powers authority under Section 303 of the Clean Air Act, when and if necessary. It is important to keep suspensions to an absolute minimum since Section 110(f) of the Clean Air Act limits each suspension to a maximum duration of 120 days.

While my determination permits the temporary suspension of certain emission limiting requirements, it in no way permits the suspension of any national ambient primary or secondary air quality standard. Protection of these national health and welfare protective standards is consistent with Governor Graham's petition, and I commend him for his past restraint in using the authority to suspend some air pollution requirements.

This determination shall be published in the Federal Register.

Jimmy Carter

THE WHITE HOUSE,
Washington, October 19, 1979.

[FR Doc. 79-32909
Filed 10-22-79; 3:08 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4696 of October 22, 1979

National Farm-City Week, 1979

By the President of the United States of America

A Proclamation

All too often we take for granted the close working relationship between our farms and cities. On this 25th anniversary of National Farm-City Week, we can again reflect with pride on this unique interdependence.

It is a crucial interdependence that requires our constant attention. It determines whether our food and fiber supply will meet the needs of our citizens, our trading partners and our international humanitarian commitments. In short, it determines our future.

National Farm-City Week is a time for our rededication to cooperation, so we as a Nation can successfully meet the challenges that lie before us.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the period, November 16 through November 22, 1979, as National Farm-City Week.

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

Jimmy Carter

[FR Doc. 79-32949
Filed 10-22-79; 4:41 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4697 of October 23, 1979

Agreement on Trade Relations Between the United States of America and the People's Republic of China

By the President of the United States of America

A Proclamation

As President of the United States of America, acting through my representatives, I entered into the negotiation of an agreement on trade relations between the United States of America and the People's Republic of China with representatives of the People's Republic of China;

The negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93-618, January 3, 1975; 88 Stat. 1978) ("the Act");

An "Agreement on Trade Relations between the United States of America and the People's Republic of China", in English and Chinese, was signed on July 7, 1979, by representatives of the two Governments, and is annexed to this Proclamation;

The Agreement conforms to the requirements relating to bilateral commercial agreements specified in section 405(b) of the Act;

Article X of the Agreement provides that it shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose; and

Section 405(c) of the Act provides that a bilateral commercial agreement and a proclamation implementing such agreement shall take effect only if approved by the Congress;

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, proclaim as follows:

(1) This Proclamation shall become effective, said Agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the People's Republic of China in accordance with the terms of the said Agreement, on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose in accordance with Article X of the said Agreement.

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "China (any part of which may be under Communist domination or control)" and "Tibet" as of the effective date of this proclamation and a notice thereof shall be published in the Federal Register promptly thereafter.

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

Jimmy Carter

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China;

Acting in the spirit of the Joint Communique on the Establishment of Diplomatic Relations between the United States of America and the People's Republic of China;

Desiring to enhance friendship between both peoples;

Wishing to develop further economic and trade relations between both countries on the basis of the principles of equality and mutual benefit as well as nondiscriminatory treatment;

Have agreed as follows:

ARTICLE I

1. The Contracting Parties undertake to adopt all appropriate measures to create the most favorable conditions for strengthening, in all aspects, economic and trade relations between the two countries so as to promote the continuous, long-term development of trade between the two countries.

2. In order to strive for a balance in their economic interests, the Contracting Parties shall make every effort to foster the mutual expansion of their reciprocal trade and to contribute, each by its own means, to attaining the harmonious development of such trade.

3. Commercial transactions will be effected on the basis of contracts between firms, companies and corporations, and trading organizations of the two countries. They will be concluded on the basis of customary international trade practice and commercial considerations such as price, quality, delivery and terms of payment.

ARTICLE II

1. With a view to establishing their trade relations on a nondiscriminatory basis, the Contracting Parties shall accord each other most-favored-nation treatment with respect to products originating in or destined for the other Contracting Party, i.e., any advantage, favor, privilege, or immunity they grant to like products originating in or destined for any other country or region, in all matters regarding:

(A) Customs duties and charges of all kinds applied to the import, export, re-export or transit of products, including the rules, formalities and procedures for collection of such duties and charges;

(B) Rules, formalities and procedures concerning customs clearance, transit, warehousing and transshipment of imported and exported products,

(C) Taxes and other internal charges levied directly or indirectly on imported or exported products or services;

(D) All laws, regulations and requirements affecting all aspects of internal sale, purchase, transportation, distribution or use of imported products; and

(E) Administrative formalities for the issuance of import and export licenses.

2. In the event either Contracting Party applies quantitative restrictions to certain products originating in or exported to any third country or region, it shall afford to all like products originating in or exported to the other country treatment which is equitable to that afforded to such third country or region.

3. The Contracting Parties note, and shall take into consideration in the handling of their bilateral trade relations, that, at its current state of economic development, China is a developing country.

4. The principles of Paragraph 1 of this Article will be applied by the Contracting Parties in the same way as they are applied under similar circumstances under any multilateral trade agreement to which either Contracting Party is a party on the date of entry into force of this Agreement.

5. The Contracting Parties agree to reciprocate satisfactorily concessions with regard to trade and services, particularly tariff and non-tariff barriers to trade, during the term of this Agreement.

ARTICLE III

For the purpose of promoting economic and trade relations between their two countries, the Contracting Parties agree to:

A. Accord firms, companies and corporations, and trading organizations of the other Party treatment no less favorable than is afforded to any third country or region;

B. Promote visits by personnel, groups and delegations from economic, trade and industrial circles; encourage commercial exchanges and contacts; and support the holding of fairs, exhibitions and technical seminars in each other's country;

C. Permit and facilitate, subject to their respective laws and regulations and in accordance with physical possibilities, the stationing of representatives, or the establishment of business offices, by firms, companies and corporations, and trading organizations of the other Party in its own territory; and

D. Subject to their respective laws and regulations and physical possibilities, further support trade promotions and improve all conveniences, facilities and related services for the favorable conduct of business activities by firms, companies and corporations, and trading organizations of the two countries, including various facilities in respect of office space and residential housing, telecommunications, visa issuance, internal business travel, customs formalities for entry and re-export of personal effects, office articles and commercial samples, and observance of contracts.

ARTICLE IV

The Contracting Parties affirm that government trade offices contribute importantly to the development of their trade and economic relations. They agree to encourage and support the trade promotion activities of these offices. Each Party undertakes to provide facilities as favorable as possible for the operation of these offices in accordance with their respective physical possibilities.

ARTICLE V

1. Payments for transactions between the United States of America and the People's Republic of China shall either be effected in freely convertible currencies mutually accepted by firms, companies and corporations, and trading organizations of the two countries, or made otherwise in accordance with agreements signed by and between the two parties to the transaction. Neither Contracting Party may impose restrictions on such payments except in time of declared national emergency.

2. The Contracting Parties agree, in accordance with their respective laws, regulations and procedures, to facilitate the availability of official export credits on the most favorable terms appropriate under the circumstances for transactions in support of economic and technological projects and products between firms, companies and corporations, and trading organizations of the two countries. Such credits will be the subject of separate arrangements by the concerned authorities of the two Contracting Parties.

3. Each Contracting Party shall provide, on the basis of most-favored-nation treatment, and subject to its respective laws and regulations, all necessary facilities for financial, currency and banking transactions by nationals, firms, companies and corporations, and trading organizations of the other Contracting Party on terms as favorable as possible. Such facilities shall include all required authorizations for international payments, remittances and transfers, and uniform application of rates of exchange.

4. Each Contracting Party will look with favor towards participation by financial institutions of the other country in appropriate aspects of banking services related to international trade and financial relations. Each Contracting Party will permit those financial institutions of the other country established in its territory to provide such services on a basis no less favorable than that accorded to financial institutions of other countries.

ARTICLE VI

1. Both Contracting Parties in their trade relations recognize the importance of effective protection of patents, trademarks and copyrights.

2. Both Contracting Parties agree that on the basis of reciprocity legal or natural persons of either Party may apply for registration of trademarks and acquire exclusive rights thereto in the territory of the other Party in accordance with its laws and regulations.

3. Both Contracting Parties agree that each Party shall seek, under its laws and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of patents and trademarks equivalent to the patent and trademark protection correspondingly accorded by the other Party.

4. Both Contracting Parties shall permit and facilitate enforcement of provisions concerning protection of industrial property in contracts between firms, companies and corporations, and trading organizations of their respective countries, and shall provide means, in accordance with their respective laws, to restrict unfair competition involving unauthorized use of such rights.

5. Both Contracting Parties agree that each Party shall take appropriate measures, under its laws and regulations and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of copyrights equivalent to the copyright protection correspondingly accorded by the other Party.

ARTICLE VII

1. The Contracting Parties shall exchange information on any problems that may arise from their bilateral trade, and shall promptly hold friendly consultations to seek mutually satisfactory solutions to such problems. No action shall be taken by either Contracting Party before such consultations are held.

2. However, if consultations do not result in a mutually satisfactory solution within a reasonable period of time, either Contracting Party may take such measures as it deems appropriate. In an exceptional case where a situation does not admit any delay, either Contracting Party may take preventive or remedial action provisionally, on the condition that consultation shall be effected immediately after taking such action.

3. When either Contracting Party takes measures under this Article, it shall ensure that the general objectives of this Agreement are not prejudiced.

ARTICLE VIII

1. The Contracting Parties encourage the prompt and equitable settlement of any disputes arising from or in relation to contracts between their respective firms, companies and corporations, and trading organizations, through friendly consultations, conciliation or other mutually acceptable means.

2. If such disputes cannot be settled promptly by any one of the above-mentioned means, the parties to the dispute may have recourse to arbitration for settlement in accordance with provisions specified in their contracts or other agreements to submit to arbitration. Such arbitration may be conducted by an arbitration institution in the People's Republic of China, the United States of America, or a third country. The arbitration rules of procedure of the relevant arbitration institution are applicable, and the arbitration rules of the United Nations Commission on International Trade Law recommended by the United Nations, or other international arbitration rules, may also be used where acceptable to the parties to the dispute and to the arbitration institution.

3. Each Contracting Party shall seek to ensure that arbitration awards are recognized and enforced by their competent authorities where enforcement is sought, in accordance with applicable laws and regulations.

ARTICLE IX

The provisions of this Agreement shall not limit the right of either Contracting Party to take any action for the protection of its security interests.

ARTICLE X

1. This Agreement shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose, and shall remain in force for three years.

2. This Agreement shall be extended for successive terms of three years if neither Contracting Party notifies the other of its intent to terminate this Agreement at least 30 days before the end of a term.

3. If either Contracting Party does not have domestic legal authority to carry out its obligations under this Agreement, either Contracting Party may suspend application of this Agreement, or,

with the agreement of the other Contracting Party, any part of this Agreement. In that event, the Parties will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on existing trade relations between the two countries.

4. The Contracting Parties agree to consult at the request of either Contracting Party to review the operation of this Agreement and other relevant aspects of the relations between the two Parties.

IN WITNESS WHEREOF, the authorized representatives of the Contracting Parties have signed this Agreement.

Done at Beijing in two original copies this seventh day of July, 1979, in English and Chinese, both texts being equally authentic.

LEONARD WOODCOCK
For The United States of America

LI XIANG
For The People's Republic of China

[FR Doc. 79-33030
Filed 10-23-79; 12:39 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12167 of October 23, 1979

Waiver Under the Trade Act of 1974 With Respect to the People's Republic of China

By virtue of the authority vested in me as President of the United States of America by section 402(c)(2) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), which continues to apply to the People's Republic of China pursuant to section 402(d), and having made the report to the Congress required by section 402(c)(2), I waive the application of subsections (a) and (b) of section 402 of said Act with respect to the People's Republic of China.

Jimmy Carter

THE WHITE HOUSE,
October 23, 1979.

[FR Doc. 79-33031
Filed 10-23-79; 12:40 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

9 CFR Part 201

Schedule of Rates and Charges; Filing Specific Data, Elimination

AGENCY: Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule eliminates the requirement of filing specific data to support the reasons for proposing an increase in the schedule of rates and charges. The change is made to bring the regulations in conformity with the Department's policy of not reviewing the level of rates and charges filed by stockyard owners and market agencies. The rule will reduce the paperwork required by the public to obtain an increase in rates and charges.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Jack W. Brinckmeyer, Livestock Marketing Division—P&S, Agricultural Marketing Service—USDA, Washington, D.C. 20250, 202-447-4366.

SUPPLEMENTARY INFORMATION: Published notice of the proposed amendment to section 201.25 of the regulations elicited one filed response which contained essentially three objections: (1) The proposed regulation as amended would not address cases where rates will decrease or cases where changes will cause neither an increase nor a decrease; (2) The proposed amendment would create ambiguous filing deadlines; and (3) The proposed amendment would not make it clear that no supporting data need accompany a proposed increase in rates.

Objection 1. Section 201.25 of the regulations is designed *only* to address cases where rates will increase. All other cases are regulated by the statute and section 201.22 of the regulations.

Objections 2 and 3 have merit, and the amendment has been changed to reflect the suggestions. Accordingly, § 201.25 [9 CFR, 201.25] is amended to read as follows:

§ 201.25 Information required with proposed increases in existing charges.

Each stockyard owner and market agency proposing an increase in existing charges shall file with the Administrator not less than ten (10) days before the effective date thereof the supplement, amendment, or tariff containing the proposed increase. No supporting data need accompany such supplement, amendment, or tariff upon the filing thereof. However, if a valid complaint is filed or for other compelling reasons, the Administrator may require the furnishing of specific and detailed data on which the proposed increase is based.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis has been prepared and is available from: Jack W. Brinckmeyer, Livestock Marketing Division—P&S, Agricultural Marketing Service—USDA, Washington, D.C. 20250, 202-447-4366.

Done this 18th day of October, 1979.

Paschal O. Drake,

Acting Deputy Administrator, Packers and Stockyards.

[FR Doc. 79-32741 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32D]

Amendments to the Retailer Price Information and Posting Rules for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts the following technical amendments to the price information and posting rules which apply to retail sales of gasoline. These amendments modify the size and location specifications of the posting rule, which requires retail sellers to post either the maximum lawful selling price for each grade of gasoline or at the seller's election, a certification that the maximum lawful selling price has been calculated and that the actual selling price does not exceed the lawful maximum.

DATES: Effective date: October 24, 1979. Comment Date: Comments on final rules adopted today by December 11, 1979.

FOR FURTHER INFORMATION:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201.
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.
Maurice Boehl (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7200.
Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:
I. Background.
II. Amendment Adopted.
III. Procedural Requirements.

I. Background

On July 15, 1979, the DOE issued final rules regarding the retailer price regulations for motor gasoline (44 FR 42541, July 19, 1979). On July 30, 1979, we adopted an amendment changing the posting requirements, which requires retail sellers to adopt one of two specified methods of posting price information (44 FR 45352, August 1, 1979). The first alternative requires sellers to post the maximum lawful selling price for each grade of gasoline sold at the outlet. The second alternative permits the retail seller to post a certification that it has computed its maximum lawful selling price for each grade, and that its actual selling prices are equal to or less than the maximum lawful selling price allowed

by DOE regulations for the particular grade of gasoline concerned.

During the written comment period which followed adoption of the July 15 rule, we received comments from retail sellers who experienced difficulty in meeting the size and location aspects of the posting requirements. The rule requires that the price statement or dealer certification be posted either on the face of each pump in numbers at least one-half (½) inch high, or at a prominent location easily visible to customers in letters not less than four (4) inches high. Comments which the DOE received from retail sellers revealed that compliance with these technical size and location requirements might result in covering up essential information on the face of the pump, and that the regulations were therefore not adaptable to the physical layout of the average retail outlet.

The DOE also received comments from retail sellers who expressed confusion as to what language constitutes a legally sufficient "certification" under section 212.129(b)(2) that the seller has calculated the maximum lawful selling price for each grade of gasoline, and that the actual selling price does not exceed the lawful price. We offer the following examples of valid certification statements, although they are by no means the only acceptable formulations under the rule:

When posted on pump—

We have calculated the highest legal price for this gasoline and our price is at or below that price.

When posted in a prominent location—

We have calculated the highest legal price for each of our grades of gasoline and our prices are at or below those prices.

Any similar language which states (1) that the firm has calculated the lawful selling price for each grade of gasoline, and (2) that the prices at the station displaying the certification do not exceed the lawful price, will satisfy the requirements of the rule.

II. Amendment Adopted

This amendment changes the current size and location requirements in two respects. First, while the amendment retains the requirement that the maximum price or certification be posted on each gasoline pump in letters not less than one-half (½) inch high, it no longer requires that the information be posted on each face of each pump. Instead, the amended rule specifies only that the information be posted somewhere on each pump, facing each direction from which the pump is generally viewed by customers. For instance, if the pump is on an island served from both sides, then the information should face those two directions. The amended rule thus leaves to the seller's discretion the determination of exactly how to affix or mount the statement or certification on each pump, a change which should ease the burden of compliance for station owners. The second amendment to the rule changes the size specification for letters in statements or certifications posted at locations other than on the pumps themselves. This rule changes the requirement that such information be posted in letters not less than four (4) inches high, by reducing the specified height to not less than one and one half (1½) inches.

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93-275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of this rule was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* These amendments to the posting requirements are technical in nature, and have no effect on the environment. Therefore, an environmental assessment or an environmental impact statement is not required by NEPA or the applicable DOE regulations for compliance with NEPA.

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)-(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

These amendments to the posting requirements of § 212.129 are technical in nature, and do not raise substantial issues of fact or law. Nor is the rule likely to have a substantial impact on the Nation's economy since it merely alters the exact specifications of the existing size and location requirements of the posting rules. For the same reason, the amendments are not likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the advance notice and public comment procedures of section 553(b) are unnecessary in this case, since these amendments to the location and size requirements of the posting rule are technical in nature. Public comment was sought and received after the adoption of § 212.129 and has been considered in formulating these amendments.

Subsections (d) (1) and (3) of section 553 require that the publication of a rule be made at least 30 days before the effective date of the rule, unless the rule relieves a restriction or it is otherwise provided by the agency for good cause. This rule relieves certain technical restrictions in the posting requirements, and therefore fits the exemption in section 553(d)(1). Moreover, we find the

immediate issuance of these technical amendments in final form to be in the best interests of the public as well as the retail sellers who serve them. In order to ensure the practicability of the price information rule, it is essential that the posting requirements be adaptable to the physical layout of the average retail outlet. The swift issuance of these technical amendments to the posting rule serves the best interests of not only the retail seller who faces the immediate necessity of compliance, but also of the gasoline purchasing public whom the price information and posting rules are designed to protect. Hence, this rule also fits the good cause exemption in section 553(d)(3).

F. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures explain that regulations are "significant" unless they are not expected to effect important policy concerns or to engage much public interest. The amendments adopted today are technical in natue, and do not touch on important policy concerns. We do not expect their adoption to engage much public interest. We find, therefore, that these amendments to the posting requirements are not "significant" under DOE's implementing procedures, and do not invoke the 60 day advance public comment requirement of Executive Order 12044.

G. Written Comment Procedures

DOE will accept written comments on the final rule adopted today through December 11, 1979. DOE is permitting this comment period to allow interested parties to submit additional comments on appropriate changes or amendments to the rules once they are in effect. We are particularly interested in receiving comments regarding the appropriateness of continued imposition of the price information and posting rules in the future.

Comments should be identified on the outside envelope and on the document with the docket number and the designation: "Retailer Price Information and Posting Rules for Motor Gasoline." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., October 18, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. Section 212.129 is amended in paragraph (b) to read as follows:

§ 212.129 Price information and posting.

* * * * *

(b) Each retail seller of gasoline shall comply with subparagraph (1) or, in the alternative, subparagraph (2), of this paragraph.

(1) Each retail seller of gasoline shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted either: (i) On each pump used to dispense gasoline at retail outlets in numbers not less than one-half (½) inch high facing each direction from which the pumps are generally viewed by customers, or (ii) at a prominent location which is easily visible (in numbers not less than four (4) inches high) to a customer purchasing gasoline at the retail outlet. The posting of the actual selling price is not considered to be the posting of the maximum lawful selling price as required by this subparagraph. Whenever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(2) Each retail seller of gasoline shall post and maintain in legible form a certification that the maximum lawful selling price for a particular type or grade of gasoline has been calculated by the retail seller and that the actual selling price for that type or grade of gasoline is either equal to or less than its maximum lawful selling price. Such certification shall be placed either: (i) on each pump used to dispense gasoline at the seller's retail outlet in letters not less than one-half (½) inch high, facing each direction from which the pumps are generally viewed by customers, or (ii) at a prominent location which is easily visible (in letters not less than one and one-half (1½) inches high) to customers purchasing gasoline at the seller's retail outlet.

* * * * *

[FR Doc. 79-32812 Filed 10-23-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Conservation and Solar Energy

10 CFR Part 455

Technical Assistance and Energy Conservation Measures: Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Final rule; change in closing date of first grant program cycle.

SUMMARY: The closing date for the first grant program cycle, published in the Federal Register on April 17, 1979 (appearing at 44 FR 22940, column 1 and at 44 FR 22941, paragraph III.); is hereby changed from February 1, 1980 to March 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Milner, Institutional Buildings Grants Programs Division, Office of Conservation and Solar Energy, Department of Energy, Room 2H-043, 1000 Independence Avenue SW, Washington, D.C. 20585, (202) 252-2325.

Issued in Washington, D.C., October 19, 1979.

Maxine Savitz,

Acting Assistant Secretary Conservation and Solar Energy

[FR Doc. 79-32810 Filed 10-23-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R-0252]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the tornado and severe storms beginning on October 3, 1979, in Hartford County in the State of Connecticut.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3611).

SUPPLEMENTARY INFORMATION: On October 4, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Hartford County, Connecticut, a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the tornado and severe storms. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to October 4, 1979, and will remain in effect until 12 midnight April 6, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in section 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within Hartford County in the State of Connecticut, which has been officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the tornado and severe storms in Hartford County, Connecticut, good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), October 16, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32828 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, section 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof, are paid before maturity, a member bank may pay interest on the amount withdrawn at the rate not to exceed the current ceiling rate for a savings deposit under section 217.7 and the depositor shall forefeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Liquidity Reserve; Interpretative Ruling and Policy Statement

AGENCY: National Credit Union Administration.

ACTION: Interpretative ruling and policy statement.

SUMMARY: The purpose of this document is to (1) provide the Administration's position on certain provisions of 12 CFR Part 742 published August 31, 1979; (2) provide procedures for calculating and disclosing the liquidity reserve; and (3) publish extension request guidelines for additional time to meet the liquidity reserve.

EFFECTIVE DATE: October 24, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Thomas Straslicka, Chief, Examination Section, Office of Examination and Insurance, or Robert M. Fenner, Assistant General Counsel, at the above address. Telephone (202) 254-8760 (Mr. Straslicka); (202) 632-4870 (Mr. Fenner).

SUPPLEMENTARY INFORMATION: On August 31, 1979, the Administration published 12 CFR Part 742. Since that time, several questions have been raised about the meaning of certain terms and provisions of Part 742. Also, commenters have asked about the need to prepare a workpaper to document the calculation of the liquidity reserve. In addition, the Administration stated in the preamble to the final regulation that guidelines would be issued concerning the general standards it will apply for extension requests. This Interpretative Ruling will address these areas.

Interpretative Ruling No. 79-7

a. The following is the Administration's position on certain terms and phrases of Part 742.

(1) *"742.1(a)(1) have assets of $2,000,000 or more."*

The regulation would apply the first month-end a credit union's assets exceeds $2,000,000. However, if at a subsequent month-end the assets decrease below $2,000,000, the regulation would not apply for that following month.

(2) *"742.1(a)(2) operate share draft. . . ."*

The phrase means the regulation would apply the month-end of the month during which the credit union cleared one share draft. The regulation would continue to apply until the credit union terminated its share draft program.

(3) *"742.2(a) 'Liquid Assets' means the following unpledged assets."*

The word "unpledged" is interpreted to mean that for the purposes of this regulation assets designated as "generally pledged" assets are considered unpledged. Only assets, such as a credit union's shares or deposits in a central credit union, that are specifically pledged as collateral on a loan, are considered pledged assets.

(4) *"742.2(a)(1) cash on hand."*

Any negative book balance existing in cash accounts as of month-end will be added to the credit union's liability

base. A negative book balance in a cash account is considered an unrecorded account payable for the purposes of this regulation.

(5) *"742.2(b) 'Central Credit Union' means a credit union operated primarily to serve other credit unions and in which the total dollar amount of shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans."*

Any credit union which includes share accounts in state central credit unions that are not agents of the Central Liquidity Facility as part of its liquidity reserve must provide documentation that the respective state central credit union satisfies the "50 percent" requirement.

Some central credit unions maintain separate records for their corporate and natural person divisions. For the purposes of this regulation, a loan from one division to the other is not considered a "loan to another credit union" because each division is not recognized as a separate legal entity.

(6) *"742.2(c)(2) notes payable with remaining maturities in excess of one year."*

Any demand note payable held by a credit union must be included in computation of the liability base, regardless of the amortization schedule, because the note can be called at any time.

(7) *"742.3(b) the liquidity reserve shall be determined on a monthly basis, not later than the tenth day of each month, and shall be based on the insured credit union's liability base as of the last day of business of the previous month."*

A credit union has up to 10 calendar days after month-end to calculate the liability base as of month-end and determine if liquid assets as of month-end are sufficient to equal or exceed 5 percent of the total dollar value of the credit union's liability base.

If the credit union does not meet the liquidity requirement at month-end, but meets it during the first 10 days of the following month, the credit union will be considered to be in compliance with the regulation.

(8) *"742.4(a) The liquidity reserve may be depleted below the level required by this Part only to meet outflows of shares and deposits."*

The Administration does not intend that a credit union cease operations when the only alternative is to utilize part of the liquidity reserve to pay operating expenses and accounts payable. Accordingly, the Administration does not intend to take action against a credit union that depletes its liquidity reserves to pay necessary operating expenses and accounts payable. The credit union must notify the appropriate supervisory authority when the reserve is depleted below 5 percent.

If a credit union determines as of October 31, 1979 (effective date of the regulation), that it has insufficient liquid assets to satisfy the 5 percent requirement, then it should notify its appropriate supervisory authority. During the next 60 days the credit union may continue normal operations. However, if the credit union cannot increase its liquid assets to 5 percent of its liability base within 60 days after notification, then the credit union must request an extension of time to replenish the liquidity reserve. At this time, the credit union's plan for replenishment of the liquidity reserve would control the type of business it could conduct.

The Administration does not intend that a credit union borrow funds solely to meet the 5 percent liquidity reserve requirement, especially if the borrowing would adversely impact the credit union's financial condition. Furthermore, repeated borrowing of funds on the last day of the month and repayment on the following day will be viewed by the Administration as a circumvention of the regulation's intent.

In the above circumstances, credit unions should notify the appropriate supervisory authority that their liquidity reserve has been depleted and after 60 days, submit plans regarding how the reserve will be replenished over a period of time. The Administration will be receptive to extension requests and will assist credit unions develop viable liquidity management programs.

(9) *"742.4(b)(1) a Federal credit union shall immediately notify the appropriate National Credit Union Administration Regional Director and shall replenish the reserve within 60 days unless an extension is approved by the Regional Director; 742.4(b)(2) a federally-insured state chartered credit union shall immediately notify its state supervisory authority and shall replenish the reserve within 60 days unless an extension is approved by the state supervisory authority."*

Both of these subsections require the credit union to notify the appropriate supervisory authority not later than the tenth calendar day after a month-end if the credit union does not have sufficient liquid assets to meet the liquidity reserve requirement. This notification should include the amount of the credit union's liability base and the amount of its current liquid assets as defined in Section 742.2(a).

Upon notification to the appropriate supervisory authority, the credit union has until the tenth calendar day following the second month-end after notification to bring the liquidity reserve up to the required level. For example if the credit union provided notification on November 10, it will have until January 10 to bring the reserve up to the required level. If on or before January 10 the credit union has projected that it cannot bring the reserve up to the required level, then it must apply to the appropriate supervisory authority for an extension. Extension guidelines will be discussed in Section c. of this Interpretative Ruling.

b. Procedures For Calculation of and Disclosure of the Liquidity Reserve.

Principles of sound internal control dictate that a credit union should prepare a workpaper to document the calculation of its liability base and liquid assets. The amount of the credit union's liquidity reserve must be footnoted on its monthly Statement of Financial Condition to provide "Full and Fair Disclosure."

The following format is suggested as one possibility for the preparation of the workpaper.

Liquidity Reserve Computation—*Nov. 30, 1979*

	Amount
Member accounts	$3,000,000
Notes payable	250,000
Total	3,250,000
Less: Share certificates and equivalent member accounts with remaining maturities in excess of one year (1)	300,000
Notes payable with remaining maturities in excess of one year (1)	50,000
Member accounts that have been provided in a specific amount as security on a loan, up to the amount of the loan balance (2)	100,000
Total	450,000
Liability base	2,800,000
Required liquidity reserve 5 pct×$2,800,000 equals	140,000
Liquid assets:	
Cash on hand	50,000
Shares and share certificates in central credit union (3)	100,000
Common trust investment (net of deferred loss)	50,000
Total	200,000

Credit union has sufficient liquid assets to satisfy liquidity reserve requirement.

(1) Credit union should support any deduction with an EDP report, hand-prepared workpaper or other document which identifies share certificates and notes payable with remaining maturities in excess of one year from the computation date.

(2) Shares must be specifically pledged (dollar amount identified) on a note to qualify for this deduction. The

statutory lien mentioned in many notes does not qualify as a specific pledge. Also, any deductions must be supported by documentation.

(3) The central credit union must satisfy the 50 percent test mentioned in Section 742.2(b). Any share certificates must have a remaining maturity of less than one year from the computation date.

c. Extension Guidelines For Replenishment of the Liquidity Reserve.

If a credit union cannot increase the level of its liquid assets to 5 percent of its liability base within 60 days after notification to the appropriate supervisory authority, it must request an extension of time for replenishment of the liquidity reserve. Any request for extension should include the following:

(1) Most recent Statement of Financial Condition.

(2) Workpaper outlining calculation of liquidity reserve requirement.

(3) Steps credit union plans to take to replenish the liquidity reserve. These steps must be specific regarding what action the credit union plans to take; i.e., reducing loan maturities to increase cash flow; decreasing the amount of funds available for loans; placing future inflows of cash into short-term investments that qualify as liquid assets, etc.

(4) Time period requested for extension. Extensions may be granted for a period up to one year.

Normally, an extension request will be approved if the credit union indicates it is taking steps to meet the liquidity reserve requirement within one year. Only in cases where it is obvious the credit union is illiquid, and not taking corrective action to remedy the situation, will a request for extension be disapproved. Additional extension requests beyond the initial extension period will normally not be granted unless the credit union is prevented from meeting the liquidity reserve requirement due to factors beyond its control.

An extension is considered approved when a credit union receives written notification of the approval from the appropriate supervisory authority. Federal credit unions will submit notifications of depletion below 5 percent and extension requests to the appropriate regional director. Federally-insured state chartered credit unions will submit notification and extension requests to their state supervisor, unless notified otherwise.

Rosemary Brady,

Secretary to the Board.

October 18, 1979.

[FR Doc. 79-32782 Filed 10-23-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Dockets Nos. RM79-14 and RM79-21]

Incremental Pricing; Change of Location of Question and Answer Session on Implementation of the Incremental Pricing Program

October 22, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Change of Location of Question and Answer Session on Implementation of the Incremental Pricing Program.

SUMMARY: On October 16, 1979 the Federal Energy Regulatory Commission (Commission) announced that an informal question and answer session would be held in Chicago, Illinois on October 31, 1979, beginning at 9:00 a.m. CST (44 FR 60084, October 18, 1979). It was announced in the October 16th Notice that the session would be held at the State of Illinois Building. However, public response has been so great the Commission has determined that a larger facility is needed and has changed the location. The new location of the informal question and answer session on incremental pricing is Center Theater, De Paul University, 25 East Jackson Boulevard, Chicago, Illinois 60604.

ADDRESS. Question and Answer Session: De Paul University, Center Theater, 25 East Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Room 8113, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8079.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32950 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 282

[Docket No. RM79-14]

Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Technical Conference

October 19, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission hereby gives notice that a technical conference with respect to the estimates and submetering requirements contained in the Commission's incremental pricing regulations will be held in Chicago, Illinois, on November 15, 1979.

DATES: Requests to participate by: November 9, 1979. Conference date: November 15, 1979.

ADDRESSES: Requests to participate to: Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 10426. Comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Conference location: Preston Bradley Hall of the Chicago Public Library Cultural Center, 78 E. Washington Street, Chicago, Illinois 60602.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8847.

SUPPLEMENTARY INFORMATION:

I. Background

On September 28, 1979, the Federal Energy Regulatory Commission (Commission) issued final regulations to implement the first phase of the incremental pricing program under the Natural Gas Policy Act of 1978 (44 FR 57726, October 5, 1979).

These final regulations are set forth in two dockets, Dockets Nos. RM79-14 and RM79-21. The regulations in Docket No. RM79-14 contain the provisions for the calculation of the incremental pricing surcharge to be billed to each industrial facility covered by the regulations. One step necessary to calculate this surcharge is the determination of the volumes of natural gas used in a facility for uses which are subject to being incrementally priced.

In the preamble to the final rule in Docket No. RM79-14, the Commission stated that it had determined to require

the installation of submeters within each industrial facility so that the gas used for purposes not exempt from incremental pricing can be quantified. This requirement will become effective on November 1, 1980. In the interim period from January 1, 1980 (the date on which the incremental pricing program will be activated) to October 31st, the Commission determined to accept either certified estimates, or an agreement between a natural gas supplier and a customer, as to the volume of natural gas used in a facility for non-exempt purposes.

It was announced in the preamble to the final rule in Docket No. RM79-14 that a technical conference would be held in early November for the purpose of discussing further how the certified estimates to be utilized for the first ten months of the incremental pricing program could be standardized.

II. Date and Location for Technical Conference

It is hereby announced that the technical conference on estimates and submetering will be held in Chicago, Illinois on November 15, 1979, beginning at 9:30 a.m. CST, in the Preston Bradley Hall of the Chicago Public Library Cultural Center, located at 78 E. Washington Street, Chicago, Illinois 60602. The conference will be continued at 9:30 a.m. on the following day, if necessary.

III. Topics for Discussion

A. Certified Estimates for January 1, 1980, to October 31, 1980

Commission Staff believes that at least two situations exist where estimates will have to be made as to the volume of natural gas used for exempt purposes. First, of course, all volumes used for process or feedstock uses are not subject to Phase I of the incremental pricing program. Second, all natural gas used as a boiler fuel for exempt purposes (such as for agricultural, co-generation or hospital purposes) must be quantified. These estimates will have to be determined until such time as submeters are installed, or until such time as the incremental pricing program is expanded in the program's second phase.

As indicated in the preamble to the final rule in Docket No. RM79-14, it is our desire to standardize to the extent possible the estimating procedures to be utilized in situations where submeters are not yet installed. To this end, the parties who will be preparing such estimates are invited to describe their intended approach, and to furnish examples for analysis so that we may develop and issue suitable guidelines prior to January 1, 1980.

We particularly invite persons who previously prepared estimates of boiler fuel (and other) consumption, but who have since installed and used submeters to determine such usage, to share with us their experience in terms of how valid the estimates have proven to be. We also invite such persons to state their reasons for abandoning estimates in favor of meters.

We believe one especially problematical situation will be that where the steam raised or electricity generated by a boiler fueled by natural gas is used for both exempt and non-exempt purposes, such as the manufacture of both agricultural and non-agricultural products. A second situation which we believe will present a special problem is that where a mixed stream of gas—a stream of natural gas which has been commingled with a gas from another source (such as coke oven gas, or refinery by-product gas)—is used to fuel a boiler.

Commission Staff has identified several possible methods which could be utilized for preparing estimates in these two situations. These are as follows:

(1) In a mixed product situation, the total volume of natural gas consumed by a boiler could be determined by actual measurement, and the exempt and non-exempt portions of the total derived on the basis of the ratio of the exempt products produced as compared to the non-exempt products produced. For example, the gas needed to produce agricultural containers could be determined by multiplying the total volume of gas consumed by the boiler by a fraction representing the portion that the agricultural containers represent of the total containers produced.

(2) In the mixed gas situation, the total volume consumed by the boiler could be measured. The volume of natural gas consumed could be determined by measuring the volumes of natural and non-natural gas prior to mixing. Also, the volume of natural gas used could be determined by analysis of the resulting mixture in terms of:

(a) The molecular percentage of the constituent components;

(b) The resulting specific gravities (the gravities of the component gas streams are determinable); or

(c) The resultant heating value (the heating values of the component gas streams are determinable). Staff believes that safe and efficient utilization of any gaseous fuel requires that the heating value and specific gravity of the gas be held within fairly close tolerances, compatible with the burner design and adjustment.

Commission Staff solicits comments on the above methods, as well as other possible methodologies. To the extent possible, it is requested that recommendations on other methodologies be developed and described in detail.

Commission Staff also solicits comments on how estimates under various recommended methodologies could be verified and audited by Staff.

B. Submeters

As was discussed in the preamble to the final rule in Docket No. RM79-14, the technical conference is also being convened to discuss further the subject of submeters in general. Several discussions have been held on submetering and the advantages or disadvantages associated therewith, beginning with the informal conferences held in Docket No. RM79-14 in February of this year. However, the comments submitted on this topic and the discussions held thus far have been general in nature. Moreover, such comments have been offered primarily by natural gas suppliers. It is hoped that the technical conference will provide a forum for the discussion of this area of concern by those parties which will be most affected and who have the greatest technical knowledge with regard to the installation and maintenance of gas meters within an industrial plant.

Thus, the Commission specifically invites the participation of representatives of industrial end-users and meter manufacturing firms in this technical conference. Further, it is hoped that these representatives will be persons who are familiar with day-to-day plant operations and can thus offer comments based on actual in-plant operations. The Commission is, by separate letter, inviting as many industrial end-users and meter manufacturing firms as it has been able to identify to send representatives to the conference.

The Commission wishes to emphasize that all interested parties are invited to participate in the conference, whether or not they receive an individual invitation.

In the submetering portion of the conference, Commission Staff would like to discuss the following questions:

(1) Can submeters be installed in all affected industrial facilities to determine by measurement, either directly or indirectly, the volume of natural gas used in the facility for boiler fuel?

(2) Under the regulations, how many submeters not presently in place will have to be installed by November 1, 1980?

(3) What period of time will be required for the manufacture of all submeters required by November 1, 1980?

(4) How long a time period will be needed to install all submeters required by November 1, 1980?

Commission staff would specifically like to discuss with representatives of meter manufacturing firms the following questions:

(1) What types of meters—such as orifice, diaphragm, rotary vane and turbine meters—are available?

(2) What application techniques are required to install the various types of meters?

(3) What is the availability of the types of meters, according to size?

(4) What are representative costs for the various types of meters, according to size?

(5) What are the representative costs for installing the various types of meters, according to size?

(6) What steps must be followed to maintain the accuracy of the meters, once installed?

(7) What methods and devices can be utilized to correct meter readings to standard pressures, volumes and temperatures; and what is the cost and benefit of each such method?

As stated in the preamble in the final rule in Docket No. RM79-14, if the Commission receives no more detailed information on the subject of submeters in the technical conference than it has received to date in this docket, the submetering requirement will be allowed to become fully effective on November 1, 1980 (to the extent it is not obviated by the Phase II incremental pricing regulations). If, however, the information acquired as a result of the technical conference should indicate that the regulations should be amended, the Commission will consider appropriate amendments.

IV. Format

Those who wish to make oral presentations at the technical conference will be provided the opportunity to do so. Commission Staff will chair a panel at the conference and, as time permits, conduct an informal discussion with those attending the conference who wish to participate in such a discussion.

V. Procedures

A. Technical Conference

Interested persons and groups who wish to make oral presentations at the technical conference are requested to notify Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8847, no later than November 9, 1979, and to indicate the amount of time desired for their oral presentations. A list of the participants in the conference will be available at the site of the conference. Time for presentations may be limited in order to allow all interested persons to participate. Parties who will make oral presentations are encouraged to bring copies of their presentations for distribution to those attending the conference. A transcript of the technical conference will be available through the Commission's Office of Public Information.

B. Written Comments

Written comments on the questions set forth above are also requested. Any written comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM79-14.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32933 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-79-729]

Mortgage and Loan Insurance Programs Under the National Housing Act; Changes in Finance Charges

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in regulations increases the maximum allowable finance charge on Title I property improvement, mobile home loans, and combination and mobile home lot loans. The change is necessitated by the high interest rates prevalent for such loans. This action by HUD is designed to bring the maximum finance charge on these loans into line with other rates currently prevailing in the market.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202)-755-6880.

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum finance charge which may be charged on loans insured by this Department. The maximum finance charge for property improvement loans has been increased from 12 percent to 13 percent. The maximum for the regular mobile home loan program has been increased from 12.50 percent to 13½ percent. Under the Combination and Mobile Home Lot loan program the maximum has been raised from 11.50 percent to 12 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market, and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

1. In § 201.4 paragraph (a) is amended to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed a 13 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

1. In § 201.540 paragraph (a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid

to, or collected by, the insured in connection with the loan transaction, shall not exceed 13.50 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

1. In § 201.1511 paragraph (a)(1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* * * *

(1) 12 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709-1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C., October 19, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-32793 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 236

[Docket No. R-79-728]

Rental Assistance Payments; Noninsured Section 236 Projects; Interim Rule

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Interim rule.

SUMMARY: This rule amends the Rental Assistance Payments (RAP) regulations by making all previously ineligible, non-insured Section 236 projects eligible for RAP at the discretion of the sponsors, State or local agencies financing the projects and the Secretary.

DATES: Effective date: November 23, 1979; Comments due: December 26, 1979.

ADDRESS: Interested parties should file written comments on or before due date with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Thomas White, Acting Director, Office of State Agencies and Bond Financed Programs, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-0730 (not a toll free number).

SUPPLEMENTARY INFORMATION: On July 29, 1975, the Department published regulations for the Rental Assistance Payments (RAP) Program, 40 FR 31872. Section 236.701(c) provides that non-insured Section 236 projects which received the initial reservation of interest reduction contract authority on or before August 22, 1974 (the date of RAP legislation) can be converted to RAP only if such conversion occurs before the first interest reduction payment is made. As a result of this provision a large number of non-insured Section 236 projects became ineligible for RAP. Many low-income families and elderly persons who would have otherwise been eligible for subsidy are paying more than 25 percent of their incomes for rent and a number of projects have long term vacancies because families on the waiting lists cannot afford Section 236 basic rents.

Non-insured projects are at a disadvantage when compared to Section 236 projects with FHA mortgage insurance coverage. Non-insured projects will not receive the advantage of the new Flexible Subsidy Program until FY 1980 at the earliest nor has there been any special allocation of Section 8 Housing Assistance Payments funds for troubled non-insured projects. Unit increases not presently permissible under the Rent Supplement Program and dollar increases for existing unit allocations are normally made for only a one-year period. The proposed change would significantly reduce these inequities.

Funding of individual projects will be at the discretion of the project owner, the State or local agency financing the project and the Secretary. All funding is expected to be provided from outstanding Departmental allocations to State or local agencies; therefore no increase in total Section 236 obligations is required for implementation of these regulations.

The Department has determined that advance notice and public procedure would be contrary to the public interest since this amendment confers a benefit and delay in conferring that benefit would be undesirable.

Accordingly, these amendments are being published as an interim rule effective November 23, 1979. However, interested parties are invited to participate in the making of the final rule by providing written comments as described above. All comments received by the due date will be considered in the development of the final rule. Copies of the comments received will be available for inspection and copying at the above stated address.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. Copies of the Findings are available for inspection and copy in the Office of the Rules Docket Clerk at the above address.

Accordingly 24 CFR, Part 236; Subpart D, is amended by revising § 236.701(c) to read as follows:

§ 236.701 Scope of rental assistance.

* * * * *

(c) Had received a reservation of Section 236 contract authority (in the case of projects processed without HUD mortgage insurance and to be financed under a State or local government-aided program pursuant to Section 236(b) of the National Housing Act) on or before August 22, 1974, but are reprocessed with rental assistance pursuant to an Agreement between the sponsor, the State or local agency providing additional aid to the project, and the Secretary. Projects in this category which are converted from Rent Supplement shall have Rental Assistance Contracts with terms which do not exceed the unexpired terms of the Rent Supplement Contracts. Projects in this category which have no Rent Supplement Contract shall have Rental Assistance Contracts with terms which do not exceed the unexpired terms of the Agreement for Interest Reduction Payments or equivalent documents or 40 years whichever is less; or

* * * * *

(Sec. 212, Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, approved August 22, 1974, which amended sec. 236)

Issued at Washington, D.C., October 18, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-32754 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 579

Standards of Conduct for DA Personnel

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is deleting its regulation that prescribes standards of conduct required of all Army personnel. This action is being taken because the revision of AR 600-50, Standards of Conduct for DA Personnel, will cause 32 CFR 579 to duplicate information published in 32 CFR 40 (Source Document: DoD Directive 5500.7, Standards of Conduct). This deletion does not cancel or revoke the source document, AR 600-50.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel William E. Nolan, 202-697-6977 or write: HQDA (DAPE-HRL-L) WASH, DC 20310.

PART 579—[DELETED]

Accordingly, 32 CFR, Chapter V, is amended by deleting Part 579.

Authority: 10 U.S.C. 3012.

Source: AR 600-50.

By Authority of the Secretary of the Army:

Dated: October 15, 1979.

Lester F. Armstrong,

Lieutenant Colonel, U.S. Army, Acting Director, Administrative Management, TAGCEN.

[FR Doc. 79-32717 Filed 10-23-79; 8:45 am]

BILLING CODE 3710-08-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Increase in Maximum Permissible Interest Rate on Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum permissible interest rate on guaranteed mobile home loans. The interest rate is also increased on loans for the purpose of site preparation costing $2,500 or less on a lot owned by the veteran. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. The increase in the interest rate will attract funds for GI mobile home loans; thereby, allowing veterans to purchase mobile homes with the assistance of no downpayment VA loans.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for mobile home loans guaranteed by the Veterans Administration as he finds the capital markets demand. Recent market indicators, including the general increase in interest rates charged on conventional mobile home loans and the increase in the prime interest rate, have shown that the capital markets have become more restrictive. The maximum rate formerly in effect for VA guaranteed mobile home loans was not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. To assure a continuing supply of funds for mobile home loans through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed mobile home loans.

The increase in the interest rate applies to mobile home unit loans and site preparation loans of $2,500 or less on a lot owned by the veteran. At present no change is being made in the maximum interest rate applicable to the guaranteed or insured loan programs for conventional homes or condominiums. In addition, no change is being made in the interest rate for acquisition or improvement (over $2,500) of a mobile home lot. The lender's return on such loans appears competitive with other forms of mortgage financing. No change in rate is justified at this time.

The increase in the maximum interest rate is accomplished by amending § 36.4212(a) (1) and (3), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of loan funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: October 18, 1979.

Max Cleland,

Administrator.

In § 36.4212, paragraph (a)(1) and (3) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to October 22, 1979:

(38 U.S.C. 1819(f))

(1) 13 percent simple interest per annum for that portion of the loan which finances the purchase of a mobile home unit.

* * * * *

(3) 10½ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 13 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

(38 U.S.C. 1819)

[FR Doc. 79-32824 Filed 10-23-79; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 320

Suspension of the Private Express Statutes; Extremely Urgent Letters

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Postal Service's Private Express regulations so as to waive the statutory and regulatory restrictions on the conveyance of extremely urgent letters by private carriers under specified circumstances. The rule states the circumstances under which the extreme urgency of a letter is determined; specifies the obligations of shippers and carriers operating under the suspension; and provides examples of letters eligible for the suspension on the basis of their contents.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 245-4584.

SUPPLEMENTARY INFORMATION: On July 9, 1979, the Postal Service proposed to suspend the Private Express Statutes for letters that are "extremely urgent" in nature, namely, those whose value or usefulness would be greatly diminished if not delivered within the specified time limits. 44 FR 40076. As set out in the proposal, the limits were as follows:

For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours and delivery of those dispatched after noon must be completed by 10 A.M. of the addressee's next business day. For other letters, delivery must be completed within 12 hours or by 10 A.M. of the addressee's next business day.

The proposal also set out a conclusive presumption of urgency in the following terms:

It will be conclusively presumed that a letter is extremely urgent and is covered by the suspension if the amount paid for private carriage of the letter is more than three dollars or twice the applicable U.S. postage for First-Class Mail (including priority mail) whichever is the greater.

Other provisions in the proposal related to markings to identify letters which were being carried under the suspension; maintenance of carrier records to show that delivery of letters (other than those conclusively presumed to be extremely urgent) was accomplished within the required time periods; and the administrative revocation of the suspension as to a particular shipper or carrier for actions in violation of the suspension.

Over 150 comments were submitted from a wide range of business interests and other parties. Approximately one-third of the commenters expressed general support for the suspension and did not suggest any specific changes. Many other parties suggested that our proposal be modified in various ways. After a careful consideration of all of the comments, we have concluded that the suspension should be adopted, with certain modifications that are discussed below. In proposing the suspension, we noted that "if a suspension is granted, it should be tightly drawn and narrowly restricted in order to avoid a substantial erosion of the postal revenue base needed to continue a universal postal system serving all the people of the nation." We consider that the terms of the suspension which the Postal Service is adopting create a framework to accomplish this purpose. It remains essential, however, that the practice within this framework be faithful to its terms.

Voluntary compliance by shippers and carriers is necessary if the suspension is to be successful, and we anticipate that it will be forthcoming from the great majority of shippers and carriers. At the same time, affirmative enforcement efforts may be necessary to prevent the abuse of the suspension by a few. The Postal Service will undertake such measures, in the form of investigations, administrative proceedings, and litigation, as our experience dictates and the circumstances require.

In the proposal, we made provision for the revocation of the suspension for a period of time as a sanction against a shipper or carrier violating its terms. As is further discussed below, we are strengthening this measure by providing that a failure on the part of a shipper or carrier to cooperate with an investigation or audit will create a presumption of a violation and shift to that party the burden of establishing compliance.

We think it appropriate to stress the importance we place on compliance and enforcement in order to assure that our position is clear and to avoid any misunderstanding by shippers and carriers as to their obligation to comply with the Statutes and the consequences that will follow from non-compliance.

As noted above, many persons suggested changes in our proposal. Some of these, we concluded, had sufficient merit to warrant modification of our proposal in certain respects. Others we have not adopted. We have also made certain other changes to clarify or strengthen the terms of the suspension. The chief suggestions as to the wording of the suspension, and the changes we have made, are summarized below.

A. Delivery Time Limits

1. *Letters dispatched by noon for delivery within 50 miles.* A number of commenters took exception to the proposed six hour delivery time limit for letters dispatched by noon for carriage within 50 miles. Some suggested that the limit should be 5 P.M., and one suggested "late afternoon." Two retail store firms suggested that the time limit should be greater for retailers because of their extended business hours. The final rule specifies a delivery time limit of six hours or the close of the addressee's normal business hours that day.

2. *Letters dispatched after noon for delivery within 50 miles.* There was some objection to the requirement for delivery by 10 A.M. the next day for letters dispatched after noon for delivery within 50 miles. It was suggested that the limit be set at noon for reasons which included consistency with the existing suspension for the carriage of certain data processing materials when (among other things) delivery is completed within 12 hours or by noon of the addressee's next business day.

We believe, however, that the proposed 10 A.M. time limit should be retained. The appropriate issue is not, in our opinion, whether the limit comports with the suspension for data processing materials (which suspension is not tied-in to delivery within a given geographic area). Instead we must deal with the type of delivery that would be consistent with the purported extreme urgency of a letter to be delivered within a 50 mile distance. We believe that delivery by noon—roughly the middle of the next business day—is inconsistent with this degree of urgency. Delivery by the beginning of the next business day would be too stringent a requirement and would create an unnecessary variable inasmuch as all businesses do not open at the same time of day. Delivery by 10 A.M. of the day following dispatch is, in our view, an appropriate accommodation, and we are, therefore, retaining this time limit for letters dispatched after noon for delivery within 50 miles.

3. *Letters to be carried beyond 50 miles.* There were numerous objections to the 10 A.M. next-day delivery deadline (as an alternative to delivery within 12 hours) for letters sent beyond 50 miles. Some parties suggested a 3 P.M. time limit. The majority suggested noon. It was contended that the 10 A.M. limit was unrealistic for inter-city shipments sent by air because it did not provide enough time for shipments on morning incoming flights to be delivered to the addressees. It was also contended that the limit should conform to the delivery requirements which are presently in the suspension for data processing materials.

There was some support for adopting delivery time limits that did not vary with distance. Two parties suggested a uniform rule of 12 hours or 10 A.M. One suggested 12 hours or 3 P.M. Another suggested 3 P.M. of the next business day after pickup or the time by which the Postal Service obligates itself to deliver an Express Mail package to the addressee. It was also suggested that there should be no specific delivery standards but, instead, that anything that must arrive before the Postal Service can deliver it should be deemed to be extremely urgent.

The final rule for letters sent beyond 50 miles calls for delivery within 12 hours or by noon of the next business day. This limit appears to be acceptable to the bulk of the parties who commented on this point, and we believe it accords appropriate leeway to shippers and carriers.

B. Cost Factors for Conclusive Presumption of Urgency

Although most commenters expressed no opposition to the proposed minimum charge of $3.00, there was significant opposition to the proposition that the

courier must charge at least twice the applicable first-class or priority mail postage in order to give rise to a conclusive presumption of urgency. A number of parties suggested that the differential be set at 25 percent over the first-class or priority mail postage. In a memorandum prepared by Arthur Eden, an economic consultant, in behalf of one of the commenters it was contended that:

> The additional charge made by private carriers over first-class or priority mail is made up principally of the expedited handling charge these private carriers must receive in order to provide expedited service. This expedited handling charge covers the additional services provided by the private carrier in the customized pickup, forwarding and delivery required to ensure same-day or over night service. The relative significance of this expedited handling charge to the overall cost of the shipment naturally diminishes with the increase in weight and corresponding transportation cost of the shipment. (The relative significance of the expedited handling charge may also decrease somewhat in cases where more than one piece is being picked up by the private carrier at the same address.)
>
> I firmly believe that a test of 3 dollars or *1.25* times applicable first-class or priority mail postage, whichever is greater, would fully protect the Postal Service from diversions from first-class or priority mail. This minimum of a 25-percent premium over the cost of priority mail would be sufficient to deter shippers from diversion from the mails, while making the suspension available for those shipments it is intended to reach. (Emphasis in original.)

Several parties suggested differentials between 25 percent and 50 percent. Two suggested that any differential above applicable postage should be sufficient.

One commenter requested clarification to the effect that the proposed differential would not be computed on the basis of Express Mail rates. Two parties suggested that the differential should be computed on the basis of domestic first-class/priority rates even if the letters are sent to another nation.

We have decided to retain the proposed cost figure. We acknowledge that payment of any differential above the otherwise applicable postage may be evidence that the shipper attributes some greater degree of value to the letter. Nevertheless, the issue is not whether the payment of a premium constitutes *evidence* of the shipper's views but, rather, whether it justifies a *conclusive presumption* of urgency. We believe that a cost figure lower than we proposed simply does not justify such a presumption. If it is valid to assume that most letters sent by private courier for a cost in excess of postage are extremely urgent, their urgency should be demonstrable on the basis of the contents of the letters. Accordingly, retention of the proposed cost figures for the conclusive presumption should not be burdensome to shippers inasmuch as genuinely urgent letters will be eligible for carriage under the suspension without regard to the cost of private carriage.

We wish to make it clear that the upper limit of the cost test is twice the postage that would be paid for a letter carried by means of priority mail. When a letter which would require priority mail postage is sent to a point outside the United States, the cost test will be applied by treating the letter as though it were being sent to Zone 8 of the rate schedule for priority mail.

C. Commingling of Urgent and Non-Urgent Letters

There was some opposition to the requirement that for any part of a shipment of letters to qualify under the suspension, each of the letters must be extremely urgent. It was suggested that the suspension should apply when substantially all the letters—rather than each letter—in a shipment are extremely urgent. One trade association suggested that otherwise urgent letters should be permitted to contain some non-urgent information. The final regulation retains the proposed requirement. We believe that the problems of administration—by shippers and the Postal Service alike—will be significantly reduced by making it clear that the suspension is limited to extremely urgent letters. The loss of postage which may result should not be compounded by allowing non-urgent letters to travel without payment of postage. The inclusion of incidential non-urgent information in an otherwise extremely urgent letter, however, will not affect its eligibility for the suspension.

D. International Letters

In response to several comments regarding the special problems of shipping letters outside the 48 contiguous states, *e.g.*, the effect of time zones, and the time required for customs inspections, we have adopted a final rule which provides that:

1. Letters sent from a point within the 48 contiguous states to any outside point are deemed "delivered" when they are in the custody of the international or overseas carrier at its last scheduled point of departure from the 48 contiguous states;
2. Letters sent from any location outside the 48 contiguous states to a point within such states are deemed "dispatched" when they are in the custody of a carrier within the 48 contiguous states;
3. Letters sent between American locations outside the 48 contiguous states need not conform to the time limits but must, nevertheless, be extremely urgent on the basis of their contents or on the basis of the postage paid;
4. Letters sent from an American location outside the 48 contiguous states to a foreign location are deemed delivered when they are in the custody of the international or overseas carrier at its last point of departure at the American location;
5. Letters dispatched and delivered wholly within an American location outside the 48 contiguous states are subject to the applicable time limits.

E. Intracompany Letters

Some parties suggested that all intra-company letters, and letters sent between affiliated companies, should be deemed to be extremely urgent. We do not perceive that such letters are inherently urgent or that they should be entitled to any presumption of urgency. Stated simply, they should stand on their own feet, based upon their contents or upon the private courier's charge for their conveyance.

F. Alternative Tests of Urgency

It was suggested that the terms of the suspension should make it clear that the test of urgency based upon delivery standards and loss of value and the test based upon the courier's charge are alternative rather than cumulative. This was our intention and the final rule makes it clear that the tests are alternative to one another.

G. Effect of Time Zones

It was asserted that a problem arises from the existence of time zones within the United States because, although shipments from either coast to the other would be entitled to the proposed 12 hour delivery time period, the alternate test of delivery by 10 a.m. (noon in the final rule) would give an advantage to shipments to the west coast because it gets "earlier" as one goes from east to west. Nevertheless, we believe that the urgency of a letter is reasonably determined on the basis of when the recipient needs it, and this should be measured in terms of his local time. We have, therefore, retained the rule that the relevant time of delivery is that of the addressee.

H. Revocation of Suspension

In accordance with a number of comments, the final rule specifies that the duration of any revocation that may

be imposed will vary in accordance with the severity of the violation, as determined by the amount of postage which should have been paid on the letters, and on the presence or absence of factors indicating a good-faith error.

As noted above, the final rule adds a provision giving rise to a presumption of a violation in the event of a failure on the part of a shipper or carrier to cooperate with an investigation or audit conducted by the Postal Inspection Service seeking to determine compliance with the terms of the suspension. This presumption, existing only for the purposes of administrative proceedings under subsection (e) of the rule, shifts the burden of establishing compliance with the terms of the suspension to the shipper or carrier.

In the operation of this suspension, the right to ship letters outside the mails will often depend on the nature and content of these items. This information, however, will be peculiarly within the knowledge of the shippers and, in some instances, the carriers of these items. We expect cooperation by these persons in the efforts of the Postal Service to ensure compliance with the limitations on the suspension. If cooperation is denied, it is reasonable to draw unfavorable inferences from that denial and to establish a rebuttable presumption which is consistent with those inferences.

In proposing and adopting this suspension to accommodate needs of the private sector, the Postal Service must assume that voluntary compliance with its terms will be the rule. This provision is intended to ensure that the uncooperative few will not be tempted or enabled to abuse the suspension, to the ultimate detriment of the public, in reliance on such delays and difficulties as enforcement may present.

I. Markings on Letters

In response to one comment, the final rule specifies that the markings used to identify extremely urgent letters need appear only on the covers or containers in which the affected letters are placed, and not upon each of the letters themselves or on any interior containers or covers. In addition, the rule, as proposed and adopted, does not require that any specific terminology be used, provided that the language is sufficient to indicate that the sender is asserting that the letters are being shipped pursuant to the suspension.

In view of the considerations discussed above, 39 CFR is amended as follows:

§ 320.6 [Redesignated as § 320.9]

§ 320.7 [Reserved]

§ 320.8 [Reserved]

§ 320.9 [Redesignated from § 320.6]

Section 320.6 is redesignated as § 320.9. Sections 320.7 and 320.8 are reserved. A new § 320.6 is added and reads as follows:

§ 320.6 Suspension for extremely urgent letters.

(a) The operation of 39 U.S.C. 601(a)(1) through (6) and § 310.2(b)(1) through (6) of this chapter is suspended on all post routes for extremely urgent letters if the conditions of either paragraph (b) or paragraph (c) of this section, and of the other paragraphs of this section, are met.

(b)(1) For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours or by the close of the addressee's normal business hours that day, whichever is later, and delivery of those dispatched after noon and before midnight must be completed by 10 A.M. of the addressee's next business day. For other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day. The suspension is available only if the value or usefulness of the letter would be lost or greatly diminished if it is not delivered within these time limits. For any part of a shipment of letters to qualify under this paragraph (b), each of the letters must be extremely urgent.

(2) Letters sent from the 48 contiguous states of the United States to other jurisdictions of the United States or to other nations are deemed "delivered" when they are in the custody of the international or overseas carrier at its last scheduled point of departure from the 48 contiguous states. Letters sent from other jurisdictions of the United States or from other nations into the 48 contiguous states are deemed "dispatched" when they are in the custody of the domestic carrier, having been passed by United States Customs, if applicable, at the letters' point of arrival in the 48 contiguous states.

(3) Except as provided in this paragraph (b)(3), the times and time limits specified in paragraph (b)(1) of this section are not applicable to any locations outside the 48 contiguous states. The times and time limits specified in paragraph (b)(1) are applicable to letters dispatched and delivered wholly within Alaska, Hawaii, Puerto Rico or a territory or possession of the United States. The regulations provided in paragraph (b)(2) relating to the delivery and dispatch of letters are applicable by analogy to letters shipped between these jurisdictions and other nations.

(c) It will be conclusively presumed that a letter is extremely urgent and is covered by the suspension if the amount paid for private carriage of the letter is at least three dollars or twice the applicable U.S. postage for First-Class Mail (including priority mail) whichever is the greater. If a single shipment consists of a number of letters that are picked up together at a single origin and delivered together to a single destination, the applicable U.S. postage may be computed for purposes of this paragraph as though the shipment constituted a single letter of the weight of the shipment. If not actually charged on a letter-by-letter or shipment-by-shipment basis, the amount paid may be computed for purposes of this paragraph on the basis of the carrier's actual charge divided by a *bona fide* estimate of the average number of letters or shipments during the period covered by the carrier's actual charge.

(d) The sender must prominently mark the outside covers or containers of letters carried under this suspension with the words "Extremely Urgent" or "Private Carriage Authorized by Postal Regulations (39 CFR 320.6)" or with a similar legend identifying the letters as carried pursuant to this suspension. In addition, each outside container or cover must show the name and address of the carrier, and the name and address of the addressee. Carrier records must be sufficient to show that the delivery of the letters was completed within the applicable time limitations, if carried under the authority of paragraph (b) of this section, and must be made available for inspection at the request of the Postal Service. The required records may be either in the form of notations on the containers or covers of any letters asserted to be carried under this suspension, or in the form of records kept by employees of the actual times they pick up and deliver such materials.

(e) Violation by a shipper or carrier of the terms of this suspension is grounds for administrative revocation of the suspension as to such shipper or carrier for a period of one year in a proceeding instituted by the General Counsel, following a hearing by the Judicial Officer Department in accordance with the rules of procedure set out in Part 959 of this chapter. The period of the revocation may be reduced or be extended for not to exceed one additional year by the Judicial Officer, depending on such mitigating or aggravating factors as the extent of the

postal revenue lost because of the violation and the presence or absence of good faith error or of previous violations. The failure of a shipper or carrier to cooperate with an authorized inspection or audit conducted by the Postal Inspection Service for the purpose of determining compliance with the terms of this suspension shall be deemed to create a presumption of a violation for the purpose of this paragraph (e) and shall shift to the shipper or carrier the burden of establishing the fact of compliance. Revocation of this suspension as to a shipper or carrier shall in no way limit other actions as to such shipper or carrier to enforce the Private Express Statutes by administrative proceedings for collection of postage (see § 310.5) or by civil or criminal proceedings.

(f) The following examples illustrate the application of this suspension.

Example (1). The headquarters of a city police department each night compiles a list of the license plate numbers and descriptions of automobiles reported stolen within the metropolitan area during the previous 24 hours. This list is delivered by 7 a.m. the following day to each of the local precinct offices located throughout the city. By 9 a.m. that day, the list is circulated for use by law enforcement units operating from each office. Effective police recovery of stolen vehicles depends upon having this information handed out in written form to all units on at least a daily basis. The private carriage of these lists would qualify under the test set in paragraph (b) above.

Example (2). The same police department headquarters also from time to time distributes memoranda advising the local precinct officers on departmental policy and vacation schedules, and responding to inquiries from the local precinct offices. Nothing substantial turns on whether these memoranda arrive by midnight or by 10 a.m. of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these memoranda would not qualify under the test set out in paragraph (b) above.

Example (3). A health maintenance organization (HMO) operating its own hospital, clinics, and medical laboratory daily sends test samples and specimens from the HMO's hospital and clinics to its medical laboratory in a different location for immediate analysis. In return, the HMO laboratory sends to the HMO's hospital and clinics the laboratory reports for these samples and specimens on the day the reports are completed. The reports are then promptly utilized by the hospital and clinics as part of regular diagnostic procedures. The private carriage of these reports would qualify under the loss-of-value test set out in paragraph (b) above.

Example (4). The same HMO's hospital and clinics send requisitions and invoices to the HMO's central office as the need arises for the ordering of and payment for goods and services, which are handled centrally. Every other Friday, the central office sends to the hospital and clinics reports and memoranda on expenditures for personnel, supplies, utilities, and other goods and services. Nothing substantial turns on whether these materials arrive the same day or by 10 a.m. of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (5). On Sunday, Tuesday, and Thursday evenings, the central office of a regional grocery store chain sends out to its various stores in the area inventory bulletins prepared over the previous 24 hours showing the current availability and prices of meat, produce, dairy products, breadstuffs, frozen foods and similar items. Early the following afternoon, each store must send these inventory bulletins back to the central office with a notation of the store's orders to assure that the central office can ship sufficient supplies of such items for sale by the store on its next business day. The private carriage of these bulletins would qualify under the test set out in paragraph (b) above.

Example (6). On Sunday, Tuesday, and Thursday evenings, the central office of a different regional grocery chain sends out to its various stores in the area inventory bulletins showing the current availability and prices of meat, produce, dairy products, breadstuffs, frozen foods and similar items. Early in the afternoon of the second day following receipt of the bulletins, each store sends the bulletins back to the central office so that supplies of such items may be shipped to the store four days later. Nothing substantial turns on whether these bulletins arrive within 12 hours or by noon of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (7). The headquarters office of a large bank each business day prepares and sends to its branch offices lists showing current foreign exchange rates and similar information that must be updated and distributed to the branches on a daily basis in order for the bank to avoid the risk of serious financial loss. Within three hours of their receipt by each branch office, these lists are circulated and utilized by officials of the branch office in conducting regular banking procedures involving the use of such lists. The private carriage of these lists would qualify under the test set out in paragraph (b) above.

Example (8). The field office of an insurance company daily sends the insurance applications it has taken in that day to the company's central office. The applications are bound (i.e., constitute evidence of insurance) for 30 days, but may be canceled by the company. Few if any policies have been canceled by the company within 48 hours of their receipt at the central office, though the company normally begins processing the applications soon after their receipt. Nothing substantial turns on whether these bound applications arrive within 12 hours or by noon of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (9). An organization of real estate brokers in a community issues periodic bulletins containing information about properties which have been listed for sale by the constituent brokers. Each broker is entitled to show the properties to prospective buyers. In order to provide each broker with substantially equal opportunity to secure a buyer, it is necessary that the bulletins be delivered on the same day and within the shortest time span within that day. The bulletins constitute the basic source of information for the brokers and delivery in the foregoing manner is a key element in the functioning of the brokers. The private carriage of the bulletins would therefore qualify under the test set out in paragraph (b) above.

Example (10). The same organization distributes memoranda regarding speakers at real estate seminars, sales figures for a given period, and other information of significance and interest to real estate brokers but which does not affect their competitive positions. A failure to make simultaneous or near simultaneous delivery to the brokers, or a failure to make delivery within a specified period of time, has no material bearing upon the day-to-day operations of the brokers and private carriage of these materials would not qualify under the test set out in paragraph (b) above.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 79-32737 Filed 10-23-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1342-1]

Approval of a Delayed Compliance Order Issued to the Federal Correctional Institution, Alderson, W.Va.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued to the Federal Correctional Institution. The Order requires the source to bring air emissions from its coal-fired boilers in Alderson, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order by the

Federal Correctional Institution will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on October 24, 1979.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior Federal Register notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick McManus, U.S. EPA, Region III, 3EN12, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597-9893.

SUPPLEMENTARY INFORMATION: On May 31, 1979, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the Federal Register, Vol. 44, No. 106, a notice proposing the issuance of a Delayed Compliance Order to the Federal Correctional Institution. The notice asked for public comments by July 2, 1979 on the EPA proposal. No public comments have been received by this Office.

The source had planned to install a baghouse system by June 30, 1979 to control particulate matter from its coal-fired boilers in order to comply with Regulation II, "To Prevent and Control Particulate Air Pollution from the Combustion of Fuel in Indirect Heat Exchangers."

To date, the company has complied with all terms of the Order, EPA has determined that its approval of the Order shall be effective, October 24, 1979 because of the need to immediately place The Federal Correctional Institution on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in *§ 65.530, Federal Delayed Compliance Orders issued to major stationary sources.*

The Federal Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

§ 65.530 Federal Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Federal Correctional Institution	Alderson, WV	III 78-1-DCO	5/31/79	Regulation II	6/30/79

[FR Doc. 79-32789 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1341-8]

Approval of a Delayed Compliance Order Issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co. The Order requires the company to bring air emissions from its coal preparation plant in Harrison County, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order by Consolidation Coal Co. will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick McManus, U.S. EPA, Region III, 3EN12, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597-9893.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior Federal Register notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On August 16, 1979, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the Federal Register, Vol. 44, No. 160, a notice proposing approval of a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co. The notice asked for public comments by September 17, 1979 on the EPA proposal.

No public comments have been received by this Office.

The order called for Consolidation Coal Co. to install a venturi scrubber and mist eliminator on its thermal dryers by June 30, 1979 in order to comply with Regulation V to "Prevent and Control Air Pollution from Operation of Coal Preparation Plants and Coal Handling Operations."

To date, the company has complied with all terms of the Order. EPA has determined that its approval of the Order shall be effective October 24, 1979, because of the need to immediately place Consolidation Coal Co. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of

Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.531, *U.S. Approval of State Delayed Compliance Orders Issued to major stationary sources.*

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

§ 65.531 U.S. Approval of State Delayed Compliance Orders, issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Consolidation Coal Co.	Harrison County, WV.	None	8/16/79	Regulation V	6/30/79

[FR Doc. 79-32776 Filed 10-23-79; 8:45 am]
BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1084-A]

Chicago, Rock Island Pacific Railroad Co.; Car Service

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1084-A.

SUMMARY: Service Order No. 1084 authorized the Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, operating over the tracks of the Chicago and North Western Transportation Company, to serve industries located on that line. Since there are no longer shippers on that line requiring service, no emergency exists and Service Order No. 1084 is vacated.

EFFECTIVE DATE: October 16, 1979, at 11:59 p.m.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: October 15, 1979.

In the matter of Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, Authorized to Operate Over Tracks of Chicago and North Western Transportation Company.

Upon further consideration of Service Order No. 1084 (36 F.R. 22063; 37 F.R. 12726, 28059; 38 F.R. 20840; 39 F.R. 3827, 27672; 40 F.R. 5162, 31939; 41 F.R. 4929, 31381; 42 F.R. 6371, 38572; 43 F.R. 4431, 34147; 44 F.R. 6731 and 42697), and good cause appearing therefor:

It is ordered,

§ 1033.1084 Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, authorized to operate over tracks of Chicago and North Western Transportation Company.

Service Order No. 1084 is vacated effective 11:59 p.m., October 16, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Robert S. Turkington not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32738 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5718]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Iowa	Cherokee	Aurelia, city of	190549	Oct. 10, 1979, emergency.	Apr. 16, 1976 and Apr. 16, 1976.
Pennsylvania	Bradford	Le Raysville, borough of	422334	do	Jan. 24, 1975.
Missouri	Jackson	Grain Valley, city of	290737-A	Oct. 9, 1979, emergency, Oct. 12, 1979, regular.	July 16, 1976.
Maryland	Queen Anne	Queen Anne, town of	240059-A	Oct. 12, 1979, emergency.	Aug. 9, 1974.
Texas	Fort Bend	Stafford, city of	480233	Oct. 16, 1979, emergency.	
New Jersey	Camden	Gloucester, city of	3401328	Dec. 19, 1974, emergency, Sept. 14, 1979, regular, Sept. 28, 1979, suspended, Oct. 15, 1979, reinstated.	June 28, 1974 and June 4, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 15, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-32610 Filed 10-23-79; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5719]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Madison	Huntsville, city of	010153-B	Mar. 8, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 Sept. 17, 1976	Nov. 1, 1979.
Do	Marion	Winfield, city of	010164-B	Jan. 23, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 10, 1974 May 28, 1976	Do.
Connecticut	Litchfield	Bridgewater, town of	090184-B	Nov. 11, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 6, 1974 Feb. 20, 1976	Do.
Do	Middlesex	East Haddam, town of	090063-B	Feb. 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 23, 1974 July 30, 1976	Do.
Do	New Haven	Waterbury, city of	090091-B	May 23, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 22, 1974 June 7, 1977	Do.
Georgia	Fulton and Cowetas	Palmetto, city of	130239-B	Sept. 26, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 14, 1974	Do.
Illinois	Jackson	Carbondale, city of	170298-B	Jan. 14, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 3, 1974 Mar. 4, 1977	Do.
Do	St. Clair	East St. Louis, city of	170626-B	May 1, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 16, 1973	Do.
Do	Will	Frankfort, village of	170701-B	Apr. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 1, 1979	Do.
Do	Cook	Lyons, village of	170120-B	Sept. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 15, 1974 Feb. 20, 1976	Do.
Do	Peoria	Peoria Heights, village of	170537-B	Oct. 13, 1972, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 16, 1973	Do.
Indiana	Lake	St. John, town of	180141-B	Jan. 20, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 30, 1973 Apr. 9, 1976	Do.
Iowa	Polk	Clive, city of	190488-B	Aug. 25, 1977, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Oct. 1, 1976 May 31, 1977	Do.
Do	do	West Des Moines, city of	190231-B	July 25, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Apr. 23, 1976	Do.
Kansas	Leavenworth	Easton, city of	200188-A	July 2, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	July 9, 1976	Do.
Do	Harvey	Hesston, city of	200132-A	Apr. 24, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974	Do.
Do	Riley	Riley, city of	200303-B	Dec. 26, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Feb. 15, 1974 Nov. 14, 1975	Do.
Do	Leavenworth	Tonganoxie, city of	200192-B	June 11, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 Apr. 30, 1976	Do.
Michigan	Genesee	Flint, township of	260395-B	Oct. 26, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 10, 1977	Do.
Do	Berrien	Lake, township of	260036-B	July 26, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Oct. 1, 1976	Do.
Do	Genesee	Swartz Creek, city of	260080-B	June 23, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 17, 1974 June 4, 1976	Do.
Minnesota	Wright	Clearwater, city of	270536-B	July 30, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 23, 1974	Do.
Do	Sibley	Henderon, city of	270440-B	Mar. 19, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 April 16, 1976	Do.
Do	Mille Lacs	Isle, city of	270288-B	May 16, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 July 16, 1976	Do.
Do	Le Sueur	Kasota, city of	270247-B	Apr. 28, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 June 25, 1976	Do.
Do	Wright	Monticello, city of	270541-B	Apr. 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 Mar. 26, 1976	Do.
Do	Anoka	Ramsey, city of	270681-B	July 8, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Apr. 21, 1976	Do.
Do	Hennepin	Rockford, city of	270182-B	Feb. 5, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 9, 1973	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Wright	St. Micheal, city of	270543-B	June 16, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 17, 1974 Aug. 20, 1976	Do.
Do	Dakota	Vermillion, city of	270115-B	Oct. 6, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 9, 1974	Do.
Do	Hennepin	Wayzata, city of	270188-B	Nov. 25, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 21, 1974 Mar. 19, 1976	Do.
Mississippi	Leflore	Unincorporated areas	280101-B	Aug. 28, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 12, 1979	Do.
Missouri	Jackson	Lake Lotawana, city of	290697-A	Nov. 10, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 19, 1976	Do.
Nebraska	Dodge	Scribner, city of	310071-B	May 30, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Nov. 28, 1975	Do.
Do	Do	Snyder, village of	310319-A	Aug. 16, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 27, 1975 Mar. 19, 1976	Do.
North Carolina	Gaston	Belmont, city of	370320-A	Mar. 26, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 27, 1975	Do.
Do	Guilford	High Point, city of	370113-B	Sept. 5, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Sept. 10, 1976	Do.
Do	Davidson	Lexington, city of	370081-B	July 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 21, 1974 Aug. 27, 1976	Do.
Do	Rowan	Unincorporated areas	370351-A	Aug. 23, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	July 28, 1976	Do.
Oklahoma	Cherokee	Tahlequah, city of	400037-B	May 13, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 14, 1974 Apr. 16, 1976	Do.
Pennsylvania	Lehigh	Catasauqua, borough of	420586-B	Dec. 3, 1971, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 30, 1973	Do.
Do	Allegheny	Liberty, borough of	420048-B	Aug. 13, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 28, 1973 May 14, 1976	Do.
Do	Lackawanna	Moosic, borough of	420533-B	Nov. 17, 1972, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 31, 1973 Dec. 31, 1976	Do.
Do	Washington	Peters, township of	422152-A	July 29, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 10, 1975	Do.
Do	Dauphin	Reed, township of	420393-B	Apr. 4, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 9, 1974 Dec. 3, 1976	Do.
Do	Clinton	Wayne, township of	420336-B	June 3, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Oct. 26, 1973 Dec. 24, 1976	Do.
Do	Montgomery	West Pottsgrove, township of	421133-B	Mar. 8, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Sept. 20, 1974 June 11, 1976	Do.
Do	Delaware	Yeadon, borough of	420442-B	Sept. 19, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Aug. 27, 1976	Do.
Texas	Dallas	Garland, city of	485471-B	Aug. 7, 1970, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Apr. 16, 1971	Do.
Virginia	Faquier	Unincorporated areas	510055-A	Mar. 18, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 13, 1974	Do.
Do	Smyth	Marion, town of	510223-A	Oct. 24, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 1, 1979	Do.
Do	Scott	Unincorporated areas	510142-B	Feb. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 10, 1978	Do.
Wisconsin	Sawyer	Heyward, city of	550410-B	Oct. 4, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Oct. 17, 1975	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 15, 1979.

Gloria M. Jimenez,

Federal Insurance Admininstrator.

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Proposed Rules

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

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

DEPARTMENT OF ENERGY

10 CFR Part 796

Federal Loan Guarantees for Alternative Fuel Demonstration Facilities; Public Hearing and Public Comment

AGENCY: Department of Energy.

ACTION: Notice of public hearing and comment due date on proposed rulemaking.

SUMMARY: On June 28, 1979, DOE proposed regulations providing for the implementation of loan guarantees and other assistance for Alternative Fuel Demonstration Facilities Program (hereinafter referred to as AFDP) as authorized in Section 207 of Title II of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238) (44 FR 37790). That notice of proposed rulemaking scheduled no public hearing and did not establish a termination date for public comment. This current notice schedules a public hearing and establishes a deadline date for the receipt of written comments.

DATES: (1) Public Hearing. DOE will hold a public hearing on the proposed regulations at 9:30 a.m. (local time) on November 28, 1979.

(2) Written Comments. DOE will consider written comments on the proposed regulations which are received no later than December 12, 1979.

(3) Requests to Speak. Each request to speak at the hearing should be postmarked no later than November 19, 1979.

ADDRESSES: (1) Public Hearing. DOE will hold a public hearing in Room 3000A, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C.

(2) Written Comments. DOE will consider written comments mailed to: Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street, N.W., Washington, D.C. 20461.

(3) Requests to Speak. Requests to speak should be sent to: Presiding Officer, Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, Michael J. Perper (Office of Resource Applications), Room 3324, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, 202-633-8377 or 633-8319.

Department of Energy, Leonard Rawicz (Office of General Counsel), Room 6F055, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202-252-6967.

Department of Energy, Verlette Gatlin (FOI-Public Reading Room), Forrestal Building, Room GA152, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202-252-5969.

Department of Energy, Mr. Robert Gillette (DOE Public Hearing Management), room 2313, 2000 M Street, N.W., Washington, D.C. 20461, 202-254-5201.

SUPPLEMENTARY INFORMATION: On June 28, 1979, DOE proposed regulations providing for the implementation of loan guarantees and other assistance for AFDP. See 44 FR 37790. That notice of proposed rulemaking scheduled no public hearing and did not establish a termination date for public comment. This current notice schedules a public hearing on November 28, 1979, and establishes a deadline date of December 12, 1979 for the receipt of written comments as indicated above.

The June 28, 1979, notice indicated that DOE would prepare and submit to Congress simplified legislation to streamline the loan guarantee authority for a broad range of energy technology demonstrations. DOE has not abandoned this legislative initiative. However, DOE considers it prudent to proceed with the statutory authority which currently exists (i.e., P.L. 95-238). Congress is considering appropriations and a limit on the total loan guarantees which may be issued under the existing statutory authority. Therefore, the hearing date and deadline date for public comments have been established.

I. Public Hearing: DOE will hold a public hearing on the proposed regulations at the time and place indicated above. Any person who wishes to speak at the hearing should send DOE a written request to that effect and state the name of the individual, organization (if any), address, telephone number, and length of the presentation. Any presentation which is expected to be longer than 20 minutes should also state why it need be longer. Each request to speak at the hearing should be postmarked no later than November 19, 1979, and be sent to:

Presiding Officer, Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street, N.W., Washington, D.C. 20461.

DOE will develop a schedule for presentations based upon the requests it receives. Anyone who fails to submit a written request, but wishes nevertheless to speak at the hearing, should notify the presiding officer immediately before the hearing. The presiding officer will decide whether, when and for how long the person may speak. Each speaker should bring at least 10 extra copies of the presentation for the convenience of the hearing panel, the hearing reporter, the press and other participants. the hearing will be open to the public.

The hearing will be informal. The presiding officer will hear oral presentations. There will be no cross-examination and no requirement that any speaker be under oath. The presiding officer may seek clarification or amplification of any presentation. a transcript of the hearing will be made and be available for public review at the Department of Energy (FOI-Public Reading Room), Forrestal Building, Room GA-152, 1000 Independence Avenue, S.W., Washington, D.C.

II. Written Comments: DOE will consider written comments on the proposed regulations, which are received in a timely manner at the 2000 M Street address indicated above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation, "Loan Guarantees for AFDP." Ten copies should be submitted.

Dated: October 18, 1979.

Stanley I. Weiss,

Acting Assistant Secretary for Resource Applications.

[FR Doc. 79-32835 Filed 10-23-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R-0054]

Credit by Brokers and Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking: extension of comment period.

SUMMARY: The Board of Governors has extended the period for receipt of public comment on its proposed amendment to the rule governing credit to exchange specialists (Docket No. R-0054) until October 30, 1979.

DATE: Comments must be received by October 30, 1979.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R-0054.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Chief Attorney, or Theodore W. Prush, Senior Securities Regulations Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2781).

SUPPLEMENTARY INFORMATION: On May 5, 1977 (42 FR 2284) the Board requested comment on a proposal to amend the rule governing credit to exchange specialists (Regulation T) to assist option specialists in performing their market-making function by permitting them, in certain circumstances, to purchase or sell short, on preferential credit terms, the securities underlying the options in which they specialize. On August 15, 1979, the Board published a revision of the proposed amendment [44 FR 47775] based upon comments received on that proposal and recommendations of the Securities and Exchange Commission Special Study of the Options Market. The comment period for this proposal was scheduled to expire on October 15, 1979. The Board has been requested to extend the comment period in order to provide interested parties with additional time in which to present their views. In light of the issues involved in the proposal and in order to encourage public participation in this matter, the comment period has been extended to October 30, 1979.

By order of the Board of Governors, acting through its Secretary under delegated authority, October 18, 1979.

Theodore E. Allison

Secretary of the Board.

[FR Doc. 79-32825 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708

Mergers of Credit Unions; Proposed Rulemaking

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Part 708 of the NCUA Rules and Regulations in two respects. First, it would provide for a more democratic process in approving a merger proposal by eliminating the requirement that at least 20 per centum of the total membership must participate in the voting in order to validate the merger. Instead, the will of the majority of members who vote would determine the merger question. Second, the proposed rule would permit the NCUA Board to approve a merger without requiring membership approval of the merger proposal in those cases where the Board has determined that the credit union is in danger of becoming insolvent and the merger is sought as an alternative to liquidation of the credit union.

DATE: Comments must be received on or before November 26, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202)632-4870.

SUPPLEMENTARY INFORMATION: The merger regulation was prepared under the authority contained in section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)), which authorizes NCUA to prescribe rules and regulations for, among other things, the merger, consolidation or dissolution of Federal credit unions and section 205 of the Act (12 U.S.C. 1785), which provides that federally-insured credit unions cannot merge or consolidate without Board approval. Accordingly, 12 CFR Part 708 was promulgated, outlining in some detail the process that must be followed when a merger involving at least one federally-insured credit union is contemplated. The procedure essentially involves the preparation of a detailed merger plan that must be approved by the appropriate NCUA Regional Director and by the NCUA Board. Where at least one of the credit unions involved in the proposed merger has been chartered at the state level, any applicable state laws addressing mergers must also be followed. Where it is a Federal credit union that will be merging into the continuing credit union, the regulation provides that its members shall have the right to approve or disapprove the merger proposal. This provision is in general accord with recognized principles of corporate law and it is not the intent of these proposed amendments to abolish the members' right to accept or reject a merger in which their credit union will be losing its identity.

Nevertheless, it has been determined that the twenty per cent participation requirement contained in § 708.7(b) is not in the best interest of credit unions or their members. The provision was included originally in order to assure that a merger proposal would receive the attention of a representative sampling of the entire membership. It was felt that in this way a small but vocal and aggressive minority of the credit union members would be unable to bind the entire membership on a merger proposal.

As a practical matter, however, this concern has proven to be relatively unfounded. The provisions that are currently contained within subsection (a) of § 708.7 assure that all members will receive adequate notice of the proposal and that all are entitled to vote on it. It is thus considered unlikely that a minority faction within the credit union could successfully assert their will over the majority. An additional safeguard is present in the fact that a sample notice and ballot package must be submitted to NCUA for review and approval prior to its distribution to the membership. The Administration sees no reason why the question of whether or not to merge need be decided by any more than a simple majority of those who vote, provided that all members have been given reasonable notice of their opportunity to do so.

Another undesirable result of this requirement is that it transforms essentially neutral indifference into a negative vote. Because failure to receive 20 percent participation will preserve the status quo, a person who opposes a merger can advance his position further by simply not voting than he could by casting a negative vote. This can have the effect of thwarting the express desire of a majority of the members who do cast their vote.

The Administration's second proposed amendment addresses a different and relatively unique aspect of the merger situation. In some cases, a credit union that is on the verge of insolvency may make arrangements to merge with another, stronger credit

union as an alternative to undergoing a liquidation. In many instances the Administration would look favorably upon such an alternative, not only because it avoids the disruption, inconvenience, and hardship that a liquidation imposes upon the membership of a credit union, but also because it will reduce the risk of loss to the Share Insurance Fund. If a merger can be arranged that is consistent with longstanding NCUA policies regarding field of membership and common bond, the members will be benefitted by the relatively uninterrupted continuation of credit union services that results from a merger. Additionally, expenses to the Share Insurance Fund can be substantially reduced if a merger, as opposed to a liquidation can be consummated.

The Administration is also mindful of the merger alternatives used in the case of failing banks. While the ability of a bank to absorb another failing bank hinges on the financial strength of the absorbing bank, its location and the impact on competition, in the case of a credit union, it is a question of financial strength and compatibility of fields of membership. Although the authority of the Administration to prescribe rules governing mergers is somewhat broader than that provided other financial institution regulatory agencies, Congress did provide those agencies with a procedure to be used in emergency situations, i.e., in the case of a failing bank. The Administration, however, did not previously provide for a merger procedure in the case of a filing credit union. The proposed rule is designed to address this area.

Under current merger guidelines the requirement of obtaining the approval of the membership for the merger proposal may well frustrate a merger as a practical alternative to liquidation. The added costs of preparing and distributing the ballots and holding the special meeting of the members, coupled with the attendant time delays, may put the credit union into such an insolvent position that a merger cannot be completed or to the point that a merger is no longer a viable alternative. Moreover, the Administration views as academic the question of whether the members, when faced with liquidation as their alternative, would approve a merger as a viable way to continue operations. Members who are dissatisfied with the merger are free to close their accounts and thus have credit union services terminated; the same result as if the credit union were placed into liquidation. The second of the proposed rules, therefore, eliminates the requirement of membership approval for these limited classes of mergers.

In proposing these amendments, the Board relies on, in addition to section 120(a) and 205 of the Act, section 208 (12 U.S.C. 1788), which provides the Board with the authority to take certain actions in order to reduce the risk to the National Credit Union Share Insurance Fund and to facilitate a merger or consolidation of insured credit unions, and section 209 (12 U.S.C. 1789), the general relemaking authority for purposes of the provisions of Title II of the Act.

This proposed regulation provides for a 30-day comment period; comments must be received by November 26, 1979. A 60-day comment period is not provided because the proposal is not viewed as a significant change, it would relieve a previous restriction and the Administration finds it to be in the best interest of credit unions, their members and the National Credit Union Share Insurance Fund.

In addition, a regulatory analysis was not prepared for this proposed regulation because it was determined the proposal will not result in a significant impact on the national economy or cause a major increase in the costs or expenses of Federal credit unions. Also, certain other procedures provided for in NCUA's Report on Improving Government Regulations were not followed because the proposal is in response to an emergency and the process is unnecessary for the public interest. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, the National Credit Union Administration proposes to amend 12 CFR Part 708 to read as set forth below.

Rosemary Brady,
Secretary, NCUA Board.

October 18, 1979.

1. Part 708 is amended by deleting the term "Administrator" each time it appears therein and by inserting the term "Board" in lieu thereof.

§ 708.7 [Amended]

2. Paragraph (b) of 12 CFR 708.7 is amended by deleting the words "in a vote in which at least 20 per centum of the total membership of the credit union participates."

§ 708.6 [Amended]

3. Paragraph (a) of 12 CFR 708.6 is amended by deleting the period at the end of the subsection and inserting in lieu thereof the following: "; *Provided, however,* That in the event the Board determines that the merging credit union, if it is a Federal credit union, is in danger of insolvency, and that the proposed merger would reduce the risk or avoid a threatened loss to the National Credit Union Share Insurance Fund, the Board may permit the merger to become effective without an affirmative vote of the membership of the merging Federal credit union, not withstanding the provisions of § 708.7."

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)).

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79-55]

Small Power Production and Cogeneration—Rates and Exemptions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed rules would implement section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The rules set forth rates for the sale of electric energy between qualifying small power production and cogeneration facilities and electric utilities, and provide for the exemption of qualifying facilities from certain State and Federal regulation. The proposed rules also provide guidelines for the interconnection arrangements between qualifying facilities and electric utilities.

DATE: Written comments by December 1, 1979. Dates of the public hearings will be announced at a later time.

ADDRESS: All responses to reference Docket No. RM79-55, and to be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Locations of the public hearings will be announced at a later time.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Executive Assistant to the Associate General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8171.

SUPPLEMENTARY INFORMATION:

Issued: October 18, 1979.

Section 210(a) of the Public Utility Regulatory Policies Act of 1978 (PURPA)

requires that the Commission prescribe rules as it determines necessary to encourage cogeneration and small power production, requiring electric utilities to offer to:

(1) Sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities, and

(2) Purchase electric energy from such facilities.

In addition, section 210(e) of PURPA requires the Commission to prescribe rules under which qualifying cogeneration and small power production facilities are exempted, in whole or in part, from the Federal Power Act, from the Public Utility Holding Company Act of 1935, and from State laws and regulations respecting the rates or respecting the financial or organizational regulation of electric utilities, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

On June 26, 1979, in Docket No. RM79-54, the Commission issued proposed rules regarding the determination of which cogeneration and small power production facilities are qualifying cogeneration facilities or qualifying small power production facilities. Such qualifying facilities are entitled to avail themselves of exemptions set forth in section 210 of PURPA, and are eligible for exemption from the incremental pricing provisions of section 206(c) of the Natural Gas Policy Act of 1978 (Order No. 49, § 282.203(e), issued September 28, 1979, 44 FR 57726).

On June 27, 1979, in Docket No. RM79-55, the Commission issued a Staff discussion paper regarding issues arising under section 210 of PURPA.[1] The Staff discussion paper set forth many legal and policy questions arising under section 210 of PURPA. In addition to those issues, comments received in response to the Staff discussion paper and in the public hearings held in San Francisco, Chicago, and Washington, D.C. in July, 1979 on this topic raised new questions regarding the Commission's responsibility to exercise its authority under section 210. The Commission has taken into consideration these questions and comments in developing this proposed rulemaking.

[1] The Staff discussion paper in Docket No. RM79-55 concerned subjects also addressed in this proposed rulemaking. Since interested persons may submit comments in response to this rulemaking, the deadline for the filing of comments on the Staff discussion paper was not extended beyond the original deadline of August 1, 1979.

Summary

The proposed rules provide that electric utilities must purchase electric energy and capacity made available by qualifying cogenerators and small power producers at a rate reflecting the cost that the purchasing utility can avoid as a result of obtaining energy and capacity from these sources, rather than generating an equivalent amount of energy itself or purchasing the energy from other suppliers. To enable potential cogenerators and small power producers to be able to estimate these avoided costs, the rules require electric utilities to furnish data with regard to present and future costs of energy and capacity on their systems.

These rules also provide that electric utilities must furnish electric energy to qualifying facilities on a non-discriminatory basis, at a rate that is just and reasonable and in the public interest, and must provide certain types of service which may be requested by qualifying facilities to supplement or back up those facilties' own generation.

The rule exempts all qualifying cogeneration facilities and certain qualifying small power production facilities from rate and certain other regulations under the Federal Power Act, from the provisions of the Public Utility Holding Company Act of 1935 related to electric utilities, and from State laws regulating electric utility rates and financial organization.

The implementation of these rules is reserved to the State regulatory authorities and nonregulated electric utilities. Within one year of the issuance of the Commission's rules, each State regulatory authority or nonregulated utility must implement these rules. That implementation may be accomplished by the issuance of regulations, on a case-by-case basis, or any other means reasonably designed to give effect to the Commission's rules.

The Commission observes that this rulemaking represents an effort to evolve concepts in a newly developing area within rigid statutory constraints. The Commission is attempting to afford broad discretion to the State regulatory authorities and nonregulated electric utilities in recognition of the variety of institutional, economic, and local circumstances which may be affected by this proposed rulemaking. In this regard, the Commission seeks the fullest range of comments on the legal authority of proposed Commission action, and on the technical and practical aspects of the proposals set forth in this rulemaking.

Section-by-Section Analysis

Subpart A—Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities under Section 210 of the Public Utilities Regulatory Policies Act of 1978.

§ 292.101 Scope.

Section 292.101(a) describes the scope of Subpart A of Part 292 of the Commission's rules. Subpart A applies to sales and purchases of electric energy and capacity between qualifying cogeneration and small power production facilities and electric utilities, and actions related to such sales and purchases. Section 292.101(b) provides that the authority of this subpart does not preclude negotiated agreements between qualifying cogenerators or small power producers and electric utilities which differ from rates or terms which would otherwise be required under this subpart. Paragraph (b)(1) reflects the Commission's view that the rate provisions of section 210 of PURPA apply only if a qualifying cogenerator or small power producer chooses to avail itself of the rights and protections set forth in that section. An agreement between an electric utility and a qualifying cogenerator or small power producer to conduct sales or purchases at rates higher or lower, or under terms or conditions different from those set forth in these rules, does not violate the Commission's rules under section 210 of PURPA. Nor would provisions of State law or regulations which provide different incentives for small power production and cogeneration (than are provided in the Commission's rules) be preempted. The Commission recognizes that the ability of a qualifying cogenerator or small power producer to negotiate with an electric utility is buttressed by the existence of the statutory rights and protections of these rules, and the right of State regulatory agencies and nonregulated electric utilities to provide further encouragement of these technologies.

If, prior to the existence of the rights and protections set forth in PURPA, a cogenerator or small power producer entered into a contractual agreement by which he received sufficient financial incentive to sell his electric output to a utility, the encouragement of cogeneration or small power production does not require that he be given additional incentives. Accordingly, paragraph (b)(2) provides that Subpart A will not affect the validity of any contract between a qualifying cogenerator of small power production

facility and an electric utility. At the expiration of the contract, a cogenerator or small power producer will be able to avail himself of these rules.

§ *292.102 Definitions.*

This section contains definitions applicable to Subpart A.

Paragraph (a) provides that terms defined in PURPA have the same meaning as they have in PURPA, unless further defined in this part of the Commission's regulations.

Subparagraph (1) defines a qualifying facility as a cogeneration or small power production facility which is a qualifying facility under § 292.208 of the Commission's regulations. Those regulations implement section 201 of PURPA, and are the subject of Docket No. RM79-54.

Subparagraph (2) defines "purchase" as the purchase of electric energy or capacity from a qualifying facility by an electric utility.

Subparagraph (3) defines "sale" as the sale of electric energy or capacity by an electric utility to a qualifying facility.

Subparagraph (4) defines "system emergency" as a condition on a utility's system which is likely to result in disruption of service to a significant number of customers or is likely to endanger life or property.

Subparagraph (5) defines "rate" as any price, rate charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

Subparagraph (6) defines "avoided costs" as the costs to an electric utility of energy or capacity or both which, but for the purchase from a qualifying facility, the electric utility would generate or construct itself or purchase from another source. This definition is derived from the concept of "the incremental cost to the electric utility of alternative electric energy" set forth in section 210(d) of PURPA. It includes both the fixed and the running costs on an electric utility system which can be avoided by obtaining energy or capacity from qualifying facilities.

The costs which an electric utility can avoid by making such purchases generally can be classified as "energy" costs or "capacity" costs. Energy costs are the variable costs associated with the production of electric energy (kilowatt-hours). They represent the cost of fuel, and some operating and maintenance expenses. If, by purchasing electric energy from a qualifying facility, a utility can reduce its energy costs or can avoid purchasing energy from another utility, the rate for a purchase from a qualifying facility is to be based on those energy costs which the utility can thereby avoid.

Capacity costs are the costs associated with providing the capability to deliver energy; they consist primarily of the capital costs of facilities. If a qualifying facility offers energy of sufficient reliability and with sufficient legally enforceable guarantees of deliverability to permit the purchasing electric utility to avoid the need to construct a generating unit, to enable it to build a smaller, less expensive plant, or to purchase less firm power from another utility, then the rates for such a purchase will be based on the net avoided capacity and energy costs.[2]

There is considerable language in both the statute and the Conference Report, as well as the Federal Power Act, in support of the proposition that capacity payments are not only legally permitted to be required by the Commission, but also, at least in some circumstances, mandated.

The Conference Report addresses the calculation of the alternative cost standard at some length. The final paragraph of this section of the Report is the following:

The conferees expect that the Commission, in judging whether the electric power supplied by the cogenerator or small power producer will replace future power which the utility would otherwise have to generate itself either through existing capacity or additions to capacity or purchase from other sources, will take into account the reliability of the power supplied by the cogenerator or small power producer by reason of any legally enforceable obligation of such cogenerator or small power producer to supply firm power to the utility.[3]

The references to "additions to capacity" and to obligations "to supply firm power" (the rates for which, in this Commission's experience, always include a capacity component) lead the Commission to the conclusion that, under Section 210, capacity payments to qualifying facilities can be required under certain circumstances; and that a utility's refusal to make payments based in part on avoided capacity payments could be discriminatory.

In addition, the Commission notes that the statutory language used in the Federal Power Act uses the term "electric energy" to describe the rates for sales or resale in interstate commerce. Demand or capacity rates are a traditional part of such rates. The term "electric energy" is used throughout the Act to refer both to electric energy and capacity. The Commission does not find any evidence that the term "electric energy" in section 210 of PURPA was intended to refer only to fuel and operating and maintenance expenses, instead of all of the costs associated with the provision of electric service.

To interpret this phrase to include only the energy would lead to the conclusion that the rates for sales to qualifying facilities only include the energy component of the rate. It is the Commission's belief that this was not the intended result, and thus provides an additional reason to interpret the phrase electric energy to include both energy and capacity.

§ *292.103 Availability of electric utility system cost data.*

In order to be able to evaluate the financial viability of a cogeneration or small power production facility, an investor needs to be able to ascertain, before construction of a facility, the expected return on a potential investment. This return will be determined in part by the price at which the qualifying facility can sell its electric output. Under § 292.105 of these rules, the rate at which a utility must purchase

[2] "Net avoided costs" are the excess of the total costs of the system developed in accordance with the utility's optimum capacity expansion plan, excluding the qualifying facility, over the system's total costs (before payment to the qualifying facility) developed in accordance with the utility's optimum capacity expansion plan including the qualifying facility. This concept recognizes that the energy cost associated with a deferred or avoided unit may be different from the energy costs of the qualifying facility which permitted that deferral or avoidance. In determining an optimum capacity expansion plan, a utility must consider both capacity and energy costs in order to minimize the anticipated total system costs. In providing for payments for avoided capacity, the Commission uses the term "net avoided cost" in recognition of the fact that various types of capacity will not produce the same amount of energy, so that some change in the dispatch of generation may be necessary from the remaining plants after a planned unit is deferred and the qualifying facility's capacity is substituted along with other available capacity to produce the same amount of energy at the minimum cost. This is particularly true, for example, where the capacity factor for the qualifying facility is less than the planned capacity factor from a base load (high capacity cost—low energy cost) alternative facility which is deferred. In such a case, although adequate capacity may exist on the system due to the purchase from the qualifying facility in lieu of the deferred base load unit, additional energy costs may be incurred due to increased generation from intermediate plants to make up the difference between the planned generation from the base load plant and the lesser total energy produced by the qualifying facility. Such increased energy cost is appropriately recognized by providing for the payment to the qualifying facility of the *net* avoided costs. In this way, the ratepayers are assured of paying no more than the total costs that would have been incurred had the unit not been deferred.

[3] Conference Report on H.R. 4018, Public Utilities Regulatory Policies Act of 1978, H. Rep. No. 1750, 99, 95th Cong., 2d Sess. (1978).

that output is based on the utility's avoided costs.

In order to provide data to qualifying facilities which will assist them in determining the utility's avoided costs, § 292.103(b) of the rules requires electric utilities to make available to cogenerators and small power producers data concerning the present and anticipated future costs of energy and capacity on the utility's system. The data required to be provided to determine these avoided costs will have been prepared in compliance with the Commission's rules implementing section 133 of PURPA.[4] This section will thus, for the most part, require a table presenting data already developed.

Section 133 of PURPA applies to each electric utility whose total sales of electric energy for purposes other than resale exceeded 500 million kWh during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. (The phrase "before the immediately preceding calendar year" refers to the year two years prior to the current year. For example, if an electric utility exceeded the 500 million kWh limit both during 1976 and 1979, it must comply with section 133 requirements in 1981.) Section 290.102(d) of the Commission's rules implementing section 133 of PURPA granted an extension until June 30, 1982,[5] to electric utilities covered by that section having total sales of energy for purposes other than resale of less than 1 billion kWh in each of the calendar years 1976, 1977, and 1978.

The proposed coverage under paragraph (a) of these regulations is the same as that provided pursuant to section 133 of PURPA and the Commission's rules implementing that section, with an exception provided in paragraph (c) as will be discussed.

Paragraph (b) provides that each regulated electric utility must furnish to the State regulatory authority, and maintain for public inspection, data related to the costs of energy and capacity of the electric utility's system. Each nonregulated electric utility must maintain such data for public inspection.

Subparagraph (1) requires each electric utility to provide the estimated avoided cost of energy on its system for various levels of purchases from qualifying facilities. The levels of purchases are to be stated in blocks of one hundered megawatts or less for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than ten percent of system peak demand for systems less than 1000 megawatts. This information is to be stated on a cents per kilowatt-hour basis, for daily and seasonal peak and off-peak periods, for the immediately preceding year, and on an estimated cents per kWh basis for the current calendar year and for each of the next five years.

Subparagraph (2) requires each electric utility to provide its schedule for the addition of capacity, planned purchases of firm energy and capacity, and planned capacity retirements for each of the next 10 years.

Subparagraph (3) requires each electric utility to provide the estimated costs at completion, on the basis of dollars per kilowatt, of planned capacity additions, including planned firm purchases.

Qualifying facilities may wish to sell energy or capacity to electric utilities which are not subject to the reporting requirements of paragraph (b). In that event, paragraph (c) provides that, upon request of a qualifying facility, an electric utility not otherwise covered by paragraph (b) must provide sufficient data to enable the cogenerator or small power producer to determine the utility's avoided costs. If such utility refuses to supply the requested data, the qualifying facility may apply to this Commission for an order requiring that the information be supplied. The Commission, in considering such applications, will take into account the burden on the utility.

A non-generating electric utility which does not own or plan to acquire generating capacity may incorporate the data provided by each of its supplying utilities in its compliance with the provisions of this section.

§ 292.104 *Electric utility obligations under this subpart.*

Section 210(a) of PURPA provides that the Commission shall prescribe rules requiring electric utilities to offer to purchase electric energy from qualifying facilities. The Commission interprets this provision to impose on electric utilities an obligation to purchase all electric energy and capacity made available from qualifying facilities, except during periods prescribed in § 292.105(e) and during system emergencies.

There are several circumstances in which a qualifying facility might desire that the electric utility with which it is interconnected not be the purchaser of the qualifying facility's energy and capacity, but would prefer instead that an electric utility with which the purchasing utility is interconnected make such a purchase. If, for example, the purchasing utility is a non-generating utility, its avoided costs will be the price of bulk purchased power ordinarily based on an average figure representing the average cost of energy and capacity on the supplying utility's system. As a result, the rate to the qualifying facility would be based on those average costs. If, however, the qualifying facility's output were purchased by the supplying utility, its output could replace energy supplied by specific peaking units, and its capacity might enable the supplying utility to avoid the addition of new capacity. The costs, and thus the avoided costs, of peaking energy and new capacity are generally greater than system average figures.

Under these proposed rules, certain small electric utilities are not required to provide system cost data, except upon request of a qualifying facility. If, with the consent of the qualifying facility, a small electric utility chooses to transmit energy from the qualifying facility to a second electric utility, the small utility can avoid the otherwise applicable requirements that it provide the system cost data for the qualifying facility and that it purchase the energy itself.

Accordingly, paragraph (d) provides that a utility which receives energy or capacity from a qualifying facility may, with the consent of the qualifying facility, transmit such energy to another electric utility. However, if the first utility does not transmit the purchased energy or capacity, it retains the purchase obligation. Any electric utility to which such energy or capacity is delivered must purchase this energy under the obligations set forth in these rules as if the purchase were made directly from the qualifying facility.[6]

The costs of transmission are not a part of the rate which an electric utility to which energy is transmitted is obligated to pay the qualifying facility.

[4] For example, § 290.303(h) of the Commission's rules implementing section 133 of PURPA requires such electric utilities to report marginal energy costs for each month of the reporting period and for each month of the next five years. Section 290.302(g) of these rules requires electric utilities to report the estimated cost, in dollars per kilowatt of generation, of generation units likely to be installed to meet increases in peak demand. Section 290.302(f) requires the reporting of estimates, for the next ten years of information regarding total system capacity, and capacity to be supplied by other utilities.

[5] Docket No. RM79-6, issued June 5, 1979, granted an extension until May 31, 1982, to electric utilities having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977, and 1978. The Commission recently issued revised regulations in this docket which extended this date to June 30, 1982.

[6] The Commission notes that while a purchase from a qualifying facility may have value as energy and capacity, what is actually transmitted to the second utility is properly described as electric energy. The utility to which energy is transmitted, however, must pay rates based on energy and capacity value.

These costs are part of the costs of interconnection, and are the responsibility of the qualifying facility under § 292.108 of these rules. However, pursuant to agreement between the qualifying facility and any electric utility which transmits electric energy on behalf of the qualifying facility, the transmitting utility may share the costs of transmission. The electric utility to which the electric energy is transmitted has the obligation to purchase the energy at a rate which reflects the costs that it can avoid as a result of making such a purchase.

Paragraph (b) sets forth the statutory requirement of section 210(a) of PURPA that electric utilities offer to sell electric energy to qualifying facilities. This section creates a Federal right for qualifying facilities to obtain electric service, in addition to any service the electric utility is obligated to provide under State laws.

The Staff discussion paper dealt with the issue of whether there is inherent in section 210 of PURPA the authority to order interconnections between electric utilities and qualifying facilities, or whether qualifying facilities must use the procedures set forth in the new sections 210 and 212 of the Federal Power Act to gain interconnection.[7] The Commission believes that the requirement to interconnect is within the legal authority of the Commission under section 210 of PURPA, particularly subsumed within the requirement to buy and sell. To hold otherwise would mean that Congress intended to have qualifying facilities go through an extended and expensive proceeding simply to gain interconnection, contrary to the entire thrust of sections 201 and 210 of PURPA.

These sections evince the clear Congressional intent to encourage development of these desirable forms of generation, and to have the commercial development of these facilities proceed expeditiously. In other words, Congress has already made the judgment that these kinds of facilities serve one of the purposes of the Act as set out in section 101, *viz*, "the optimization of the efficiency of use of facilities and resources by electric utilities", and it would be both redundant and unduly burdensome to have the sponsors of individual facilities show in an evidentiary hearing conducted under section 210 of the Federal Power Act that their project in particular would serve this end (or one of the other related goals established as criteria for an interconnection order in section 210(c)(2)). The purpose of an interconnection application, whether under section 202 or 210 of the FPA, is to secure service, whether emergency or otherwise; and section 210 of PURPA establishes the entitlement of a qualifying facility to service from the interconnected utility. In effect, the proponents of the view that a qualifying facility must apply under sections 210 and 212 of the FPA have the burden of showing that Congress intended interconnection and the entitlement to buy and sell be denied to a qualifying facility which is unable to make the showings required by those sections, especially in light of the fact that a previously interconnected customer installing qualifying facilities would not have to so apply.

This is not to say that all of the protections that Congress has given the target of an interconnection application in sections 210 and 212 of the FPA are necessarily absent from section 210 of PURPA. The Conference Report on section 210 states that customers of utilities are not to be compelled to subsidize qualifying facilities, and this principle would seem to bear on the question of who pays the costs of interconnection as well as on the per-unit price to be paid for energy. On the other hand, the Conference Report includes a proscription against "unreasonable rate structure impediments, such as unreasonable hook up charges." This provides another argument in favor of reading section 210 of PURPA as including interconnection authority, since the elaborate cost determination required under sections 210 and 212 of the FPA is redundant if the costs of interconnection are viewed simply as a feature of the rate structure with the charge therefor based on the cost of the utility. However, the Commission does view section 210 of the FPA as an alternate avenue for remedy available to any qualifying facility which wishes to apply under it.

The obligation to interconnect can be part of either an electric utility's option to purchase from or sell to a qualifying facility. With regard to the obligation to sell, State law ordinarily sets out the obligation of an electric utility to provide service to customers located within its service area. The Commission believes that State law will normally impose on an electric utility the obligation to interconnect and that the Commission's proposal will not, in most instances, impose any additional obligation on electric utilities.

As noted in the Staff discussion paper, by installing certain equipment, an electric utility can be protected from disruption of its operations caused by a qualifying facility. The Commission has not received comments which disagree with this understanding. Therefore, through the allocation of the costs associated with such equipment to the qualifying facilities, as provided in § 292.109, and through the imposition of standards for operating reliability under § 292.110, appropriate physical and financial protection for the electric utilities is provided in the Commission's proposed rules.

Several commentors urged that the Commission require electric utilities to offer to operate in parallel with a qualifying facility. By operating in parallel, a qualifying facility is enabled automatically to export any electric energy which is not consumed by its own load. Therefore, provided that the qualifying facility complies with the standards set forth in § 292.110 regarding operating reliability, the Commission proposes in paragraph (e) that electric utilities be required to offer to operate in parallel with a qualifying facility.

§ *292.105 Rates for purchases.*

Section 210(b) of PURPA provides that in requiring any electric utility to purchase electric energy from a qualifying facility, the Commission must insure that the rates for such purchases be just and reasonable to the electric consumers of the purchasing utility, in the public interest, nondiscriminatory to qualifying facilities, and that they not exceed the incremental costs of alternative electric energy (the costs of energy, which, but for the purchase, the utility would generate from another source).

Types of Purchases

In impelementing this statutory standard, it is helpful to review industry practice respecting sales between utilities. Sales of electric power are ordinarily classified as either firm sales, where the seller provides power at the customer's request, or non-firm power sales, where the seller and not the buyer makes the decision whether or not power is to be available. Rates for firm power purchases include payments for the cost of fuel and operating expenses, and also for the fixed costs associated with the construction of generating units needed to provide power at the purchaser's discretion. The degree of certainty of deliverability required to constitute "firm power" can ordinarily be obtained only if a utility has several generating units and adequate reserve capacity. The capacity payment, or demand charge, will reflect the cost of the utility's generating units and the

[7] Staff discussion paper, *supra*, at 10-14.

associated costs of assuring that firm power will be available on demand.

In contrast, the ability to provide electric power at the selling utility's discretion imposes no requirement for the construction of capacity on the seller. In order to provide power to customers at the seller's discretion, the selling utility needs only to provide for the cost of operating its generating units. These costs, called "energy" costs, ordinarily are the ones associated with non-firm sales of power.

Purchases of power from qualifying facilities will fall somewhere on the continuum between these two types of electric service. Thus, for example, wind machines that furnish power only when wind velocity exceeds twelve miles per hour may be so uncertain in availability of output as only to permit a utility to avoid generating an equivalent amount of energy. The utility must continue to provide capacity that is available to meet the needs of its customers. Rates for such sporadic purchases should thus be based on the utility system's avoided incremental cost of energy (system lambda), and not based on avoided capacity.

On the other hand, photovoltaic cells, although subject to some uncertainty in power output, have the general advantage of providing their maximum power coincident with the system peak when used on a summer peaking system. The value of such power is greater to the utility than power delivered during off-peak periods. Since the need for capacity is based on system peaks, the qualifying facility's coincidence with the system peak should be reflected in the allowance of some capacity value and an energy component that reflects the avoided energy costs at the time of the peak.

A facility burning municipal waste or biomass can operate more predictably and reliably than solar or wind systems. It can schedule its outages during times when demand on the utility's system is low. If such a unit demonstrates a degree of reliability that would permit the utility to defer or avoid construction of a generating unit or the purchase of firm power from another utility, then the rate for such a purchase should be based on the avoidance of both energy and the capacity costs.

In order to be able to defer or cancel the construction of new generating units, a utility must obtain a commitment, sufficiently ahead of the lead time for the construction of its own new capacity, that provides contractual or other legally enforceable assurances that capacity from alternative sources will be available. If a qualifying facility makes such a commitment, the Commission believes that, as a matter of both policy and interpretation of section 210, the qualifying facility is entitled to receive rates based on the utility's avoided costs resulting from the capacity the qualifying facility supplies. Moreover, if a cogenerator or small power producer were permitted to receive only the energy (fuel, and operating and maintenance) expenses which the purchasing utility can avoid—while the cogenerator or small power producer must himself invest in new, and oftern highly capital-intensive, machinery—these potential sources of energy may go undeveloped. In light of the Commission's statutory obligation to encourage cogeneration and small power production, the Commission believe that a proper interpretation of "the incremental costs of alternative electric energy" requires that, when purchases of energy can substitute for intermediate, or base-load, the rate to the cogenerator or small power producer include the net avoided capacity and energy costs.

If a qualifying facility opts to receive rates based on avoided energy costs, such rates should reflect the energy costs of the electric utility's units which otherwise would have been operated. The Commission believes that there are a variety of acceptable ways to carry out this policy at the State level. The general concept here is that rates for purchases from the qualifying facility would be based on the highest energy cost unit then operating. The qualifying facility would continue to be dispatched until the cost of energy from the utility's generating unit with the highest energy costs is lower than the price at which the qualifying facility wishes to sell.

The Commission neither expects nor requires that the determination of utilities' avoided costs will be so precise. By definition, these costs are based on estimates of costs which would be incurred if certain events were to take place. Electric rates are ordinarily calculated on the basis of averaging. So long as a rate for purchases reasonably accounts for the avoided costs, and does not fail to provide the required encouragement of cogeneration and small power production, it will be considered as implementing these rules.

Paragraph (a) therefore provides that the statutory requirements regarding rates for purchases of energy and capacity from a qualifying facility are satisfied if the rate reflects the avoided costs resulting from such a purchase as determined on the basis of the cost of energy and capacity set forth pursuant to § 292.103(b) or (c).

Method of Implementation

The Commission is required under section 210 of PURPA to prescribe rules requiring electric utilities to offer to sell electric energy to and purchase electric energy from qualifying facilities. Paragraphs (b) and (c) of section 210 set forth the standards regarding the rate at which such purchases and sales shall be made. The implementation of Commission rules promulgating these standards is reserved to the State regulatory authorities and non-regulated utilities, which are required under section 210(f) to implement the Commission's rules.

One major area of concern expressed in comments received from electric utilities, cogenerators and small power producers, and State regulatory authorities has been that the Commission's rules should state general principles sufficient to leave the states and non-regulated utilities flexibility.[8] The basis for this recommendation is the need for experimentation in a new technological area and in an area that is subject to a variety of State procedures, the diverse nature of cogeneration and small power production systems, and the differences in the costs of energy and capacity on individual electric systems. As a result, while we herein propose that, for example, capacity costs must be paid if a utility can actually avoid the construction or purchase of capacity, our rules will not dictate the method by which such a payment is to be determined. Rather the Commission proposes to leave the selection of a methodology to the States and nonregulated electric utilities, with the understanding that should a State or nonregulated utility not fulfill the intent and purposes of our rules and of section 210 of PURPA, the Commission and others have available the enforcement power set forth in section 210(h) of PURPA to assure compliance. Additionally, the Commission is authorized to revise these rules in the future to provide greater specificity to these rules if that is necessary.

Paragraph (b) requires electric utilities, on request of a qualifying facility, to promulgate a tariff or other method for establishing rates for purchases from qualifying facilities of ten kilowatts or less. In Docket No. RM79-54 the Commission proposed a minimum size limitation for qualifying facilities of ten kilowatts. However,

[8] Comments of American Electric Power, filed August 1, 1979, at 2-3; Comments of Electric Consumer Resource Council (ELCON), filed August 1, 1979, at 6; Comments of the National Association of Regulatory Utility Commissioners (NARUC), filed August 1, 1979, at 2-5.

comments received in response to that proposed rulemaking indicate that such a limitation could hamper the development of auxiliary solar and wind power units. Without finally determining that question in this rulemaking, it appears to the Commission that the burden of interconnected operation on both utilities and qualifying facilities can be minimized if standard tariffs are used.

Some utilities already have such tariffs in effect. For units of ten kilowatts or less, it is likely that few changes in the utility's distribution system would be required. For example, an electric utility might offer to permit certain customers to reverse their electric meters, thus permitting consumption by the customer. While the Commission will deal more extensively with the matter of a size limitation for qualifying facilities in its final rule in Docket No. RM79-54, the Commission solicits comment here on the merits of requiring utilities to promulgate tariffs for qualifying facilities of ten kilowatts of less.

Paragraph (c) concerns a problem arising in the implementation of the concept of avoided costs. At the time that a qualifying facility delivers electric energy to an electric utility, that utility can determine its system lambda and thus calculate the costs it can avoid by making the purchase. Subparagraph (1) therefore provides rates for purchases made on an "as available" basis may be based on the purchasing utility's avoided energy costs.

In order to establish certainity of future revenue, a qualifying facility might seek to obtain a contract from a utility providing that the utility will pay a certain price for energy from a qualifying facility, under specified terms and conditions. Indeed, a qualifying facility desiring to obtain capacity credit must provide the purchasing utility with assurance that such capacity will continue to be available.

In the case of future purchases pursuant to a legally enforceable obligation, the utility's avoided energy or capacity costs may be based on the costs of production facilities which are not built and for which the only available cost data are estimates. When the qualifying facility actually supplies electricy, the utility's avoided costs may deviate from these estimated figures. The Commission believes that these potential deviations are a normal result of risk allocation resulting from contractual commitments or other legal obligations, and believes that they must be permitted if the Commission is to fulfill its mandate to encourage cogeneration and small power production. Accordingly, subparagraph (2) provides that rates for such purchases may be based on future estimated utility costs of energy or capacity regardless of whether these estimated costs actually track the actual costs that are incurred.

Paragraph (d) sets forth factors on the basis of which the State regulatory authority or nonregulated utility should determine a utility's avoided costs. These principles relate both to the quality of power available from the qualifying facility and its ability to displace or replace energy and capacity on the utility's system.

Subparagraph (1) deals with the availability of capacity from a qualifying facility during system daily and seasonal peak periods. If a qualifying facility can provide energy to a utility during peak periods when the electric utility is running its most expensive generating units, this energy has a higher value to the utility than energy supplied during offpeak periods during which only units with lower running costs are operating. Ideally, the rates for purchases would reflect the cost in the purchasing utility's system at the precise moment when such energy is supplied. The metering equipment that would be required to ascertain these times of delivery with the requisite specificity may be either unavailable or prohibitively expensive. To the extent that such metering equipment is available, however, the State or nonregulated utility should take into account the time at which the purchase from a qualifying facility is made.

Clauses (i), (ii), (iii), (iv), and (v) deal with the reliability of a qualifying facility. When an electric utility provides power from its own generating units or from those of another electric utility, it normally controls the production of such power from a central location. The ability to so control power production enhances a utility's ability to respond to changes in demand and thereby enhances the value of that power to the utility. A qualifying facility may be able to enter into an arrangement with the utility which gives the utility the advantage of dispatching the facility.[9]

Clause (ii) refers to a qualifying facility's ability and willingness to provide power and energy during system emergencies. Section 292.109 of these proposed regulations concerns the provision of electric services during system emergencies. It provides that, to the extent that a qualifying facility is willing to forego its own use of energy during system emergencies and provide power to a utility's system, the rate for purchases from the qualifying facility should reflect the value of that service. Small power production and cogeneration facilities could provide significant back-up capability to electric systems during emergencies. One benefit of the encouragement of interconnected cogeneration and small power production may be to increase overall system reliability during such emergency conditions. Any such benefit should be reflected in the rate for purchases from such qualifying facilities.

Clause (iii) deals with periods during which a qualifying facility is unable to provide power. Electric utilities schedule maintenance outages for their own generating units at periods during which demand is low. If a qualifying facility can similarly schedule its maintenance outages during periods of low demand, or during periods in which a utility's capacity will be adequate to handle existing demand, it will enable the utility to avoid the necessity to provide redundant capacity. With regard to forced or unscheduled outages, addressed in clause (iv), it is clear that a utility cannot avoid the construction or purchase of capacity if it is likely that the qualifying facility which would replace such capacity may go out of service during the period when the utility needs its power to meet demand. Based on estimated and demonstrated reliability of the qualifying facility, the rate for purchases from a qualifying facility should be adjusted to reflect its forced and scheduled outage rate.

Subclause (v) refers to the lenght of time during which the qualifying facility has contractually or otherwise guaranteed that it will supply energy or capacity to the electric utility. A utility-owned generating unit normally will supply power for the life of the plant, or until it is replaced by more efficient capacity. In contrast, a cogeneration or small power production unit might cease to produce power as a result of changes in the industry or in the industrial processes utilized. Accordingly, the value of service from the qualifying facility to the electric utility will be affected by the degree to which the qualifying facility contractually insures that it will continue to provide power. In order to provide capacity value to an electric utility a qualifying facility need not necessarily agree to provide power for the life of the plant. A utility's generation expansion plans normally include temporary purchases of firm power from other utilities in years preceeding the addition of a major

[9] See comments of Hawaiian Electric Company, filed July 27, 1979, at 2.

generation unit. If a qualifying facility contracts to deliver power, for example, for a one year period, it may enable the purchasing utility to avoid entering into a bulk power purchase arrangement with another utility. The rate for such a purchase should thus be based on the price that such power is purchased, or can be expected to be purchased, based upon bona fide offers from another utility.

Subparagraph (2) concerns the relationship of energy or capacity from a qualifying facility to the purchasing electric utility's need for such energy or capacity. If an electric utility has sufficient capacity to meet its demands and is not planning to add any new capacity to its system, then the availability of capacity from qualifying facilities will not immediately enable the utility to avoid any capacity costs.[10] This is not to say that electric utilities with systems which have excess capacity need not make purchases from qualifying facilities; qualifying facilities may obtain payment for the avoided energy costs on a purchasing utility's system. Utility systems with excess capacity normally have intermediate or peaking units which use fossil fuel. As a result, during peak hours the energy costs on the systems are high, and thus the rate to a qualifying utility from which the electric utility purchases energy should similarly be high. In addition, an electric utility system with excess capacity may nevertheless plan to add new, more efficient capacity to its system. If purchases from qualifying facilities enable a utility to defer or avoid these new planned capacity additions the rate for such purchases should reflect the avoided costs of these additions.

Clause (i) of subparagraph (2) refers to the aggregate capability of capacity from qualifying facilities to displace existing or planned utility capacity. In some instances, the small amounts of capacity provided from qualifying facilities taken individually might not enable a purchasing utility to defer or avoid scheduled capacity additions or purchases. The aggregate capability of such purchases, may, however, be sufficient to permit the deferral or avoidance of a capacity addition. Moreover, while an individual qualifying facility may not provide the equivalent of firm power to the electric utility, the diversity of these facilities may collectively reflect the equivalent of firm power. The States and nonregulated utilities should attempt to devise rate mechanisms which will appropriately compensate qualifying facilities whose aggregate capacity enables the purchasing utility to defer or avoid capacity additions.

Clause (ii) refers to the fact that the lead time associated with the addition of capacity from qualifying facilities may be less than the lead time that would have been required if the purchasing utility had constructed its own generating unit. Such reduced lead time might produce savings in the utility's total power production cost.

Subparagraph (3) addresses the cost of savings resulting from line losses. In determining an appropriate rate for purchases from a qualifying facility the rate should reflect the cost savings actually accruing to the electric utility. If energy produced from a qualifying facility undergoes line losses such that the delivered power is not equivalent to the source of power it replaces, then the qualifying facility should be reimbursed only for the equivalent amount. If the load served by the qualifying facility is closer to the qualifying facility than it is to the utility, it is possible that there may be net savings resulting from reduced line losses. In such cases, the rates should be adjusted upwards.

Subparagraph (4) provides that an electric utility will not be required to purchase energy and capacity from qualifying facilities during periods in which such purchases might result in net increased operating costs to the electric utility. Identification of these periods will be made by the State regulatory authority which has jurisdiction over the utility or by the nonregulated electric utilities. Comments received in response to the Staff discussion paper noted that if, for example, during low load periods, a utility were operating a nuclear plant as its most expensive unit, and were forced to cut back output from such a unit in order to accommodate a purchase from a qualifying facility, the utility would experience increased costs in increasing the output from the nuclear facility when the system demand increases.[11]

Thus, because the avoided cost is zero or actually involves expense to the utility, requiring the utility to purchase energy from a qualifying facility during such a period would not be just and reasonable to the consumers of the electric utility, because it would result in increased costs to the system's rate payers. Under the proposed § 292.104(a) an electric utility would not be required to make energy purchases during such a period.

Tax Issues

The Statement of the Committee of Conference states that

> * * * the examination of the level of rates which should apply to the purchase by the utility of the cogenerator's or the small power producer's power should not be burdened by the same examination as are utility rate applications to determine what is the just and reasonable rate that they should receive for their electric power.

We note that section 301(b)(2) of the Energy Tax Act of 1978 [12] made eligible for increased business investment tax credit certain property that may be used by small power producers or cogenerators. However, section 301(b)(2)(B) excludes from such eligibility property "which is public utility property (within the meaning of section 46(f)(5) of the Internal Revenue Code of 1954)." [13] As a result, if a qualifying facility were to be classified as a public utility under section 46(f)(5) of the Internal Revenue Code, it would not be eligible for the increased investment tax credit otherwise available.

The Commission notes that a recent change [14] in Treasury Department regulations amended the definition of the exclusion "public utility property" for purposes of eligibility for the investment tax credit so as to exclude [from the definition] property used in the business of the furnishing or sale of electric energy if the rates are not subject to regulation that fixes a rate of return on investment. Prior to the change, any rate regulation made property subject thereto (and involved in the furnishing or sale of energy) public utility property.

The Commission observes that the rates for purchases set forth in this rulemaking for purchases of energy from qualifying facilities are *not* based on a rate of return on investment. As a result, the Commission believes that property owned by qualifying facilities should not be classified as public utility property under section 46(f)(5) of the Internal Revenue Code of 1954. If such property is not classified as public utility property, the qualifying facility will be eligible to receive the additional investment tax credit set out in section 301(b) of the Energy Tax Act of 1978. The Commission wishes to express its opinion on this matter in an effort to further encourage cogeneration and small power production by means of this rulemaking process.

[10] Such availability may, however, permit the utility to advance the retirement of its least effective units.

[11] Comments of Commonwealth Edison Company, filed August 1, 1979 at 4.

[12] Pub. L. No. 95-618, 26 U.S.C. §§ 46, 48, November 9, 1978.

[13] 21 U.S.C. § 48(e)(3)(b).

[14] Treasury Reg. § 1.46-3(g)(2). T.D. 7602 (March 23, 1979).

§ *292.106 Rates for sales.*

Section 210(c) of PURPA provides that the rules requiring utilities to sell electric energy to qualifying facilities shall ensure that the rates for such sales are just and reasonable, in the public interest, and nondiscriminatory against qualifying cogenerators or small power producers. As noted in the Staff discussion paper,[15] this section contemplates rates formulated on the basis of traditional ratemaking (*i.e.*, cost of service) concepts.

Paragraph (a) provides that rates for sales from electric utilities to qualifying facilities shall not be discriminatory against such facilities in comparison to rates to other customers served by the electric utility. Paragraph (a) also states that such rates shall be just and reasonable and in the public interest.

A qualifying facility is entitled to purchase back-up or standby power at a rate which reflects the probability that the qualifying facility will or will not contribute to the need for utility capacity and the use of utility capacity.[16] Thus, when the utility must reserve capacity to provide service to a qualifying facility, the costs associated with that reservation are properly recoverable from the qualifying facility if the utility would assess these costs to non-generating customers.[17]

Paragraph (b) provides that electric utilities must provide to qualifying facilities any services which would be provided by the electric utility to a retail customer who does not have his own generation.

Normally the determination of an appropriate rate to a class of customers is based on an examination of load data relating to such customers. At this time, however, even those utilities which have good load data regarding existing customer classes do not have load data regarding usage by qualifying cogeneration and small power production facilities. Until such data is collected, the Commission believes that rates for sales to qualifying facilities should be at least as favorable as those available to utility customers having comparable load characteristics or falling under similar load classifications.

Paragraph (c) sets forth certain types of service which electric utilities are required to provide to qualifying facilities even if such types of service are not provided to other customers. These types of service are: supplementary power, back-up power, interruptible power, and maintenance power. The Commission believes that this requirement is necessary to encourage small power production and cogeneration.

Supplementary power is power used by a facility in addition to that which it ordinarily generates on its own. Thus, a cogeneration facility with a capacity of ten megawatts might require five more megawatts from a utility on a continuing basis to meet its electric load of fifteen megawatts. The five megawatts supplied by the electric utility would normally be provided as supplementary power.

Back-up power is power available to replace power generated by a facility's own generation equipment. In the example provided above, a cogeneration facility might contract with an electric utility for the utility to have available ten megawatts, should the cogenerator's units experience an outage.

Interruptible power is power supplied by a utility on an "as available" basis. Because interruptible power normally is sold at a lower rate, a qualifying facility may wish to cease operations when utility power is interrupted rather than pay the higher rate necessary to assure firm supplementary supplies.

Maintenance power is supplied during scheduled outages. By prearrangement, a utility can agree to provide such power during periods when the utility's other loads are low, thereby avoiding the imposition of large demands on the utility during peak periods.

Paragraphs (d)(1) and (d)(2) provide that rates for sales of back-up or maintenance power shall not be based on the assumption that forced outages or other reductions in output by each qualifying facility on an electric utility's system will occur simultaneously or on the assumption that they will occur during the system peak. Like other customers, qualifying facilities have intraclass diversity. In addition, because of the variations in size and load requirements among various types of qualifying facilities, such facilities will have interclass diversity.

The effect of such diversity is that an electric utiliity supplying back-up or maintenance power to qualifying facilities will not have to plan for reserve capacity to serve such facilities on the assumption that every facility will use power at the same moment. The Commission believes that probabilistic analysis of their demand will show that a utility need not reserve capacity on a one-to-one basis to meet back-up requirements. Paragraphs (d)(1) and (d)(2) prohibit utilities from basing rates on the unsupported assumption that qualifying facilities will impose demands simultaneously and at system peak.

Paragraph (d)(3) provides that rates for sales from an electric utility to a qualifying facility shall take into account the extent to which a qualifying facility has coordinated periods of scheduled maintenance with an electric utility. If a qualifying facility coordinates periods of outage with an electric utility the demand that the qualifying facility imposes on the utility's system will not create capacity requirements to the same extent that such a demand would create if the utility were required to provide such service without prior notice.

§ *292.107 Simultaneous purchase and sale.*

Section 292.107 deals with the situation referred to in the Staff discussion paper in which a cogenerator or small power producer desires to sell all of its output to a utility and purchase all of its needs from the utility simultaneously. As observed in the Staff discussion paper, and efficient use of society's resources requires that when there is a need for additional capacity, and a utility's customer can construct a new plant more cheaply than the utility can, he should be encouraged to do so.[18] A qualifying facility may have previously used a portion of its electric output to supply its own power needs. That it chose to generate its own electric power, rather than purchase such power from an electric utility, indicates that there were sufficient economic incentives to so act. To permit such a facility to sell that portion of its electric output to the utility at the utility's avoided costs and replace that electricity from the electric utility at non-incremental (and presumably lower) rates would increase the purchased power costs of the pruchasing utility and thus would increase the rates charged to the utility's other customers. The Commission believes that it is not necessary to the encouragement of cogeneration and small power production that a qualifying facility be permitted to obtain avoided cost-based rates for this portion of its electric output. Accordingly, the Commission proposes that for energy generated by a new facility or by capacity installed after the date of issuance of these rules, a qualifying facility be permitted to sell its output at rates established under the section 210(b) of PURPA pricing mechanism while simultaneously purchasing electric energy from a utility pursuant to its retail rate schedules.

[15] Staff discussion paper, *supra*, at 14–20.

[16] Comments of ELCON (Electricity Consumer Resource Council), filed August 1, 1979, at 5.

[17] Comments of Consumers Power Company, filed August 1, 1979, at 3.

[18] Staff discussion paper, *supra* at 24–25.

§ 292.108 Costs of interconnection.

Paragraph (a) defines "interconnection costs" as the reasonable costs of connection, switching, metering, transmission, safety provisions and other costs to an electric utility resulting from interconnected operation between an electric utility and a qualifying facility.

Paragraph (b) states that each qualifying facility must reimburse any electric utility which purchases capacity or energy from the qualifying facility for any interconnection costs. These costs are limited to the net increased costs imposed on an electric utility compared to those it would have incurred had it generated the energy itself or purchased an equivalent amount of energy or capacity from another source.

If, with the consent of a qualifying facility, an electric utility elects to transmit energy from the qualifying facility to another electric utility, the costs of transmission constitute interconnection costs as defined in this paragraph. Under paragraph (b), these costs must be borne by the qualifying facility unless the transmitting utility agrees to share them.

The cost responsibility of the qualifying facility was well summarized in comments by The Southern Company:

> We believe that the interconnection costs which should be addressed in the rules are those incremental costs that go beyond the cost to the system for connecting a normal (i.e., no generation) customer. These costs will include the additional relaying, switching, metering, line, and protective equipment—inclusive of equipment changeout cost—required in the general vicinity of the facility because of the customer's generation. Recognition must be given to the fact that protection goes beyond the protection of equipment and personnel of the qualifying facility and utility. The rules also must provide for the protection of other customers of the utility that may be affected by the operation of the qualifying facility.[19]

Thus, it is only the additional costs which result from interconnected operation for which the qualifying facility is responsible; if the utility would have provided retail service to the customer, those expenses may not be assessed against the qualifying facility merely because the facility is also supplying power and energy. If, however, as a result of the qualifying facility's export of power, the utility is required to install additional switching, safety or other equipment, the qualifying facility is responsible for those expenses.

Paragraph (c) provides that a qualifying facility must reimburse an electric utility which sells capacity or energy to the qualifying facility for interconnection costs resulting from such sale. Ordinarily, the service obligation of an electric utility will contain standard procedures for the allocation of interconnection costs between a retail customer and the electric utility. Paragraph (c) also provides that interconnection costs to qualifying facilities shall not be discriminatory in relation to the practices of the electric utility with regard to other retail customers.

§ 292.109 System emergencies.

Paragraph (a) provides that, except as provided under section 202(c) of the Federal Power Act or pursuant to a contract or agreement between a qualifying facility and an electric utility, no qualifying facility shall be compelled to provide energy or capacity to the electric utility during an emergency beyond the extent provided by agreement between the qualifying facility and the utility.

Many comments from cogenerators and small power producers expressed concern that, during a system emergency, they might be required to make available all of their generation to the utility. Such a requirement might interrupt industrial processes with resulting damage to equipment and manufactured goods. Many industries install their own generating equipment in order to insure that even during a system emergency, their supply of power is not interrupted. To put in jeopardy the availability of power because of the facility's ability to provide power to the system during non-emergency periods would result in the discouragement of interconnected operation and a resultant discouragement of cogeneration and small power production. The Commission therefore proposes that the qualifying utility's obligation to provide power be established through contract.

In order to receive full credit for capacity, a qualifying facility must offer power during system emergencies to the same extent that it has agreed to provide power at the purchasing utility's discretion. For example, a 30 megawatt cogenerator may require 20 megawatts for its own industrial purposes, and thus may contract to provide 10 megawatts of capacity to the purchasing utility. During an emergency, the cogenerator must provide the 10 megawatts contracted for to the utility; it need not disrupt its industrial processes by supplying its full capability of 30 megawatts. Of course, if it should so desire, a cogenerator could contractually agree to supply the full 30 megawatts during system emergencies. The availability of such additional back-up capacity should increase utility system reliability, and should be accounted for in the utility's rates for purchases from the cogenerator.

Paragraph (b) provides that an electric utility may discontinue purchases from a qualifying facility during a system emergency if such a purchase would contribute to the emergency. In addition, during system emergencies, a qualifying facility must be treated on a non-discriminatory basis—i.e., on the same basis that other customers of a similar class with similar load characteristics are treated with regard to interruption in service.

§ 292.110 Standards for operating reliability.

Section 210(a) of PURPA states that the rules requiring electric utilities to buy from and sell to qualifying facilities shall include provisions respecting minimum reliability of qualifying facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Staff's analysis presented in the discussion paper regarding reliability of a particular qualifying facility concluded that every incidence of qualifying facility reliability can be accounted for through price; namely, the less reliable a qualifying facility might be, the less it should be entitled to receive for purchases of its power by the utility. The majority of comments received regarding this issue endorsed the Staff's recommendation. Accordingly, the Commission proposes that there be no specific standard relating to the reliability in the sense of ability to provide power for qualifying facilities.

Many commentors have proposed that the Commission's rules ensure that interconnection with qualifying facilities does not disrupt system reliability. One commentor proposed that qualifying facilities must automatically disconnect from utility lines upon interruption or interference with utility service, or upon the flow of excessive current between the utility system and the non-utility generator.[20]

It is the Commission's understanding that safety equipment exists which can ensure that qualifying facilities do not energize utility lines during utility outages. This section accordingly provides that any qualifying facility may be subject to reasonable standards to ensure system safety and reliability in

[19] Comments of The Southern Company, filed July 30, 1979, at 5.

[20] Comments of Illinois Power Company, filed August 14, 1979.

interconnected operations. Each State regulatory authority and nonregulated electric utility is permitted to establish standards for interconnected operation between electric utilities and qualifying facilities. These standards may be recommended by a utility or any other person. The standards must be accompanied by a statement showing the need for the standard on the basis of system safety and operating requirements.

Subpart C

Summary of This Subpart

Rules proposed in this subpart are intended to carry out the responsibility of the Commission to encourage cogeneration and small power production by clarifying to all parties concerned the nature of the obligation to implement the Commission's rules under section 210.

In the Commission's view, section 210(f) affords the State regulatory authorities and nonregulated electric utilities great latitude in determining the manner of implementation of the Commission's rules so long as the manner chosen is reasonably designed to implement the requirements of Subpart A. The Commission recognizes that many States and individual nonregulated electric utilities have ongoing programs to encourage small power production and cogeneration. The Commission also recognizes that economic and regulatory circumstances vary from State to State and utility to utility. It is within this broad latitude, and with the recognition of the work already begun and of the variety of local conditions that the Commission proposes to promulgate its regulations requiring implementation of rules issued under section 210.

Because of the Commission's desire not to create unnecessary burdens at the State level, these proposed rules provide a procedure whereby a State regulatory authority or nonregulated electric utility may apply for a waiver if it can demonstrate that compliance with certain requirements of Subpart A is not necessary to encourage congeneration or small power production and is not otherwise required under section 210.

Implementation

Section 210(f) of PURPA requires that within one year after the date that this Commission prescribes its rules under subsection (a), and within one year of the date any of these rules is revised, each State regulatory authority and each nonregulated electric utility, after notice and opportunity for hearing, must implement the rules or revisions thereof, as the case may be.

The obligation to implement section 210 rules is a continuing obligation which begins within one year after promulgation of such rules. The requirements to implement may be fulfilled either through (1) the enactment of laws or regulations at the State level, (2) by application on a case-by-case basis by the State regulatory authority, or nonregulated utility, of the rules adopted by the Commission, or (3) by any other action reasonably designed to implement the Commission's rules. In the first case, implementation would consist of the issuance of rules after notice, and an opportunity for a hearing. In the second case, the State regulatory authority or nonregulated utility would be required to hold hearings regarding its proposed procedure for operating on a case-by-case basis, within the one-year statutory period.

Review and Enforcement

Section 210(g) of PURPA provides one of the means of obtaining judicial review of a proceeding conducted by a State regulatory authority or nonregulated utility for purposes of implementing the Commission's rules under section 210. Under subsection (g), review may be obtained pursuant to procedures set forth in section 123 of PURPA. This section contains provisions with regard to judicial review and enforcement of determinations made by State regulatory authorities and nonregulated utilities under Subtitle A, B, or C of Title I in the appropriate State court. These provisions also apply to review of any action taken to implement the rules under section 210. This means that persons can bring actions in State court to require the State regulatory authorities or nonregulated utilities to implement these regulations. Section 123(c)(2) of PURPA restates the requirements of section 123(c)(1) as they apply to Federal agencies. This distinction between Federal agencies and non-Federal agencies also applies to review and enforcement of the implementation of the rules under section 210.

Finally, the Commission believes that review and enforcement of implementation under section 210 of PURPA, can consist not only of review and enforcement as to whether the State regulatory authority or nonregulated electric utility has conducted the initial implementation properly—namely put into effect regulations implementing section 210 rules or procedures for that implementation, after notice and an opportunity for a hearing. It can also consist of review and enforcement with regard to the application by a State regulatory authority or nonregulated electric utility, on a case-by-case basis, of its regulations or any other provision it may have adopted to implement the Commission's rules under section 210.

Section 210(h)(2)(A) of PURPA states that the Commission may enforce regulations under section 210(f). The Congress has provided not only for private causes of action in State courts to obtain judicial review and enforcement of the implementation of the Commission's rules under section 210, but has also given to the Commission that authority.

Section-by-Section Analysis

§ 292.301 Implementation by State regulatory authorities and nonregulated utilities.

Paragraph (a) of § 292.301 sets forth the obligation of each State regulatory authority to commence implementation of Subpart A within one year of the date these rules take effect. In complying with this paragraph the State regulatory authorities are required to provide for notice and opportunity for public hearing. As described in the summary of this part, such implementation may consist of the adoption of the Commission's rules, an undertaking to resolve disputes between qualifying facilities and electric utilities arising under Subpart A, or any other action reasonably designed to implement Subpart A.

This section does not cover one provision of Subpart A which is not required to implemented by the State regulatory authority or nonregulated electric utility. This provision is § 292.103, the implementation of which is subject to § 292.302, which will be discussed below.

Subsection (b) sets forth the obligation of each nonregulated electric utility to commence, after notice and opportunity for public hearing, implementation of Subpart A. The nonregulated electric utilities, being both the regulator and the utility subject to the regulation, may satisfy the obligation to commence implementation of Subpart A through issuance of regulations, an undertaking to comply with Subpart A, or any other action reasonably designed to implement that subpart. Paragraph (c) sets forth a reporting requirement under which each State regulatory authority and nonregulated electric utility is to file with the Commission not later than one year after these rules take effect, a report describing the manner in which it is proceeding to implement Subpart A.

§ 292.302 Implementation of reporting objectives.

The obligation to comply with § 292.103 is imposed directly on electric utilities. This is different from the rest of Subpart A where the obligation to act is imposed on the State regulatory authority or nonregulated electric utility in its role as regulator. The Commission is exercising its authority under section 133 of PURPA to require this reporting.

Any electric utility which fails to comply with the requirements of § 292.103(b) is subject to the same penalties as it might receive as a result of a failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA. As stated earlier in this preamble, the data required by § 292.103 will form the basis for the rates for purchases; § 292.103 is thus a critical element in the program this Commission is providing. The Commission believes that, with regard to utilities subject to section 133 of PURPA, the Commission may exercise its authority under section 133 to require the data required by § 292.102(b) on the basis that the Commission finds such information necessary to allow determination of the costs associated with providing electric services. With regard to utilities not subject to section 133, if they fail to provide the data called for in § 292.103(c), the Commission may compel its production under the Federal Power Act and other statutes which give the Commission authority to require reporting of this data.

§ 292.303 Waivers.

Paragraph (a) provides for a procedure by which any State regulatory authority or nonregulated electric utility may apply for a waiver from the application of any of the requirements of Subpart A other than § 292.103. This provision is included in recognition of the need for the Commission to afford flexibility to the States and nonregulated utilities to implement the Commission's rules under section 210.

Paragraph (b) provides that any electric utility subject to the requirements of § 292.103(c) may apply to the Commission for a waiver from the application of such requirements. This provision is included to afford to the Commission flexibility to enforce the obligations of § 292.103(c) so that it may consider the burden which may be placed on the utility by application of this section.

Subpart D—Exemption of Qualifying Small Power Production and Cogeneration Facilities From Certain Federal and State Laws and Regulations

§ 292.401 Exemptions for qualifying facilities from the Federal Power Act.

Section 210(e) of PURPA states that the Commission shall prescribe rules under which qualifying facilities are exempt in part from the Federal Power Act, from the Public Utility Holding Company Act of 1935, from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production. As noted in the Staff discussion paper, the Congress intended the Commission to make liberal use of its exemption authority in order to remove the disincentive of utility-type regulation. The Commission believes that broad exemption is appropriate.

Section 210(e)(2) of PURPA provides that the Commission is not authorized to exempt small power production facilities of 30 to 80 megawatt capacity from any of these laws. An exception is made for small power production facilities using biomass. Such facilities between 30 and 80 megawatts may be exempted from the Public Utility Holding Company Act of 1935 and from State regulations but may not be exempted from the Federal Power Act.

Paragraph (a) sets forth those facilities eligible for exemption. Paragraph (b) provides that facilities described in paragraph (a) shall be exempted from all but certain specified sections of the Federal Power Act.

Section 210(e)(3)(C) of PURPA provides that no qualifying facility may be exempted from any license or permit requirement under Part I of the Federal Power Act. Accordingly, the Commission proposes not to exempt qualifying facilities from Part I of the Federal Power Act. The Commission recently issued simplified procedures for obtaining water power licenses for hydroelectric projects of 1.5 megawatts or less, and has issued proposed regulations to expedite licensing of existing facilities.[21]

As noted in the discussion paper, cogenerators and small power production facilities could be the subject of an order under section 202(c) of the Federal Power Act requiring them to provide energy if the Economic Regulatory Administration determines that an emergency situation exists. Because application of this section is limited to emergency situations and is not affected by the fact that a facility attains qualifying status or engages in interchanges with an electric utility, the Commission proposes that qualifying facilities not be exempted from section 202(c) of the Act.

Sections 203, 204, 205, 206, 208, 301, 302 and 304 of the Act reflect traditional rate regulation or regulation of securities of public utilities. The Commission proposes that qualifying facilities be exempted from these sections of the Federal Power Act.

Section 305(c) of the Act imposes certain reporting requirements on interlocking directorates. The Commission proposes that any person who otherwise is requred to file a report regarding interlocking positions not be exempted from such requirement because he or she is also a director or officer of a qualifying facility.

Finally, the enforcement provisions of Part III will continue to apply with respect to the sections of the Federal Power Act from which qualifying facilities are not exempt.

§ 292.402 Exemptions for qualifying facilities from the Public Utility Holding Company Act and Certain State Laws and Regulations.

Under section 210(e) of PURPA the Commission can exempt qualifying facilities from regulation under the Public Utility Holding Company Act of 1935 and State laws and regulations concerning rates or financial organizations. Only cogeneration facilities and small power production facilities of 30 megawatts or less may be exempted from both of these laws, with the exception that any qualifying small power production facility (i.e., up to 80 megawatts) using biomass as a primary energy source can be exempted from these laws.

The Staff discussion paper recommended that, where a qualifying facility is subjected to more stringent regulation than other companies solely by reason of the fact that it is engaged in the production of electric energy, these more stringent requirements should be eased through exemption of qualifying facilities. By excluding any qualifying facility from the definition of an "electric utility company" under section 79 (b)(3) of the Public Utility Holding Company Act of 1935, such facilities would be removed from Public Utility Holding Company Act regulation which is applied exclusively to electric utility companies. Moreover, by excluding

[21] *See* Order No. 11, Simplified Procedures for Certain Water Power Licenses, Docket No. RM79-9, issued September 5, 1978, and Application for License for Major Project—Existing Dam, Docket No. RM79-36, 44 F.R. 24095 (April 21, 1979).

qualifying facilities from this definition, parent companies of qualifying facilities would not be subject to additional regulation as a result of electric activities of their subsidiaries. The Commission therefore believes that in order to encourage cogeneration and small power production it is necessary to exempt cogenerators and small power producers from the provisions of the Public Utility Holding Company Act of 1935.

Accordingly, paragraph (b) states that no qualifying facility shall be considered to be an "electric utility company", as defined in section 79 (b)(3) of the Public Utility Holding Company Act of 1935.

Section 210(e) of PURPA states that qualifying facilities which may be exempted from the Public Utility Holding Company Act may also be exempted from State laws and regulations respecting the rates or respecting the financial or organization regulation of electric utilities. The Staff discussion paper sets forth two approaches to be taken to exemption from State law. One would be to analyze the laws of each State and apply the exemptions citing specific sections of State law and regulations. The second approach discussed would be to make a broad proscription from State laws and regulations which would conflict with the State's implementation of the Commission's rules under section 210.

All of the comments received recommended the broader approach. The Commission believes that such broad exemption is necessary to encourage cogeneration or small power production. Accordingly, subparagraph (c)(1) provides that any qualifying facility shall be exempt from State laws and regulations respecting rates for sales of electric energy to electric utilities, and from financial and organizational regulation of electric utilities.

Subparagraph (c)(2) provides that, upon request of a State regulatory authority a nonregulated electric utility, the Commission may limit the applicability of the broad exemption from the State laws. This provision is intended to add flexibility to the exemption.

The Commission perceives that there may be instances in which a qualifying facility would wish to have an interpretation of whether or not it is subject to a particular State law in order to remove any uncertainty. Under subparagraph (c)(2), the Commission may determine whether a qualifying facility is exempt from a particular State law or regulation.

Written Comments and Public Hearings

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should reference Docket No. RM 79-55 on the outside of the envelope and on all documents submitted to the Commission. In order that the Commission be able to take into account as many comments as possible, the Commission requests that persons submitting comments assist in three ways. First, persons should identify specfically the section or subpart they are addressing. Second, comments should clearly state whether they involve technical, policy or legal matters. Finally, where comments urge a different approach from one presented, specific alternative language should be proposed to the extent practicable.

In addition, the preliminary Environmental Assessment prepared by Commission Staff regarding the Commission's proposed rules implementing sections 201 and 210 of PURPA is available in the Commission's Office of Public Information. As stated in the Request for Further Comment on Proposed Rulemaking Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration issued today, the Commission is seeking comments on specific issues relating to the preliminary Environmental Assessment.

The Commission has also received many comments in response to the Staff discussion paper and the notice of proposed rulemaking in Docket No. RM79-54. All comments filed in response to those documents are being made part of the record and will be considered in the determination of the final rule in this proceeding.

Fifteen (15) copies should be submitted. All comments and related information received by the Commission by December 1, 1979, will be considered prior to the promulgation of final regulations.

In addition, the Commission will conduct public hearings in several cities at which interested persons will have the opportunity to present their views. Places, dates and times will be announced shortly.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

(1) Subchapter K is amended in the table of contents by deleting the title for Part 292 and substituting the following in lieu thereof:

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.

(2) Subchapter K is further amended in the table of contents to Part 292 and in the text of the regulations by changing the title to Part 292 and by adding new Subparts A, C, and D to read as follows:

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Subpart A—Rates for Sales Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities

Sec.
292.101 Scope.
292.102 Definitions.
292.103 Availability of Electric Utility System Cost Data.
292.104 Electric Utility Obligations Under This Subpart.
292.105 Rates for Purchases.
292.106 Rates for Sales.
292.107 Simultaneous Purchase and Sale.
292.108 Costs of Interconnection.
292.109 System Emergencies.
292.110 Standards for Operating Reliability.
* * * * *

Subpart C—Implementation

292.301 Implementation by State Regulatory Authorities and Nonregulated Electric Utilities.
292.302 Implementation of Reporting Objectives.
292.303 Waiver.

Subpart D—Exemption of Qualifying Small Power Production Facilities and Cogeneration Facilities From Certain Federal and State Laws and Regulations

292.401 Exemptions for Qualifying Facilities from the Federal Power Act.
292.402 Exemptions for Qualifying Facilities from the Public Utility Holding Company Act and Certain State Laws and Regulations.

Authority: This part issued under the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*,

Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.

Subpart A—Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities Under Section 210 of the Public Utility Regulatory Policies Act of 1978

§ 292.101 Scope.

(a). *Applicability.* This subpart applies to the regulation of sales and purchases of electric energy and capacity between qualifying cogeneration and small power production facilities and electric utilities.

(b) *Negotiated rates or terms.* Nothing in this subpart—

(1) Limits the authority of any electric utility or any qualifying facility to agree to a rate for purchases or sales, or terms or conditions relating to such sales, which differ from the rate or terms which would otherwise be required by this subpart, or

(2) Affects the validity of any contract entered into between a qualifying facility and an electric utility.

§ 292.102 Definitions.

(a) *General rule.* Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this part as they have under PURPA, unless further defined in this part.

(b) *Definitions:* For purposes of this part:

(1) "Qualifying facility" means a cogeneration facility or a small power production facility which is a qualifying facility under § 292.208 of the Commission's regulations;

(2) "Purchase" means the purchase of electric energy or capacity from a qualifying facility by an electric utility;

(3) "Sale" means the sale of electric energy or capacity by an electric utility to a qualifying facility;

(4) "System energency" means a condition on a utility's system which is likely to result in disruption of service to a significant number of customers or is likely to endanger life or property;

(5) "Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

(6) "Avoided costs" means the costs to the electric utility of electric energy or capacity or both which, but for the purchase from such cogenerator or small power producer, such utility would generate itself or purchase from another source.

§ 292.103 Availability of electric utility system cost data.

(a) *Applicability.* (1) Except as provided in subparagraph (2), paragraph (b) applies to each electric utility, in any calendar year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(2) Each utility having total sales of electric energy for purposes other than resale of less than one billion kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding year, shall not be subject to the provisions of this section until June 30, 1982.

(b) *General Rule.* Not later than June 30, 1980, and every two years thereafter, each regulated electric utility to which this section applies shall provide to its State regulatory authority, and shall maintain for public inspection, and each nonregulated electric utility to which this section applies shall maintain for public inspection, the following data:

(1) The estimated avoided cost of energy on the electric utility's system for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of one hundred megawatts or less for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than ten percent of the system peak demand, for systems of less than 1000 megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the immediately preceding year, and on an estimated cents per kilowatt-hour basis for the current calendar year and each of the next 5 years;

(2) The electric utility's plan and schedule for the addition of capacity, for purchases of firm energy and capacity, and for capacity retirements for each of the next 10 years; and

(3) The estimated costs at completion, on the basis of dollars per kilowatt, of the planned capacity additions and planned firm purchases. These costs should be expressed in terms of individual generating units and by planned firm purchases.

(c) *Special Rule.* Each electric utility (other than any electric utility to which paragraph (b) applies) shall, upon request of a qualifying facility, provide sufficient data to enable such qualifying facility to determine the electric utility's avoided costs for any period described in paragraph (b). If any such electric utility fails to provide such information or request, the qualifying facility may apply to the Commission for an order requiring that the information be provided.

§ 292.104 Electric utility obligations under this subpart.

(a) *Obligation to Purchase from Qualifying Facilities.* Except during periods identified in § 292.105(e), each electric utility shall purchase in accordance with § 292.105 any capacity or energy which is made available either directly from the qualifying facility or which is transmitted to such utility from the qualifying facility through the facilities of another electric utility.

(b) *Obligation to Sell to Qualifying Facilities.* Each electric utility shall sell to any qualifying facility energy and capacity requested by such qualifying facility in accordance with § 292.106.

(c) *Obligation to Interconnect.* Any electric utility shall make all interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this subpart. The obligations for the cost of any such interconnection shall be determined in accordance with § 292.108.

(d) *Transmission of Purchases to Other Electric Utilities.* If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase capacity or energy from such qualifying facility may transmit the energy to any other electric utility. Any electric utility to which such energy is transmitted shall purchase such energy under this subpart as if such qualifying facility were supplying energy and capacity directly to such electric utility. The cost of transmission shall be assigned to the qualifying facility pursuant to § 292.108 of these rules. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted to reflect line losses pursuant to § 292.105(d)(3).

(e) *Parallel Operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any relevant standards established pursuant to § 292.110.

§ 292.105 Rates for purchases.

(a) *Rates for Purchases.* Rates for purchases of energy and capacity from any qualifying facility:

(1) Shall be just and reasonable to the electric consumer of the electric utility and in the public interest;

(2) Shall not discriminate against qualifying cogeneration and small power production facilities; and

(3) Shall not exceed the avoided costs of such a purchase. There is a rebuttable presumption that the rate for purchases meets the requirements of this paragraph if the rate reflects the avoided costs resulting from such purchase as determined on the basis of the cost of energy and capacity set forth pursuant to § 292.103(b) or (c).

(b) *Tariffs for Purchases From Facilities of Ten Kilowatts or Less.* Each electric utility, upon request of a qualifying facility, shall establish a tariff or other method for setting forth standard rates for purchases from qualifying facilities with a design capacity of 10 kilowatts or less.

(c) *Purchases "As Available" or Pursuant to a Legally Enforceable Obligation.* A qualifying facility shall have the option either to provide energy or capacity to an electric utility—

(1) As the qualifying facility determines such energy or capacity to be available for such purchases, in which case the rates for such purchases may be based on the purchasing utility's avoided energy costs, or

(2) Pursuant to a legally enforceable obligation for the delivery of energy or capacity at a future date, in which case the rates for purchases may be based on estimates of future avoided costs of energy or capacity.

(d) *Factors Affecting Rates For Purchases.* In implementing the provisions of this subpart, a State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility shall consider with regard to rates for purchases the following factors:

(1) The availability of capacity from a qualifying facility during system daily and seasonal peak periods, including—

(i) The ability of the utility to dispatch the qualifying facility;

(ii) The qualifying facility's ability and willingness to provide energy or capacity during system emergencies;

(iii) The length, frequency, and scheduling flexibility of scheduled maintenance by the qualifying facility;

(iv) The expected or demonstrated reliability of the qualifying facility; and

(v) The length of any contract term between the electric utility and the qualifying facility and its termination notice requirements or the length of any legally enforceable obligation to provide energy or capacity undertaken by the qualifying facility;

(2) The relationship of energy or capacity from a qualifying facility to an electric utility's capacity and energy needs as expressed in § 292.103, including:

(i) The ability of the electric utility to reduce or avoid costs, including the deferral of capacity additions, as a result of the availability individually or in the aggregate from qualifying facilities; and

(ii) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated or purchased an equivalent amount of electric energy.

(e) *Periods During Which Purchases Not Required.* An electric utility will not be required to purchase electric energy and capacity during any period identified by the State regulatory authority having jurisdiction over the rates of such utility, or the nonregulated electric utility, during which purchases from qualifying facilities might result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated or purchased an equivalent amount of electric energy.

§ 292.106 Rates for sales.

(a) *General Rules.* (1) Rates for sales shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for sales shall be just and reasonable and in the public interest.

(b) Each electric utility shall provide electric energy and capacity and other services to any qualifying facility, at a rate at least as favorable as would be provided to a customer who does not have his own generation. The costs of interconnection shall be assigned pursuant to § 292.108 of this part.

(c) *Additional Services to be Provided by Qualifying Facilities.* Each electric utility shall provide to any qualifying facility the following types of service, even if such types of service are not provided to other retail customers:

(1) Supplementary power;

(2) Back-up power;

(3) Interruptible power; and

(4) Maintenance power.

(d) *Rates for Sales of Back-Up and Maintenance Power.* The rate for sales of back-up power or maintenance power—

(1) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously;

(2) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities will occur during the system peak; and

(3) Shall take into account the extent to which a qualifying facility has coordinated periods of scheduled maintenance with such electric utility.

§ 292.107 Simultaneous purchase and sale.

A qualifying facility shall be permitted to receive rates established pursuant to § 292.105(a) for the electric energy and capacity generated by the facility, while simultaneously buying energy and capacity from such utility for use in the facility at rates established in accordance with § 292.106(a), to the extent that such purchases are produced by capacity the construction of which was commenced after the date of issuance of this part.

§ 292.108 Costs of interconnection.

(a) *Definition.* For purposes of this subpart, "interconnection costs" means the costs of connection, switching, metering, transmission, safety provisions and other costs incurred by the utility reasonably resulting from interconnected operation between an electric utility and a qualifying facility.

(b) *Reimbursement for Interconnection Costs for Purchases.* Each qualifying facility must reimburse any electric utility which purchases capacity or energy from such qualifying facility for any interconnection costs. These costs are limited to those costs which the purchasing utility would incur if it did not make such purchases but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy from other sources.

(c) *Reimbursement for Interconnection Costs for Sales.* Each qualifying facility must reimburse any electric utility which sells capacity or energy to such qualifying facility for any interconnection costs. The apportionment of interconnection costs between such qualifying facility and electric utility under this paragraph shall not discriminate against any qualifying facility in comparison to any other customers served by the electric utility.

§ 292.109 System emergencies.

(a) *Qualifying facility obligation to provide power during system emergencies.* A qualifying facility shall be required to provide energy or capacity to an electric utility during a

system emergency only to the extent provided by agreement between such qualifying facility and electric utility or to the extent ordered under section 202(c) of the Federal Power Act.

(b) *Discontinuance of Purchases and Sales During System Emergencies.* During any system emergency, an electric utility may discontinue—

(1) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

(2) Sales to a qualifying facility, provided that such discontinuance is on a nondiscriminatory basis.

§ 292.110 Standards for operating reliability.

Any qualifying facility may be subject to reasonable standards to ensure system safety and reliability in interconnected operations. Such standards may be recommended by any electric utility, or by any other person. Each State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or any nonregulated electric utility may establish such standards as it determines necessary to carry out the purposes of this section. Such standards must be accompanied by a statement setting forth the need for such standards on the basis of system safety and reliability requirements.

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Subpart C—Implementation

§ 292.301 Implementation by State regulatory authorities and nonregulated electric utilities.

(a) *State Regulatory Authorities.* Not later than one year after these rules take effect, each State regulatory authority shall, after notice and an opportunity for public hearing, commence implementation of Subpart A (other than § 292.103 thereof). Such implementation may consist of the issuance of regulations; an undertaking to resolve disputes between qualifying facilities and electric utilities arising under Subpart A, or any other action reasonably designed to implement such subpart (other than § 292.103 thereof).

(b) *Nonregulated Electric Utilities.* Not later than one year after these rules take effect, each nonregulated electric utility shall, after notice and an opportunity for public hearing, commence implementation of Subpart A (other than § 292.103 thereof). Such implementation may consist of the issuance of regulations, an undertaking to comply with Subpart A, or any other action reasonably designed to implement such subpart (other than § 292.103 thereof).

(c) *Reporting Requirement.* Not later than one year after these rules take effect, each State regulatory authority and nonregulated electric utility shall file with the Commission a report describing the manner in which it will implement Subpart A (other than § 292.103 thereof).

§ 292.302 Implementation of reporting objectives.

Any electric utility which fails to comply with the requirements of § 292.103(b) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA.

§ 292.303 Waivers.

(a) *State regulatory authority and non-regulated utility waivers.* Any State regulatory authority or non-regulated electric utility may apply for a waiver from the application of any of the requirements of Subpart A (other than § 292.103 thereof).

(b) *Electric utility waiver.* Any electric utility may apply for a waiver from the application of any of the requirements of § 292.103(c).

(c) *Commission action.* The Commission will grant such a waiver only if an applicant under paragraph (a) or (b) demonstrates that compliance with the requirements of Subpart A, or § 292.103, as the case may be, is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.

Subpart D—Exemption of Qualifying Small Power Production Facilities and Cogeneration Facilities From Certain Federal and State Laws and Regulations

§ 292.401 Exemptions for qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to:

(1) Qualifying cogeneration facilities, and

(2) Qualifying small power production facilities which have a power production capacity which does not exceed 30 megawatts.

(b) *General Rule.* Any qualifying facility described in paragraph (a) shall be exempt from all sections of the Federal Power Act, except—

(1) Sections 1–30;

(2) Section 202(c);

(3) Section 305(c); and

(4) Any necessary enforcement provisions of Part III with regard to the sections listed in (1), (2) and (3).

§ 292.402 Exemptions for qualifying facilities from the Public Utility Holding Company Act and certain State laws and regulations.

(a) *Applicability.* This section applies to any qualifying facility described in § 292.401(a), and to any qualifying small power production facility with a power production capacity over 30 megawatts if such facility produces electric energy solely by the use of biomass as a primary energy source.

(b) *Exemption from the Public Utility Holding Company Act of 1935.* Any qualifying facility described in paragraph (a) shall not be considered to be an "electric utility company" as defined in section 79(b)(3) of the Public Utility Holding Company Act of 1935.

(c) *Exemption from Certain State Laws and Regulations.*

(1) Any qualifying facility shall be exempted from State laws and regulations respecting:

(i) The rates for sales of electric energy by qualifying cogeneration and small power production facilities to electric utilities; and

(ii) The financial and organizational regulation of electric utilities.

(2) Upon request of a State regulatory authority or nonregulated electric utility, the Commission may consider any limitation of the application of subparagraph (1).

(3) Upon request of any person, the Commission may determine whether a qualifying facility is exempt from a particular State law or regulation.

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18 CFR Part 292

[Docket No. RM79-54]

Small Power Production and Cogeneration—Qualifying Status; Request for Further Comments on Proposed Rulemaking

October 19, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Request for Further Comments on Proposed Rulemaking.

SUMMARY: The proposed rules set forth the procedure under which small power production facilities and cogeneration facilities may be certified as qualifying facilities pursuant to section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The rules are being renoticed so that the Commission may elicit comment on the preliminary Environmental Assessment of the combined environmental effects of these rules and its companion rulemaking.

RM79-55, which implements section 210 of PURPA. The Commission also seeks comment on the interrelationship between these two rulemakings.

Public Hearings: Provision for oral comment on these issues will be made at the public hearings which will be held on the Notice of Proposed Rulemaking in RM79-55. Dates and locations will be announced.

DATE: Written comments by December 1, 1979.

ADDRESS: All responses to reference Docket No. RM79-54, and to be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Executive Assistant to the Associate General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8171.

SUPPLEMENTARY INFORMATION:

The Commission is renoticing the proposed rulemaking[1] which establishes rules under which small power production facilities and cogeneration facilities may be certified as qualifying facilities under section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Contemporaneously, the Commission is issuing the Notice of Proposed Rulemaking Regarding the Implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978, in Docket No. RM79-55.

Section 210 Requires the Commission to prescribe rules which the Commission determines necessary to encourage small power production and cogeneration, including rules regarding rates and exemptions for qualifying small power production and cogeneration facilities.

Background

The purpose of renoticing Docket No. RM79-54 at this time is twofold. First, the Commission wishes to provide interested persons the opportunity to comment on its findings with respect to the environmental impacts of the two proposed rules. Second, the Commission seeks comments on the interrelationship between the proposed rules issued pursuant to sections 201 and 210 of PURPA.

The implementation of section 201 as provided in Docket No. RM79-54 is one element in a two-part program to encourage small power production and cogeneration. That rulemaking sets forth procedures under which certain facilities could become eligible to receive the incentives which were to be provided in the second part of the program. Docket No. RM79-55 implements this second element.

In the Staff discussion paper regarding issues arising under section 210, issued as part of Docket No. RM79-55 for comment on June 26, 1979, the Commission staff set forth the opinion that any environmental effects attributable to the encouragement of cogeneration or small power production under sections 201 and 210 of PURPA would arise from the combined effect of the two rules. The Commission staff has prepared a preliminary Environmental Assessment (EA) describing the environmental effects of the two proposed rules.

Summary of Preliminary Environmental Assessment

Briefly, the preliminary EA concludes that with regard to most of the technologies affected, the impact of the proposed rules will not significantly affect the quality of the human environment. The EA notes that at certain levels of usage and under specified conditions, the encouragement of certain technologies provided by these rules may produce isolated instances of adverse environmental effects. With regard to the use of all technologies encouraged by the Commission's rules, their increased use will result in less need for utility generation of electric energy and utility construction of new plants than would otherwise be necessary. These reductions should result in decreased emissions associated with the production of electric energy at central station utility plants, and the removal of environmental effects associated with new utility plant construction. In addition, the use of certain technologies will cause beneficial environmental effects, such as reduced temperatures of emissions.

The preliminary EA concludes that, except with regard to biomass, centralized solar energy systems (thermal and photovoltaic), and diesel cogeneration, the issuance of the rules implementing sections 201 and 210 of PURPA will not constitute a major Federal action significantly affecting the quality of the human environment. The effects of these regulations on biomass, centralized solar energy systems, and diesel cogeneration technologies may significantly affect the human environment and thus may require the preparation of an Environmental Impact Statement (EIS).

Cogeneration

The preliminary Environmental Assessment notes that, by using fuel more efficiently, cogeneration systems use less fuel and produce less emissions than would be produced if the electric energy and thermal energy were produced separately. The more efficient use of energy will cause some reduction in utility emissions, as a result of reductions in demand for utility-supplied energy and capacity. In addition, by reducing the temperature of gaseous and water wastes, cogeneration can decrease adverse effects associated with the discharge of heat. Therefore, the preliminary EA concludes that, with the exception noted below, the impact of the Commission's rules on cogeneration will not produce significant environmental effects.

Diesel Cogeneration

In the analysis of the use of diesel cogeneration in institutional, residential or commercial systems, the preliminary EA noted that in high-density urban areas, the use of a large number of clustered sources could create significant environmental impacts. The Assessment notes that the price of diesel fuel may inhibit the growth of this technology. It concludes that the Commission's rules *may* cause significant environmental effects with regard to this technology, but that further study is necessary.

Small Power Production—Solar Energy Systems

The preliminary EA concludes that, except for the case of centralized solar energy systems, the impact of the Commission's rules on solar energy systems in general will not cause significant adverse environmental effects. However, the preliminary EA states that the issuance of these rules may provide incentives for small power production facilities utilizing centralized systems of solar energy. The majority of centralized systems will, due to generating capacity (greater than 80 MW), fall outside the purview of these rulemakings.

The preliminary EA finds that the proposed rulemakings could result in the use of centralized solar energy systems (thermal and electrical) in the upper ranges of generating capacity addressed by these rules. The preliminary EA recognizes that the possible impacts on land use, climate, soil, and ecosystems *may* be significant. Additional quantitative data are required to assess the severity of these impacts. The preliminary EA recommends further

[1] Proposed Rulemaking Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration Facilities, Docket No. RM79-54, issued June 27, 1979 (44 F.R. 38873, July 3, 1979).

study on the effect of these rules on this technology.

Biomass

The issuance of these rules provides incentives for small power production facilities utilizing biomass as a fuel source. The preliminary EA concludes that the possible adverse impacts to land use, soil, ecosystems and water resulting from the encouragement of biomass technology may be significant. The EA recommends additional study concerning the impact of these rules on the growth of biomass technology.

Wind Energy Conversion Systems

With regard to Wind Energy Conversion Systems (WECS), the preliminary EA determined that interference with electromagnetic radiation, hazards from blade throw, and danger of bird collision may occur. The level of these effects is not considered to comprise a significant adverse environmental effect.

Geothermal Technology

The preliminary EA finds that geothermal technology may affect air and water quality. These impacts should not, however, be significant.

Small Hydro

The preliminary EA notes that qualification of hydroelectric facilities is limited to facilities at existing dams, or those facilities not requiring an impoundment. It points out that instances of significant environmental impact from facilities added at existing dams are rare. It further observes that almost all such facilities are subject to Commission licensing and that the Commission's licensing procedures will assure case-by-case review of any adverse effects associated with the construction or operation of these hydroelectric projects. The preliminary EA concludes that any adverse environmental effects of these rules with respect to hyroelectric facilities will not be significant.

Waste

The preliminary EA discusses the environmental effects of municipal, agricultural and industrial waste. The use of waste emissions. However, the use of wastes will reduce landfill requirements and municipal incinerator and recycling loads. Based on these positive environmental effects, the preliminary EA finds that the impact of the Commission's rules on these technologies will not significantly affect the environment.

Reduction of Utility Production of Energy and Construction of Capacity

By obtaining electric energy from cogeneration and small power production, utilities can reduce the burning of fuel and the construction of plants than would otherwise be required. These reductions will cause decreases in the adverse environmental effects associated with these activities. The preliminary EA thus concludes that in this respect the Commission's rules will have positive environmental effects.

Commission Findings

On the basis of the current record, the Commission has determined that, with certain exceptions, the proposed rules under sections 201 and 210 of PURPA will not constitute a major Federal action significantly affecting the quality of the human environment. The Commission recognizes that the existing record (including the preliminary Environmental Assessment) shows that the impact of the proposed rules on the use of biomass, centralized solar energy systems, and diesel cogeneration *may* significantly affect the environment.

The foregoing is not intended to indicate a final judgment that the proposed PURPA rules as applied to those technologies *will* significantly affect the environment. Rather, the Commission adopts the view that the proposed rules, if promulgated without modification, potentially could have significant effects as described in the preliminary Environmental Assessment.

The Commission invites public comment on (a) the finding that, except as specifically noted above, the proposed rules will not be a major Federal action significantly affecting the quality of the human environment; (b) the finding that under the conditions noted above there *may* be significant effects from the proposed rules; and (c) the possibility that any potentially significant adverse effects could be sufficiently mitigated or eliminated by modifying the proposed qualifying rules to reflect one or more of the alternatives discussed below.

Alternatives

The Commission believes that certain substantive or procedural modifications to the proposed rules might mitigate any potential adverse effects associated with the three technologies identified above. These modifications include:

(1) Setting a high minimum size cutoff for potentially environmentally harmful technologies;

(2) Setting restrictions on qualifying status for facilities using certain high emission fuels or failing to meet certain FERC established emission control criteria or standards;

(3) Case-by-case review of the environmental impact of each qualifying facility;

(4) Limiting qualifying status to certain locations where environmental conditions are not too severe or limiting the density of such facilities in any given area;

(5) Limiting qualifying status to certain areas where the Federal, State, or local agency has expressly applicable environmental permitting requirements, emission standards, or other control measures or otherwise consents to these facilities being qualified, either by rule or on a case-by-case basis;

(6) Altering or reducing the types or extent of benefits available under section 210 to the qualifying facilities; and

(7) Provision for mandatory periodic review and reassessment by the Commission of the environmental impact of the PURPA rules and of the significance of that impact—present and projected—and, if warranted, the suspension, restriction, or prospective denial of further qualifications by the Commission.

The Commission seeks public comment on the possible modifications of the proposed rules described above or any other approach which may be helpful in resolving any environmental questions relating to this program. In addition, the Commission seeks comment on the conclusions reached in the preliminary EA concerning the environmental impacts of the various technologies affected by the Commission's rules.[2]

Continuation of Environmental Assessment

In addition to solicitation of public comment, the Commission has instructed the Staff to undertake further efforts to quantify the potential extent of risk to the environment from the proposed rules. Additional data will be collected and additional analysis will be performed in keeping with the concerns identified in the preliminary EA. At the end of this process a final Environmental Assessment will be issued.

On the basis of the complete record, the Commission will then make its final determination as to whether its proposed rules will be a major Federal action significantly affecting the quality of the human environment. If the

[2] The Environmental Assessment is available at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C.

Commission finds that the rules will have no significant effect, than the Commission will proceed forward with these rulemakings in the usual fashion. If the Commission finds that, in some respects, the proposed rules are likely to have significant adverse environmental effects, it may take any of the following actions: (1) promulgate the proposed rules as final insofar as they pose no significant threat to the environment, but withhold promulgation of any part of the rules which would encourage the use of biomass, centralized solar energy systems, a diesel cogeneration, pending preparation of an EIS; (2) promulgate the proposed rules with such modifications as the Commission determines are necessary to assure that the final rules will not significantly affect the environment; or (3) withhold issuance of the final rules pending preparation of an environmental impact statement covering the entire scope of the proposed rules.

Comment Procedure

Any interested person may submit data, views and comments concerning these issues. Such comments should be addressed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should not be submitted later than December 1, 1979. An original and 14 conformed copies should be filed with the Commission, and should reference Docket No. RM79-55. Comments should indicate the name, title, mailing address, and telephone number of a person to whom communications concerning the proposal may be addressed. Written comments shall be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capital Street, N.E., Washington, D.C., during regular business hours.

Comments received in response to the initial Notice of Proposed Rulemaking are part of the record in this proceeding and will be considered in the determination of the final rule.

In addition, the Commission will conduct public hearings in connection with the Notice of Proposed Rulemaking in Docket No. RM79-55 at which persons desiring to present views on these issues will have an opportunity to do so. The dates and location of these hearings will be announced in the near future.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32763 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[N-79-730]

Community Development Block Grants; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

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

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

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

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

24 CFR PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

This interim rule would amend 24 CFR Part 570 to clarify § 570.910—Corrective and Remedial Actions, § 570.911—Reduction or Withdrawal of Grant, and § 570.913—Other Remedies. Clarifications are needed in order to enhance effective enforcement action by the Federal government under the regulations.

(Section 7(o) of the Department of HUD Act, 41 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. October 19, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-32742 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 233

San Carlos Indian Irrigation Project, Arizona; Proposed Power Rate Schedules

October 15, 1979.

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

ACTION: Proposed rules.

SUMMARY: The Bureau of Indian Affairs proposes to revise three power rate schedules for the San Carlos Indian Irrigation Project, Arizona. A study by the Project indicates that a rate adjustment is necessary in order to assure sound management and operation of the power system. Power rates will be increased approximately 24 percent if the proposed rates are adopted. A provision is being proposed to cover rate adjustments due to purchased power cost changes. A change in language is proposed to clarify the requirements of facility construction financed by consumer.

DATES: Written comments from the public or other interested parties must be received on or before November 23, 1979.

ADDRESS: Send comments to: Phoenix Area Office, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: James L. McCabe, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone 602-723-5439.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8. A study performed by the San Carlos Indian Irrigation Project indicates that a rate adjustment is necessary in order to assure sound management and operation of the power system in accordance with policies of the Bureau of Indian Affairs. Approximately twenty-four (24) percent additional revenue is needed to offset expenses attributable to (1) increased cost of power purchased from the Project's power suppliers, (2) rapidly increasing cost of material, labor and equipment,

(3) development of a preventive maintenance program for safety purposes, and (4) proposed increase of the reserve fund established for making emergency repairs and/or replacements, and for other purposes to insure continuous operation of the power system.

The present method of increasing power rates involves the rulemaking process which is somewhat time consuming. Whenever one of the Project's power suppliers implements a rate increase, the Project must immediately review and analyze the effect of this action and, if necessary, initiate procedures through the Federal Register to increase its power rates accordingly. The time delays associated with the rulemaking process have in the past prevented the Project from adjusting its power rates in a timely manner, thus causing economic instability in the operation of the power system. A provision (§ 233.54) has been added which provides for the Area Director of the Phoenix Area Office, Bureau of Indian Affairs, to automatically adjust Project power rates through unilateral action in order to avoid delays associated with the rulemaking process. Rate adjustments due to increased costs of material, labor and equipment, and for other purposes in connection with the management and operation of the power system will continue to be implemented through the rulemaking process. Finally, the wording of § 233.7 has been revised. The change in wording clarifies the language concerned with payment for construction of installations and extensions financed by customers.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Principal author of this document is Ralph Esquerra, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone 602-723-5439.

It is proposed to amend Part 233, Subchapter U, Chapter I of Title 25 of the Code of Federal Regulations by revising §§ 233.7, 233.51, 233.52 (b), (c), (d) and (g), 233.53 and by adding a new § 233.54, Rate adjustments due to purchased power cost changes.

PART 233—SAN CARLOS INDIAN IRRIGATION PROJECT

Sec.

* * * * *

233.54 Rate adjustments due to purchased power cost changes.

* * * * *

§ 233.7 Installation or extension financed by consumer.

If funds are not otherwise available for an installation or extension, or if an extension to a prospective consumer will require new construction beyond the distances specified in Section 233.6, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or arrange to pay the Project to construct the needed installation or extension. Payment for construction by the Project shall be advanced prior to commendment of construction. Installations or extensions to be constructed by the consumer or prospective consumer shall be constructed in accordance with suitable plans and specifications approved by the Project Engineer. All installations or extensions when constructed shall be and remain the property of the United States.

§ 233.51 Rate Schedule No. 1—Residential rate.

(a) *Application of schedule.* This schedule is applicable to single-phase or three-phase service for residences and small, non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation or for the customer's convenience, bills will be independently calculated for each meter.

(b) *Monthly rate.* (1) $8.00, minimum which includes the first 50 kilowatt-hours;

(2) 8.0 cents per kilowatt-hour for the next 100 kilowatt-hours;

(3) 5.1 cents per kilowatt-hour for the next 350 kilowatt-hours;

(4) 4.4 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Minimum bill.* The minimum bill shall be $8.00 per month except when a higher minimum bill is stipulated in the contract.

(d) *Purchased power adjustment.* An adjustment shall be added to each kWh used equal to the estimated average pruchased power adjustment (rounded to the nearest $0.0001) paid by the Project to Project's power suppliers.

§ 233.52 Rate Schedule No. 2—General rate.

* * * * *

(b) *Monthly rate.* (1) $8.00 minimum which includes the first 50 kilowatt-hours;

(2) 9.6 cents per kilowatt-hour for the next 350 kilowatt-hours;

(3) 5.7 cents per kilowatt-hour for the next 600 kilowatt-hours;

(4) 3.1 cents per kilowatt-hour for the next 9,000 kilowatt-hours;

(5) When use is 10,000 kilowatt-hours or more: First 10,000 kilowatt-hours $354.80.

(6) Additional kilowatt-hours at 3.1 cents per kilowatt-hour, less a credit of .6 cents per kilowatt-hour for each kilowatt-hour above 200 times the billing demand (50 KW minimum).

(c) *Minimum bill.* The minimum bill shall be $1.75 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with current month, equal to twelve times the highest monthly minimum computed for the same twelve month period. However, no monthly billing shall be less than $8.00.

(d) *Contract demand.* Each contract for 15 KW or over shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand.

* * * * *

(g) *Purchase power adjustment.* An adjustment shall be added for each kWh used equal to the estimated average purchased power adjustment (rounded to the nearest $0.0001) paid by the Project to the Project's power suppliers.

§ 233.53 Rate Schedule No. 3—Street and area lighting.

(a) *Application of schedule.* This rate schedule applies to service for yard lighting, lighting streets, alleys, thoroughfares, parks, schoolyards, industrial areas, parking lots, and similar areas where such dusk-to-dawn service is desired. The Project will own and operate lighting systems and provide normal lamp replacements.

(b) *Monthly rate.* (1) Lamps:

	Each		
	1	2 to 5	5 or more
200 W or less, incandescent (2,600 lm or less)	5.30	5.20	5.20
175 W mercury vapor (approximately 6,500 lm)	8.50	7.60	6.80
250 W mercury vapor (approximately 10,000 lm)	10.30	9.40	8.50
400 W mercury vapor (approximately 18,000 lm)	13.70	12.00	10.30

The minimum term of a service contract will be 12 months, payable in advance. The advance payment may be waived in special cases by the Project Engineer. Installation charges, the cost of wood poles or special steel, aluminum, or

other supports, special fixtures, and the cost of underground service will be charged as determined by the Project Engineer.

§ 233.54 Rate adjustments due to purchased power cost changes.

The rate schedules given in §§ 233.51, 233.52 and 233.53 shall be adjusted as necessary and appropriate to defray increases in costs of power and energy purchased from the power supplier(s) of the Project. Rate adjustments pursuant to this provision shall become effective upon unilateral action of the Area Director; however when a rate adjustment is determined to be necessary, the Area Director shall give sufficient notice to customers and other interested parties.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-32781 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-02-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Definition of Child

AGENCY: Veterans Administration.

ACTION: Proposed Regulation Amendment.

SUMMARY: The Veterans Administration proposes to amend its regulation defining the term "child". This action is needed to implement one of the provisions of a new law called the Veterans' Health Care Amendments of 1979. This provision sets forth standards for recognition of a person adopted under foreign law as a child of a veteran.

DATES: Comments must be received on or before November 23, 1979. We propose to make this amendment effective June 13, 1979, the date of enactment of the new law designated as Pub. L. 96-22 (93 Stat. 47).

ADDRESSES: Send written comments to: Administrator of Veterans Affairs, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until December 3, 1979.

FUR FURTHER INFORMATION CONTACT: T. H. Spindle (202-389-3005).

SUPPLEMENTARY INFORMATION: Pub. L. 96-22 requires that in order for Veterans Administration benefits to be paid to or on behalf of a child residing outside the United States, based on the adoption of such child by a veteran under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse; and that, after the veteran's death, such an adoption would be recognized for Veterans Administration benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for a least 1 year prior to the veteran's death.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no severe compliance burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 3, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: October 18, 1979.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

1. In § 3.57, the introductory portion of paragraph (c) preceding subparagraph (1) is revised and paragraph (e) is added so that the added and revised material reads as follows:

§ 3.57 Child.

* * * * *

(c) *Adopted child.* Except as provided in paragraph (e) of this section, the term means a child adopted pursuant to a final decree of adoption; a child adopted pursuant to an unrescinded interlocutory decree of adoption while remaining in the custody of the adopting parent (or parents) during the interlocutory period, and a child who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized under law to so act, unless and until such agreement is terminated, while the child remains in the custody of the adopting parent (or parents) during the period of placement for adoption under such agreement. The term includes, as of the date of death of a veteran, such a child who

* * * * *

(e) *Child adopted under foreign law*—(1) *General.* The provisions of this paragraph are applicable to a person adopted under the laws of any jurisdiction other than a State. The term "State" is defined in 38 U.S.C. 101(20) and also includes the Commonwealth of the Northern Mariana Islands. The term "veteran" includes, for the purposes of this paragraph, a Commonwealth Army veteran or new Philippine Scout as defined in 38 U.S.C. 1766.

(2) *Adopted child of living veteran.* A person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of the veteran unless all of the following conditions are met.

(i) The person was less than 18 years of age at the time of adoption.

(ii) The person is receiving one-half or more of the person's support from the veteran.

(iii) The person is not in the custody of the person's natural parent unless the natural parent is the veteran's spouse.

(iv) The person is residing with the veteran (or in the case of divorce following adoption, with the divorced spouse who is also a natural or adoptive parent) except for periods during which the person is residing apart from the veteran for purposes of full-time attendance at an educational institution or during which the person or the veteran is confined in a hospital, nursing home, other health-care facility, or other institution.

(3) *Adopted child of deceased veteran.* A person shall not be considered to have been a legally adopted child of a veteran as of the date of the veteran's death and thereafter unless one of the following conditions is met.

(i) The veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit payable under title 38, United States Code at any

time within the 1-year period immediately preceding the veteran's death; or

(ii) The person met the requirements of paragraph (e)(2) of this section for a period of at least 1 year prior to the veteran's death.

(4) *Verification.* In the case of an adopted child of a living veteran, the requirements of paragraph (e)(2)(ii), (iii) and (iv) of this section are for prospective application. That is, in addition to meeting all of the requirements of paragraph (e)(2) of this section at the time of initial adjudication, benefits are not payable thereafter for or to a child adopted under the laws of any jurisdiction other than a State unless the requirements of paragraph (e)(2)(ii), (iii) and (iv) of this section continue to be met. Consequently, whenever Veterans Administration benefits are payable to or for a child adopted under the laws of any jurisdiction other than a State, and the veteran who adopted the child is living, the beneficiary shall submit, upon Veterans Administration request, a report, or other evidence, to determine if the requirements of paragraph (e)(2)(ii), (iii), and (iv) of this section were met for any period for which payment was made for or to the child and whether such requirements will continue to be met for future entitlement periods. Failure to submit the requested report or evidence within a reasonable time from date of request may result in termination of benefits payable for or to the child.

(38 U.S.C. 101(4), 210(c))

[FR Doc. 79-32823 Filed 10-23-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1337-1]

Approval and Promulgation of Implementation Plans; Kansas

Correction

In FR Doc. 79-31561 appearing at page 58921 in the issue for Friday, October 12, 1979, in the "SUMMARY" paragraph, the last sentence should be corrected to read: "The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking." the reference to "November 13, 1979" should be deleted.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 205 and 300

[Docket No. FEMA-PP-300]

Disaster Preparedness Assistance—Reorganization and Revision of Regulations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This document presents for general comment a proposed reorganization and revision of Subpart G, Disaster Preparedness Assistance, of the Federal Disaster Assistance Regulations, 44 CFR Part 205. The reorganization is intended to make the regulations easier to use, clarify existing requirements, and incorporate provisions which reflect new developments and changes in FEMA policy. It also transfers the regulations from Subchapter D to Subchapter E of Title 44. Appropriate response to public comments on this proposed rule will be incorporated in the final rule.

DATE: Comments should be submitted on or before December 24, 1979.

ADDRESS: Rules Docket Clerk, Office of General Counsel Federal Emergy Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Donald J. Carbone, Preparedness Development Division, Plans and Preparedness, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7845.

SUPPLEMENTAL INFORMATION: The notice issued in the Federal Register on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Federal Emergency Management and Assistance; Chapter I, Federal Emergency Management Agency, with Subchapters A-E), indicated that Disaster Assistance would be Subchapter D, Parts 200-299 and that Preparedness would be Subchapter E, Parts 300-399.

FEMA has published a Notice of Transfer and Redesignation effective September 28, 1979, that transferred the Federal Disaster Assistance regulations from 24 CFR Part 2205 to 44 CFR Part 205. Subpart G of those regulations concerns Disaster Preparedness Assistance.

The following proposed Part 300—Disaster Preparedness Assistance, of 44 CFR Chapter I, Subchapter E—Preparedness, is a revised and edited version of the current Subpart G—Disaster Preparedness Assistance, and reflects program responsibilities as assigned within the Federal Emergency Management Agency. With completion of the State disaster preparedness development grant program, portions of the current regulations are no longer applicable and have therefore been deleted. The changes include no new policies or procedures not already in effect, but do reflect new program emphases. The new subpart provides more detailed guidance on improvement grants.

Interested parties and government agencies are encouraged to submit written comments, suggestions, data, or arguments regarding this rulemaking to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472. All submissions received on or before December 24, 1979, will be evaluated. All comments will be available for inspection at the Office of the Rules Docket Clerk. FEMA will evaluate all such comments and experiences to date and will then prepare a Final Rule for publication in the Federal Register.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 had been made for the Federal Disaster Assistance Regulations, including those on Disaster Preparedness Assistance, in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Nothing in the revision of the Disaster Preparedness Assistance regulations would alter that finding. Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

Accordingly, it is proposed to delete 44 CFR Part 205, Subpart G, "Disaster Preparedness Assistance," §§ 205.75 to 205.79 and add a new Part 300 to Subchapter E of Chapter I of Title 44 as follows.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

§§ 205.75-205.79 (Subpart G)—[Deleted]

SUBCHAPTER E—PREPAREDNESS

PART 300—DISASTER PREPAREDNESS ASSISTANCE

Sec.

300.1 General.
300.2 Definitions.
300.3 Federal Disaster Preparedness Program.
300.4 Technical assistance.
300.5 Financial assistance.

Authority: Sec. 201, Disaster Relief Act of 1974, as amended, Pub. L. 93-288; Reorganization Plan No. 3 of 1978 (43 FR 41943); and Executive Order 12148 (44 FR 43239).

§ 300.1 General.

(a) The purpose of this part is to prescribe the standards and procedures to be followed in implementing Pub. L. 93-288 Title II—Disaster Preparedness Assistance, section 201, Federal and State Disaster Preparedness Programs.

(b) The disaster preparedness program shall be carried out in accordance with the policies set forth in § 205.3 of this chapter and the following objectives:

(1) To prepare for the efficient and expeditious provision of disaster relief.

(2) To mitigate potential disaster effects on persons and property through warning, evacuation, and emergency protective measures.

(3) To reduce the effects of hazards through effective land use and construction practices, appropriate legislation and enforcement, dissemination of disaster-related information, and elimination or lessening of disaster-producing events.

§ 300.2 Definitions.

As used in this part:

(a) "The Act" means the Disaster Relief Act of 1974, as amended (Pub. L. 93-288).

(b) "Disaster preparedness plans" means those plans prepared by Federal, State, and local governments in advance of anticipated disasters for the purpose of assuring effective management and delivery of aid to disaster victims, and providing for disaster mitigation, warning, rehabilitation, and recovery.

(c) "State disaster preparedness coordinator" means the person designated by the Governor or by State law as responsible for overall disaster preparedness program coordination or management.

(d) "Vulnerable analysis" means a systematic investigation of potential disasters in terms of probability, frequency, magnitude, and location, in order to forecast their probable effects, in specific geographical areas, on the people, systems, facilities, resources, and institutions.

§ 300.3 Federal disaster preparedness program.

(a) The Director is authorized to establish a program of disaster preparedness that utilizes the services of all appropriate agencies and to provide overall management of that program by:

(1) Providing policy guidance to Federal agencies and conducting program reviews of Federal activities relating to disaster preparedness.

(2) Directing the preparation and review of Federal disaster preparedness plans.

(3) Determining goals and arranging for training of Federal and State personnel, and conducting exercises, critiques, and evaluations to enhance disaster preparedness programs.

(4) Sponsoring and monitoring disaster-related research and the application of science and technology to Federal, State, and local disaster preparedness plans and programs.

(5) Encouraging participation in disaster mitigation and recovery programs by Federal agencies, State and local governments, the practicing professions, research and academic institutions, voluntary agencies, the business community, civic and other organizations, and individuals.

(b) The Director has delegated this authority to the Director, Office of Plans and Preparedness primarily, to the Regional Directors with certain limitations, and to other officers of the Agency regarding specific program elements appropriate to their responsibilities.

(c) The Regional Director shall establish a regional program of disaster preparedness that is consistent with the overall national program and with the State programs within the region and shall manage that regional program by:

(1) Reviewing Federal agency, State, and local disaster preparedness and response activities and recommending improvements.

(2) Assisting the States in accordance with the Act and these regulations.

(3) Coordinating the disaster preparedness programs of Federal agencies within the region.

(4) Preparing plans and conducting training, exercises, critiques, and evaluations to enhance Federal agencies preparedness for disaster assistance; arranging for and carrying out such activities in conjunction with the States to ensure coordinated Federal, State, and local response to disasters.

§ 300.4 Technical assistance.

(a) The Regional Director shall, upon request, provide technical assistance to the States, in accordance with the objectives specified in § 300.1(b) of these regulations, for comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation and for assistance to individuals, businesses, and State and local governments following such disasters.

(b) Particular emphasis shall be given to technical assistance in the following aspects of disaster preparedness:

(1) The drafting of disaster-related State legislation and executive authorities.

(2) Vulnerability analyses.

(3) Work plans and other documentation for disaster preparedness grants.

(4) State and local disaster preparedness programs and procedures.

(5) Staff training, workshops, and seminars.

(6) Disaster assistance exercises.

(7) Program evaluation.

(8) Public information and education programs.

(9) Application of technological information to the disaster preparedness program.

(c) The Regional Director shall also advise the States regarding complementary Federal programs that will enhance State and local disaster assistance and preparedness.

(d) Requests for technical assistance under section 201(b) of the Act shall be made by the Governor or the State disaster preparedness coordinator to the Regional Director.

(1) The request for technical assistance shall indicate as specifically as possible the objectives, nature, and duration of the requested assistance; the recipient agency or organization within the State; the State official responsible for utilizing such assistance; the manner in which such assistance is to be utilized; and any other information needed for a full understanding of the need for such requested assistance.

(2) The State shall provide assurance that technical assistance does not duplicate any State capability, any State or local effort funded by the Federal Government, or any Federal assistance provided under other authority.

(e) Nothing in this part shall be construed to prevent the States from obtaining appropriate technical assistance from other sources, including other Federal agencies under such agencies' own statutory or delegated authorities.

§ 300.5 Financial assistance.

(a) Each State (as defined in the Act) except the Canal Zone requested and received an initial development grant of up to $250,000 for the development of plans, programs, and capabilities for disaster preparedness and prevention. All of these grants have been completed.

(b) The Regional Director may provide to the States, in accordance with the objectives specified in § 300.1(b) of these regulations, upon written request by the Governor or an authorized

representative, an annual improvement grant of up to $25,000 but not to exceed 50 percent of eligible costs. The nonfederal share may exceed the Federal share.

(c) "Annual" improvement grant means that the State may receive no more than $25,000 in actual reimbursements during any continuous 12-month period.

(1) Each grant, even though received annually, is a new grant, subject to all the requirements of a new grant. It is not a renewal of or an amendment to that of the preceding year.

(2) An improvement grant normally will have a one-year duration to be succeeded by a new grant without a break in time, in the interest of program and management continuity. A one-year length is not a requirement, however; nor is continuous funding. There can be a hiatus between grant periods, grants may be for more or less than a year, or grants can overlap, if the State can justify these procedures.

(d) The required nonfederal share for the improvement grant may be in cash or in kind.

(1) State or local revenue-sharing funds may be used for the nonfederal share, as may, within certain limits, funds of Federal-State Regional Commissions; these are exceptions to the prohibition against matching Federal funds with Federal funds. Any nonfederal funds may also be use for this share.

(2) The nonfederal share may be wholly or partially in kind. Forms of in-kind contribution may include, for example, salaries and expenses of State or local personnel, rentals, pro-rata cost of facilities and equipment, and services, provided these costs are not claimed for reimbursement and are not charged as indirect costs to the grant.

(3) Federal funds match the total State expenditure (up to the allowable maximum), not item-by-item costs. Reimbursements are made only for actual eligible expenditures, not for obligations incurred by the State.

(e) The following minimum requirements shall apply to each improvement grant, to the extent considered by the Regional Director as necessary to the State's disaster preparedness capability.

(1) The State shall maintain a current State emergency plan for implementation as required by Section 301(b) of the Act.

(2) The State shall take into account the kinds of disasters to which it is most vulnerable and the particular requirements therefrom for disaster response and mitigation.

(3) State guidance and assistance shall be provided to local jurisdictions in the development of their disaster preparedness plans, programs, and capabilities.

(4) The State emergency plan shall incorporate appropriate policies and procedures pertaining to environmental clearance to assure State and local compliance with applicable Federal, State, and local laws and regulations.

(f) The improvement grant may apply to such preparedness programs and capabilities as:

(1) Planning for disaster response in general, for specific disaster contingencies in special locales, for local and area mutual emergency support under State sponsorship, for long-range recovery, and for disaster mitigation and hazard reduction.

(2) Revision, as necessary, of State legislation, implementating orders, regulations, and other authorities and assignments relevant to disaster preparedness and assistance.

(3) Disaster-related mutual aid compacts and agreements.

(4) Conduct of vulnerability analyses not otherwise available but necessary for the development of State and local disaster preparedness plans and programs.

(5) Design of disaster-related emergency systems.

(6) Training and excercises.

(7) Program reviews and postdisaster critiques.

(8) Public information and education programs.

(g) The improvement grant shall be product-oriented; that is, it must produce something measurable in some way so as to determine specific results, to substantiate compliance with the grant work-plan objectives, and to evidence contribution to the State's disaster capability.

(h) The Regional Director shall approve all costs claimed for reimbursement on the basis of their reasonableness and necessity for the efficient administration of the grant program; however—

(1) Federal funds provided to the State, or through the State to local government, under the provisions of section 201 of the Act may not be used to procure or repair equipment, materials, or facilities except that required for administration of the grant;

(2) Out-of-State travel may not be charged to the grant without prior approval of the Regional Director; and

(3) Travel and other costs for participation in conferences, training and similar activities, whether or not provided for in the grant work plan, shall be eligible only if clearly beneficial to the grant program.

(i) All grants under section 201 of the Act are subject to the appropriate provisions of OMB Circular No. A-95 Revised, Evaluation, review and coordination of Federal and federally assisted programs and projects (January 2, 1976); GSA Federal Management Circular No. 74-4, Cost principles applicable to grants and contracts with State and local governments (issued July 18, 1974); and OMB Circular No. A-102 Revised, Uniform administrative requirements for grants-in-aid to State and local governments (August 24, 1977). In accordance with these requirements the following provisions shall also apply:

(1) Applications for improvement grants shall be processed through the State clearinghouse in compliance with Circular No. A-95 Revised before submittal to the Regional Director.

(2) The submitted application shall include, in an original and two copies:

(i) Standard Form 424, Application for Federal Assistance, indicating the amount requested and the nonfederal share, the grant starting date and duration, certification of A-95 clearance, and the designated agency to carry out or manage the improvement effort. This agency should be the one most appropriate for the work to be accomplished and need not be that designated previously for the development grant.

(ii) A budget estimate; the Budget Information form in Circular A-102 Revised, Attachment M, should be used.

(iii) A work plan setting forth those elements of the comprehensive and detailed program that are to be improved under this grant and any additional or subordinate plans or other products or activities to be developed for specific contingencies or disaster functions in accordance with the State's disaster preparedness program. Even though the grant is to cover only one year, the work plan may, to indicate continuity of intended effort, cover a multi-year period, especially if the work to be performed in that year is part of a longer-range project.

(iv) Assurances of compliance with applicable laws and regulations. Inclusion of a standard "assurances" sheet available from the Regional Director or adapted from A-102 Revised, Attachment M, is sufficient.

(v) Any pertinent comments received and provided by the State clearinghouse in the A-95 procedure.

(3) The Regional Director has been delegated full authority, within these regulations and other policy and procedural instructions as the Director,

Federal Emergency Management Agency or the Director, Office of Plans and Preparedness may from time to time provide, to approve or reject improvement grant applications and to award or amend the grants. Unless otherwise extended, this delegation shall expire September 30, 1980, after which the authority shall be vested in the Director, Office of Plans and Preparedness.

(i) Upon approval, the Regional Director shall complete Section III of SF 424 and provide copies to the State for the designated agency, the State clearinghouse, and (if different) the State Central Information Reception Agency (SCIRA).

(ii) In approving a grant, the Regional Director may attach special conditions, if deemed necessary, to ensure compliance with the grant requirements. It shall be standard practice for the Regional Director to review these with the concerned State officials in advance of approval. Formal acceptance of these conditions is provided in the "assurances" sheet submitted as part of the application package.

(4) A grant application may be amended at any time prior to the scheduled completion of work under the grant if warranted on the basis of new requirements, changes in Federal or State statutes or other legal authorities, or other sufficient reason, provided such proposed modifications are mutually agreed upon by the Governor or an authorized representative and by the Regional Director. The addition of new work projects may require further A-95 clearance.

(5) At the request of the State through Standard Form 270, the Regional Director may approve an advance of funds not to exceed the Federal share of the first 90 days' estimated operational expenses.

(6) The State shall provide quarterly performance reports to the Regional Director. Reporting shall be by program quarter unless otherwise agreed to by the Regional Director.

(7) To the extent feasible, the State shall submit at least two copies of each grant product to the Regional Director. The Regional Director's acceptance of a grant product as fulfilling the terms of the grant should not be construed as approval of or concurrence with the content of the product as to its quality.

(8) In addition to reviews of specific products, the Regional Director shall review grant performance at least quarterly, in such manner as the Regional Director may determine. If review findings clearly indicate a failure to meet the terms of the grant, the Regional Director shall take appropriate action with the State to rectify the problem or, if necessary, shall suspend all or part of an amount claimed for payment or even the grant itself.

(9) The State shall submit to the Regional Director claims for reimbursement at least quarterly but not more often than monthly, on Standard Form 270, signed by the State disaster preparedness coordinator or other authorized representative. Payment shall be made within 30 days after receipt of a properly executed request for payment (except for final payment, which may be withheld pending audit).

(10) The State shall conduct a final audit of each grant to determine, as a minimum, the fiscal integrity of financial transactions and reports, and compliance with laws, regulations, and administrative requirements. The State shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity. Federal audits shall be conducted only at the request of the Regional Director or the Director, Office of Plans and Preparedness.

(Sec. 201, Disaster Relief Act of 1974, as amended, Pub. L. 93-288; Reorganization Plan No. 3 of 1978 (43 FR 41943); and Executive Order 12148 (44 FR 43239))

Dated: October 17, 1978.

Clifford E. McLain,

Acting Director for Plans and Preparedness.

[FR Doc. 79-32755 Filed 10-23-79; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 87 and 90

[General Docket No. 79-188; RM-3247]

Allocating Spectrum For, and To Establish Other Rules and Policies Pertaining To, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum to adopted and released Notice of Proposed Rulemaking and Inquiry.

SUMMARY: This document corrects an inadvertent error made in the Table of Frequency Allocations in the Notice of Proposed Rulemaking and Inquiry released on August 29, 1979 and issued in response to the rulemaking petition filed by the Xerox Corporation. (44 FR 51257)

DATES: The filing dates for comments remain unchanged, i.e., November 15, 1979 for comments and December 14, 1979 for reply comments.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Spectrum Allocation Division, Office of Science & Technology, 2025 M Street, NW, Washington, D.C. 20554. (202) 632-6350—Room 7310.

Released: October 16, 1979.

In the matter of amendment of Parts 2, 21, 87 and 90 of the Commission's rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services, General Docket No. 79-188, RM-3247.

In the Notice of Proposed Rulemaking and Inquiry, FCC number 79-464 (44 FR 51257, published August 31, 1979) in Docket 79-188, adopted August 1, 1979 and released August 29, 1979, concerning the above-captioned matter, the Table of Frequency Allocations in Appendix D is in error. For the frequency bands 10.55-10.57 GHz and 10.615-10.635 GHz, under column heading "Class of Station" delete "fixed" and substitute "land", so as to read "Operational land". No proposed change to the current allocation in these two bands is intended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-23740 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR PART 43

[CC Docket No. 79-262; FCC 79-620]

Eliminating Semiannual Reports and To Provide for the Submission of Revised and Corrected Data in the Annual Reports of Overseas Telecommunications Traffic Data

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The FCC adopted a Notice of Inquiry and Proposed Rulemaking which proposes to: 1) eliminate the requirement to file semi-annual reports on overseas traffic data; 2) change the date on which annual reports for overseas traffic data are due; 3) provide for revised annual reports and certain data corrections; and 4) explore the

desirability of changing some service categories in which the data are reported. Comments and information are requested on each proposal.

DATE: Comments to be submitted by November 16, 1979. Replies to be submitted by December 1, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stanley, Room 526, (202) 653-7413.

[CC Docket No. 79-262; FCC 79-620]

Inquiry and Proposed Rule Making

Adopted: October 2, 1979.

Released: October 16, 1979.

In the Matter of amendment of Part 43.61 of the Rules so as to eliminate semi-annual reports and to provide for the submission of revised and corrected data in the annual reports of overseas telecommunications traffic data.

By the Commission.

1. In this Notice we are proposing certain revisions to Section 43.61, which deals with overseas traffic data. This proposal calls for the elimination of the semi-annual reports of such data, changes the due date for the annual reports, provides for the submission of revised annual reports and certain corrected data, and explores the need for changing the reporting classification service categories.

Background

2. Pursuant to § 43.61 of the Commission's Rules and Regulations, common carriers engaged in the provision of overseas telecommunications services are required to file reports containing information on overseas traffic. These reports are filed twice each year, the first report covering the period of January through June and the second covering the period of January through December. The information in these reports is subdivided into various service classifications. In the case of services provided by the international record carriers, for example, traffic statistics on message telegraph service and overseas teleprinter exchange service are reported separately. The information is further subdivided into outbound and inbound traffic, with traffic which transits the United States being reported separately from traffic which originates and terminates in the United States. Finally, information is submitted for each overseas point except Alaska, Canada, Saint Pierre-Miquelon, and Mexico.

Problem

3. It has come to our attention that some of the data may no longer be useful or as useful as they could be. Further, there may be errors in the data or revisions which are received by the carriers after the reports are submitted to the Commission. Finally, the service classifications in our rules may be outmoded due to new services that have been introduced by the international carriers since the classifications were established. Through this Rule Making Proceeding, we seek to remedy the problems discussed herein as well as other problems that may be brought to our attention.

Comments

4. First, we are soliciting comments concerning the possibility of eliminating the six month reports submitted by AT&T and the IRCs under Part 43.61. It is our understanding that considerable delays are frequently experienced by the carriers in receiving data from their foreign correspondents. In such cases, the carriers may find it necessary to estimate the traffic statistics in order to meet the deadlines specified in our reporting requirements. These estimates may be inaccurate, and if so, this circumstance limits the reliablity and usefulness of the data. It is also our understanding that the carriers periodically update their own data to reflect revisions they receive after they have submitted their reports to the Commission.

5. Before taking action on the six month reports, we would like the carriers to address the following issues and to submit their comments. First, we need information on the lag between the time a data item is received from the overseas correspondents and the month in which it originated. In addressing this issue, respondents should include a distribution which shows the number of countries involved in each of several specified lag intervals. The distribution should be set out as follows:

Months of lag	*Number of countries*
Under 1	
1 and under 2	
2 and under 3	
3 and under 4	
4 and under 5	
5 and under 6	
6 and over	

Second, the proportion of data associated with each of the monthly time lags should be indicated. Third, where it is necessary to estimate the data, there should be a clear explanation of the nature of the information and the methods that are used to derive the estimates. Fourth, the differences between the carriers' estimates and the actual data received from the foreign correspondents should be quantified and explained. Fifth, the average proportion of estimated data for each reported data category included in the six month reports should be calculated and submitted by each carrier.

6. The Commission is aware of the fact that frequently the annual data received from the carriers are not completely accurate. This situation may be caused by problems similar to those we discussed in connection with the semi-annual data. In order to be assured that our records contain the most up-to-date and accurate data which is available in a reasonable period of time, we are considering a change in the date on which the annual 43.61 data are due. Under the Commission's present Rules and Regulations, annual reports are due by May 15 for traffic data of the preceding calendar year. The new requirement would call for the report to be submitted by June 30 rather than May 15. For example, reports for 1979 are due by May 15, 1980. Under the new requirement, reports for 1979 would be submitted by June 30, 1980. We invite comments on this proposed revision of our Rules, including suggestions for other dates on which the annual data would be due. We also solicit responses to each of the issues listed in connection with the six month reports.

7. In a further attempt to assure the receipt of accurate data, we have under consideration a requirement for the submission of revised 43.61 reports. We recognize that it may be unduly burdensome to expect the carriers to file updates with the Commission each time a revision is received. In order to avoid this unnecessary burden, our proposal will require each international carrier to submit a revised 43.61 annual report by December 31 of each year. It will be a complete report of the latest available data, including all revisions to the report of June 30. We invite comments on this proposed change in our Rules.

8. On occasion substantial errors in the 43.61 data may be discovered by the carriers after the revised annual reports have been submitted to the Commission. We wish to be informed of these errors when they are discovered. We suspect that "substantial" would be defined differently depending on the particular service and country involved. It is, therefore, necessary to establish standards for this category of inaccurate data. The following standards have been suggested for telephone service.

1. For countries with more than 10 million minutes or $10 million in revenues (excluding

foreign payouts) or more than 1 million calls, an error that exceeds 1% of the figure in any category would require a report for all data of the country.

2. For countries with more than 5 million but less than 10 million minutes or dollars of revenue (excluding foreign payouts) or more than 500,000 but less than 1 million calls, an error that exceeds 2% of the figure in any category would require a report for all data of the country.

3. For countries with more than 1 million but less than 5 million minutes or dollars of revenue (excluding foreign payouts) or more than 100,000 but less than 500,000 calls, an error that exceeds 3% of the figure in any category would require a report for all data of the country.

4. For countries with less than 1 million minutes of dollars of revenue (excluding foreign payouts) or less than 100,000 calls, an error that exceeds 4% of the figure in any category that would require a report for all data of the country.

We request comments on these standards and invite suggestions on alternative standards.

9. For overseas services other than message telephone, there has been little discussion on error updating or the magnitude of an error that would require submission of corrected data. Therefore, we request comments on the appropriate standards, including specific suggestions similar to those in paragraph 8, to apply to the various overseas services. In addition, we would like the carriers to comment on the possibility of submitting data revisions immediately after substantial changes in the data are discovered.

10. Since the 43.61 reporting rules were originally promulgated and the services required to be reported were first listed, the international carriers have initiated several new services. While some of these services have been offered for several years, they are not reported separately in the 43.61 submissions. Instead, some carriers combine usage data for these services with other services and other carriers exclude data for these new services altogether. In this proceeding, we intend to remedy this situation.

11. We seek comments from all interested parties on the following subjects. First, we would like each carrier to identify specifically those categories of actual or potential services which are not identified and reported separately in its 43.61 reports. AT&T should address itself to international dataphone and international WATS, describing the current status of each and in the case of WATS, its expected availability in the future. Second, for each service listed we request specific suggestions concerning the appropriate measurement units that the carriers should use to report the service (e.g.: Message Telephone Service—messages, minutes, revenues). Third, we would like suggestions on whether the data should be reported by its tariff classification, or whether, as in the past, broad generic categories should be developed, into which the carriers fit the tariff categories. Fourth, we request comments on whether these services should be reported in a form suitable for the industry consolidation reports (i.e., computer readable format), or in handwritten form. Further, if only handwritten reports are thought to be necessary, the appropriate time to convert to a computer format should be discussed. Finally, we would like the carriers to comment on the availability of data, in explicit form, for these "new" services from the year they were initially offered to the present.

12. There have been informal discussions between AT&T and the Commission staff concerning the need to continue the reporting of 43.61 traffic data for offshore points involved in rate integration. By letter of January 30, 1979, AT&T informed the Commission that it is discontinuing the submission of this data. This discontinuance did not have Commission sanction. Our initial reaction is to require continued submission of these data from all parties that serve these points. Several facilities that serve international traffic points also serve the domestic overseas points that are being integrated into the domestic network (e.g., Transpac cables serve Hawaii, Caribbean cables serve the Virgin Islands). Thus, in determining the need for new facilities, it is important for the Commission to know the demands of intermediate points, such as Hawaii and the Virgin Islands, that will also be served by the facility. However, we want all parties to comment on the question of whether these data should be submitted and, therefore we will leave the question open.

13. It has come to our attention that AT&T's "transit switching" data are not reported in its 43.61 submission. This situation results in an incomplete measure of use of international facilities because traffic that does not terminate in or originate from the contiguous United States is excluded from the reports. We would, therefore, like AT&T to comment on a possible requirement calling for the reporting of the total revenues, messages, and minutes represented by its switched transit services. Also, we would like to know the company's expected trends for transit switching. Finally, we welcome comments on the need to include transit switching data in the 43.61 report and the appropriate format for its inclusion.

14. As a final matter, it is our understanding that data from AT&T on its Customer Dialed Operator Serviced calls are included in the dial category for the calls and apparently, this procedure explains the reporting classifications. However, the calls are functionally operator assisted calls. We request comments on the appropriate reporting classification of Customer Dialed Operator Serviced calls, including the relative magnitudes of their traffic volumes and revenues.

15. In response to the issues listed herein each common carrier engaged in providing overseas telecommunications services and any other interested party should submit Comments by November 16, 1979 and Replies by December 1, 1979. After a review and analysis of the Comments and Replies, we shall set forth in a Supplemental Notice of Proposed Rule Making the specific changes in the Rules which we consider to be appropriate.

16. Accordingly, it is ordered, pursuant to Section 4i, 4j, 220 of the Communications Act of 1934, as amended, That this Notice of Proposed Rulemaking concerning Part 43.61 of the Commission's Rules and Regulations is adopted.

17. It is further ordered, That comments on the matters set forth in paragraphs 4 through 14 above shall be filed no later than November 16, 1979, and Replies shall be filed no later than December 1, 1979. Each party responding to this notice shall file an original and (5) copies of its comments and replies with the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32738 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 61

[CC Docket No. 79-246; FCC 79-565]

American Telephone & Telegraph Co. Private Line Rate Structure and Volume Discount Practices

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The Commission has initiated a proceeding that has as its objective clear and consistent use of rate structures, rate elements and tariff terminology by the American Telephone and Telegraph Company in its private line tariffs. AT&T leases facilities

(private lines) to users to satisfy their telecommunications needs. The charges and practices which govern these offerings, contained in tariffs filed with the Commission, must be just, reasonable and not unduly discriminatory. The Commission tentatively concluded that the multiplicity, lack of uniformity, and inconsistency of use of rate elements and rate structures in these tariffs may be unreasonable and unduly discriminatory. It required AT&T to submit a proposal to restructure the private line tariff offering that would ensure consistency, uniformity, and simplicity. The Commission said this restructuring would bring to the surface any discounts being offered and asked how these discounts affect its statutory obligations and public interest concerns.

DATES: AT&T's proposal, and comments by parties, must be received on or before January 7, 1980. Responsive comments and counter proposals must be received on or before February 22, 1980. Reply comments must be filed on or before March 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: James Keegan or Tony Alessi, Tariff Division, Common Carrier Bureau (202-632-6387; 6312).

Inquiry and Proposed Rulemaking

Adopted: September 20, 1979.

Released: October 17, 1979.

In the Matter of American Telephone & Telegraph Company, private line rate structure and volume discount practices, CC Docket No. 79-246.

By the Commission: Chairman Ferris issuing a statement.

I. Introduction

1. In our landmark decision in *AT&T Private Line Services* (Docket 18128) [1], we examined the rates charged by the American Telephone and Telegraph Company and associated Bell System Companies [hereinafter AT&T or Bell] for its various service offerings. This investigation was conducted pursuant to our statutory responsibilities to ensure that rates charged by common carriers are just, reasonable, and not unduly discriminatory [2] and was prompted, in part, by a series of rate controversies suggesting that Bell may be using revenues from its basic telephone monopoly services—MTS and WATS [3]—to subsidize its more competitive private line services.[4] We also were concerned that it might be discriminating among users of these competitive services. In addition to being unjust and unreasonably discriminatory pricing, such discrimination would adversely affect competing carriers.

2. In our Docket 18128 decision we concluded that return levels for Bell's interstate private line services were deficient and subsidized by other services. We held that the rate levels of the major interstate service categories must be justified in relation to the cost of furnishing the particular service. Accordingly, Bell was directed to assign all existing facilities to its various services and to file rates for all its services based on a fully distributed cost method. Each tariffed service category's [5] rates were expected to yield a return equal to the carrier's authorized overall return. See 64 FCC 2d 971, 978. We also noted that unlawful discrimination is not limited to unreasonable price differentials between like services; we stated that "[v]arious other arbitrary and unreasonable actions and classifications on the part of carriers which do not necessarily involve rate level discrimination with respect to like services fall within the prescription of Section 202(a)." 61 FCC 2d 587 at 656.

3. Many of Bell's tariff filings made in response to Docket 18128 and, indeed, virtually all of its major filings since the introduction of substantial competition into interstate telecommunications, have fallen into a pattern. The filing invariably raises controversy and often is set for hearing. Ultimately the hearing results in a finding of unlawfulness in one respect or another.[6] Other tariff filings have been found to be clearly unlawful on their face and have been rejected.[7] In either case, we have attempted to detail the deficiencies that led to the determination of unlawfulness and have directed AT&T to refile the rates and/or terms and conditions for the service in question. However, when such tariffs have been refiled (usually following requested reconsideration or appeal), they generally have engendered as much controversy and raised as many questions as the tariffs they were intended to replace.

4. Attempting to address these tariff filings on an individual basis has proven to be time consuming, and, to this point, ineffectual. Many, if not most, issues raised by a particular service offering involve other service offerings. Our ability to make determinations regarding discrimination within services or between like services and to ensure that costs have been allocated properly frequently requires an examination of, and comparisons between, both the tariff under immediate review and others already on file. We have found the process of analysis and comparison of tariffs to be severely hampered by what we believe to be needless complexity, multiplicity and lack of uniformity of Bell's tariffs. We have found functionally identical services offered under a multitude of tariff classifications using a variety of different methods to determine the rate to be paid by the customer. The situation has been aggravated by the inconsistent, confusing and imprecise use of terms and definitions.

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[1] 61 F.C.C. 2d 587 (1976), *recon.*, 64 F.C.C. 2d 971 (1977), *further recon.*, 67 F.C.C. 2d 1441 (1978), *appeal pending sub nom. Aeronautical Radio Inc.* v. *FCC*, Case Nos. 77-1333, 77-1521, 77-1544, 78-1368 (D.C. Cir.)

[2] Section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 201(b) [hereinafter the Act] provides, in pertinent part: All charges, practices, classifications and regulations for an in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

Section 202(a) states that: "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, of locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

[3] MTS is "Message Telecommunications Service" or, more commonly, "long distance". WATS is a service which enables the subscriber to make large volumes of MTS or long distance calls on the basis of flat rates and metered use charges. Although we use the term "monopoly" to described these services, we recognize that there is a limited amount of competition involved. *See e.g. AT&T WATS Rejection*, 66 FCC 2d 9 (1977), *recon. denied*, 69 FCC 2d 1672 (1978), *appeal pending sub nom. MCI Telecommunications* v. *FCC*, Case No. 79-1119 (D.C. Cir. filed January 29, 1979).

[4] In a very general sense, private line services are telecommunications facilities offered for lease to customers for their dedicated use to serve points selected in advance. They are generally distinguished from the allocated—or common user services—on the basis that in the latter case the facilities are not leased and the users of the network are not identified in advance. *See* paras. 9-12 *infra*.

[5] As the principles enunciated in Docket 18128 were initially implemented, Bell was essentially free to designate the separate service categories along traditional lines, *e.g.*, WATS, MTS, TELPAK, etc. Since these categorical lines as established by Bell bore no necessary connection to underlying generic relationships, cost and rate differentials tended to become institutionalized.

[6] *See, e.g., Docket 19199, AT&T Hi-Lo*, 55 FCC 2d 224 (1975); *recon.*, 58 FCC 2d 362 (1976), *aff'd sub nom. Commodity New Service, Inc.*, v. *FCC*, 561 F.2d 1021 (D.C. Cir. 1977); *Docket 20288, AT&T DDS*, 62 FCC 2d 774 (1977), *recon. denied*, 64 FCC 2d 994 (1977), *aff'd sub nom. AT&T* v. *FCC*, Case No. 77-1742 (D.C. Cir. decided May 21, 1979).

[7] *AT&T Series 7000 Rejection*, 67 FCC 2d 1134 (1978), *recon. denied*, 70 FCC 2d 2031 (1979), *appeal pending sub nom., American Broadcasting Co.* v. *FCC*, Case No. 79-1261 (D.C. Cir. filed March 9, 1979); *AT&T DDS Rejection*, 67 FCC 2d 1195 (1978), *recon. denied*, 70 FCC 2d 616 (1979).

5. We believe these tariff problems may be related to the regrettable cycle of filing-rejection-refiling noted above. Indeed, they may be due in part to an intention to segment markets so as to offer users with high elasticities of demand or having practical market alternatives lower prices, often in what amounts to volume or other discounts. To the extent such intentions exist it is obvious that market segmentation can be accomplished more easily by devising separate tariff offerings whereby essentially the same services and facilities offered under different rate structures and conditions can be disguised so that they cannot be easily recognized and compared.[8] Another possible contributing factor is a piece-meal approach to tariffing manifested by Bell's failure to revise tariff terminology and rate structures to conform to changing technology and changing regulatory requirements, and to be consistent with new tariff filings. Similarly, attempts to accord different, generally more preferential, treatment to customers using AT&T provided instrumentalities than that accorded to customers using equipment or facilities supplied by the customers themselves or by AT&T's competitors, and other administrative or operational reasons unrelated to the functional service requirements of customers, may have been contributing factors. We also recognize that the motivation in some instances may have been to encourage certain types and volumes of communications usage in order to make more rapid plant expansion and the introduction of new technology feasible. Regardless of the motivation, we believe our statutory responsibilities require that we establish better control over the structure and design of AT&T's tariffs. Our general objective here is to reduce the number and complexity of tariffs and rate structures and to ensure that rate related nomenclature is used consistently.

6. In the following paragraphs, we will examine more closely the specific problems relating to rate structures and rate elements in the various Bell private line tariffs. At this point we are inclined to believe that the problems are so severe that the only reasonable solution would be a complete restructuring of the private line tariff offerings of AT&T including, perhaps, any volume discount structure. Apart from simplifying our tasks of ensuring that undue discrimination is avoided and that Bell is accountable for its ratemaking practices,[9] we believe this proceeding will aid Bell in understanding the manner in which tariff complexity is to be eliminated and rate structures are made comparable. Thus, we believe it will give concrete guidance as to how the carrier can come into compliance without rules which require that tariffs be clear and easily understood.[10] It should also enable customers to compare more easily the costs of different services and determine which service will best satisfy their needs at the lowest cost.

II. Private Line Rate Structure

7. In this part we will address the AT&T private line rate structure. First we will discuss the nature of private line services in general, and provide an overview of AT&T's tariff offerings in this regard. We will then address the problems we have experienced with AT&T's tariffs, under the general headings of rate structure problems and rate element problems. Finally, we will propose guidelines which will be used to restructure these private line offerings.

8. We wish to emphasize at the outset that this proceeding is designed to address tariff and rate structures but not actual rates or rate levels. Although we may refer to different rate levels in making comparisons between various offerings, we are in no way attempting to pass judgment on whether any given rate is appropriate or whether any rate differential is justifiable. Such determinations can be made only in the context of a particular tariff filing and the support material submitted by the carrier. Our objective here is a simplified and consistent tariff and rate structure whereby we can make the proper analysis of the tariff to determine its lawfulness, and under which the customer can easily understand his options and make intelligent, informed decisions as to the most advantageous offering available in the marketplace. We believe the flow of accurate and intelligible information is important not only to the consumer but also to potential entrants who need to determine the feasibility of competitive entry. We also wish to emphasize that since our discussion of the nature of private line service is designed primarily to provide a frame of reference to assist comprehension, it should not be viewed as a Commission statement on the propriety of current of future market classifications.

1. Nature of Private Line Service

9. In its narrowest sense, private line service is a term used to denote a tariff classification; thus, only services contained in the tariff by that name, AT&T-Long Lines Department Tariff F.C.C. No. 260, "Private Line Service" would be so classified. In common use, however, the term private line (or occasionally the terms private wire or leased channel service) has come to mean the general category of common carrier services and facilities which can be characterized as dedicated to a subscriber's use as opposed to those which are allocated or available on a common-use basis. In the case of Bell's interstate services, all services other than Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS), therefore, are generally considered private line.[11]

10. In a descriptive sense, a feature which presently distinguishes private line service from common use service, and one which becomes increasingly useful as functional distinctions become clouded, is the manner in which service is billed by the telephone company. Private line billing reflects the leasing of facilities, usually on a full-time basis, by a single customer.[12] Charges for private line facilities are generally in the form of monthly recurring charges, but may

[8] To some extent the Commission itself heretofore may have contributed to this process by generally focusing on each tariff offering in response to specific petitions. This approach does not readily lend to comparing one tariff offering with the totality of similar offerings. The emergence of competition in the telecommunications industry, however, makes such comparisons increasingly important.

[9] Accountability incorporates a number of different regulatory policies. Included are the concepts that the carrier is responsible for its pricing and investment decisions, and that the Commission should be able to track costs as allocated among the various services and develop methods by which to evaluate whether rates charged are just and reasonable. *See* 61 FCC 2d at 610–612.

[10] Section 61.55 of the Commission's Rules and Regulations, 47 C.F.R. § 61.55 provides in pertinent part, that: Tariffs shall contain . . . the following: (f) *Clear and explicit explanatory statements.* Such explanatory statements in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application. (g) *General rules, regulations, exceptions, and conditions.* A clear and definite statement of the general rules, regulations, exceptions and conditions which govern the tariff. . . .

[11] This categorization generally reflects only what service the carrier has chosen to include in one category or another. To illustrate, in recent years the availability of low cost discounted private lines (c.f.; TELPAK service) has enabled the establishment of such networks as the Federal Telecommunications System (FTS), acquired from Bell as a private line service. In operational and functional regards, this network has all the essential capabilities of the common use telephone network, enabling federal, state, and local government personnel to make calls to essentially all points in the United States, but results in a much lower equivalent cost per call than for "plain old telephone service".

[12] A customer leasing private line service may share or resell that service but remains solely responsible for the payment of all leased charges.

include one-time or nonrecurring charges applying to such service functions as installations. Common use services, on the other hand, are charged in a manner which generally reflects individual message transactions either on a call by call or flat rate basis such as for local telephone exchange service.

11. In a functional sense, a private line is a transmission channel providing access between or among points specified by the customer on a permanent, or virtually permanent basis during a specified time period. These points may be located in separate cities or communities (in which case the channel is termed "intercity") or the points may be located in the same city or community (in which case the channel is termed "intracity"). The transmission channel must be suited in terms of carrying capacity or bandwidth to the customer's desired mode of use.[13] In a practical sense, however, the user's telecommunications requirement must be adapted to the available transmission plant of the carrier. The Bell plant has been designed primarily for voice transmission. However, the standard voice-grade channel, nominally 4 kHz in bandwidth,[14] is adaptable for use in the data, graphic, and pictorial modes in addition to the voice mode through the use of appropriate source terminals.[15] Thus, in brief, the nature of the carrier's transmission plant to some degree constrains the use which customers can make of it.

12. In order to obtain access to the carrier's plant, the customer must first designate the geographical points at which service is desired. The carrier then connects the designated customer stations to its nearest operating center, or central office, where transmission lines are terminated and interconnected with lines extending to other points within the carrier's backbone transmission network. This connection is made generally by means of a pair of wires called a local loop or local distribution channel. Then, having determined the nature of the transmission line required,[16] the carrier designates and sets aside a specific intercity transmission path between the appropriate central offices in each city for the exclusive use of the customer.[17] This transmission path normally is contained within a carrier system,[18] unlike the loop which generally is discrete. Thus, at the central office the carrier must interconnect the customer's loop to the appropriate intercity channel, and then effect whatever modulation, demodulation, signal processing, and control functions are necessary to insure proper carriage of the customer's signal. Bell's private line service is nominally a non-switched, point to point type of offering.[19] Switches, as well as other types of equipment, generally are offered separately under the tariffs and frequently have separate monthly recurring charges. Where a switch or a switching machine is involved, private lines are terminated at one side of the switch and new, or separate private lines originate on the other side of the switch, so that transmission lines retain their identity. A private line can, of course, terminate in a local exchange switch such as is the case in what is normally called foreign exchange (FX) service.

2. Bell System Tariff Offerings

13. The transmission channels offered under Bell's tariffs generally may be categorized as follows:

(a) telegraph-grade channels, operating at speeds of up to 150 bits per second (bps), principally used for teletypewriter and low speed data applications;

(b) voice grade channels, nominally providing a 4 kHz bandwidth for applications in the voice, data and facsimile areas constituting the principal channel offering of Bell;

(c) broadband analog channels, offering larger bandwidths for uses such as audio and video program services; and

(d) digital transmission channels, ranging from medium, (i.e., 2400 to 9600 bps) to high speed channels operating at 1.544 megabits per second.

14. The principal interstate Bell tariff under which these services are offered to the public is AT&T Long Lines Department Tariff F.C.C. No. 260, Private Line Service. Tariff 260 comprises some 750 pages, includes nine principal channel service classifications, known as Series,[20] with numerous subclassifications generally called Types. The bases for these classifications variously include intended customer use, underlying nature of the channel facility, how the facility is to be configured within a user's network, or, in the case of Series 5000 (TELPAK),[21] the type of pricing employed. Voice-grade channels, in one form or another, are available under six of the nine service classifications at rates which are determined under six different rate structures.

15. Other important AT&T tariffs which offer private line service include Tariff F.C.C. No. 266, Facilities for Other Common Carriers,[22] and F.C.C. Nos. 267 and 268, Dataphone Digital Service (DDS) for the general public and for other common carriers, respectively. Tariff 266 essentially duplicates the rates and rate structures contained in Tariff 260 with the main exception being the non-availability of TELPAK to the other carriers. In the same vein, Tariff 268 duplicates Tariff 267 in terms of channel offerings. There is another group, or series of tariffs offering

[13] Voice, data, pictorial, graphic, written record, audio and video are examples of different modes of use.

[14] This voice channel generally has been used as a standard by other carriers in addition to Bell.

[15] Examples of source terminals include: telephoto or facsimile machines, or digital source devices coupled with modulators/demodulators (modems) which convert the source digital signal to a form suitable for carriage over analog facilities. The transmission method may be either analog, where continuous variations in frequency, amplitude or other electrical parameter carry information, or digital, where information is carried by patterns formed through the successive presence or absence of energy pulses. The source signal, where not compatible with the transmission medium, must be converted to one or the other forms either through the use of modems or sampling and coding devices.

[16] It should be noted that the same local distribution channel can generally be used regardless of the customer's requirement since the loop can transport, within limitations, a source signal in its baseband (i.e., as it is generated by the source terminal, such as the telephone handset, without modulation, or multiplexing) directly to the central office.

[17] We are dealing here with the physical manner in which service is provided; where a pricing mechanism such as TELPAK exists in the tariff, no physical activity can necessary be imputed. Also, were packet switching technology to be employed, discrete lines between switches need not be set aside for any one customer since packets of data pertaining to a given source may individually traverse diverse routes and be reassembled as required.

[18] A carrier system represents a transmission method whereby many single channels are consolidated or multiplexed into a single electrical path.

[19] AT&T defines a private line in its tariff F.C.C. No. 260 as "the channels * * * channel arrangements and equipment furnished to a customer as a unit, that is, without intermediate equipment or arrangement such as channel switching * * * devices."

[20] Series include Series 1000, telegraph-grade channels for teletypewriter, telemetering and low speed data applications; Series 2000, voice-grade channels used primarily for voice; Series 3000, voice-grade channels used primarily for data; Series 4000, voice-grade channels used for telephoto or facsimile; Series 5000 (TELPAK) primarily offering Series 1000, 2000, 3000, and 4000 channels at bulk rates; Series 6000, audio program channels; Series 7000, television channels, Series 8000, wideband (48 kHz) channels for data or for use as equivalent numbers of voice-grade channels; and Series 10,000, entrance facilities.

[21] Although we refer to TELPAK throughout this Notice, we do recognize that Bell has attempted to withdraw this offering (see note 51 infra). Nonetheless, we believe that since TELPAK has been and continues to be of such major importance as part of AT&T's current private line offerings, we must deal with it accordingly.

[22] "Other common carrier" or "OCC" denotes all common carriers other than the Bell system and independent telephone companies.

facilities to other common carriers filed by the Bell System Operating Companies (BSOC) [23] either individually or severally. Specifically, each associated Bell System Operating Company has on file a tariff which offers the OCCs private line channels within the respective states or service areas. These tariffs essentially replicated the equivalent private line offerings which were available to the general public under the respective State tariffs, except that certain of the rates have been discounted to reflect the terms of negotiations between Bell and the OCCs. Also, the Bell Operating Companies have jointly issued a number of private line tariffs, two of which, BSOC Nos. 3 and 4 covering certain facilities for patrons of other common carriers and for international carriers, respectively, are currently in effect.[24] Presently pending before the Commission is BSOC Tariff F.C.C. No. 6 (BSOC-6), which proposes to consolidate essentially all facility offerings to the other common carriers into a single tariff. As such, this tariff would replace some twenty-one Long Lines Department and associated Bell telephone company tariffs. In so doing, BSOC 6 would, if it were to become effective as scheduled on October 1, 1979, radically change the rate structures under which facilities are currently offered to the other common carriers. To complete the private line tariff picture, it must be noted that certain intrastate private lines which are jurisdictionally interstate [25] are offered to the public under the rates and regulations contained in the tariffs on file with the various States and the District of Columbia. This results principally from the fact that the major interstate private line tariff, F.C.C. No. 260, has not been specifically designed to accommodate short haul channel requirements.

3. Definitions

16. As a preliminary matter we will briefly and informally define certain key terms as we use them throughout our discussion.

(a) The term "rate structure" is used to indicate the manner in which rates are organized within a given tariff schedule. The pricing mechanisms employed to determine rates and charges as well as any interrelationships which exist among rate elements are part of rate structures. It should be noted, however, that the term rate structure is not inclusive of the rates or charges themselves, but only the formulation upon which such rates are expressed and the charges calculated.

(b) The basic building blocks of rate structures are called "rate elements", each of which represents one or more service functions for which a rate is applied.

(c) "Service function" denotes a discrete—though essential—operational part or subpart of service rendered by a carrier such as multiplexing (a channel dividing and combining process), switching, transmission, installation or the like.

(d) The term "comparable services" is used throughout to mean two or more services which, although not like services within the meaning of Section 202(a) of the Act, may be characterized as having a relatively high cross-elasticity of demand (i.e. representing reasonably close substitutes for one another).

(e) Finally, we use the term "local distribution channel" to refer to the line from the customer station to the telephone company central office where connection is made to an intercity transmission channel. Bell, in its tariffs, variously refers to this in whole or in part as a station terminal, service terminal, facility terminal, or facility link.

4. Rate Structure Problems

17. We have observed a general inconsistency and lack of uniformity in rate and tariff structures of AT&T's private line services. These problems exist both within service or rate classifications and between such classifications. They are characterized in general by a multiplicity of offerings for like or comparable services, each reflecting substantial differences in functions covered by rate elements, nomenclature, and pricing mechanisms and approaches. Although we will review the specific inconsistencies in the following paragraphs, we believe a brief examination of the proposed BSOC 6 tariff will provide an overall illustration of the types of problems we are addressing. In it Bell proposes to introduce totally new and different rate structures, comprehending five new rate elements not employed in any other tariffs and providing no ready means of correlation with any other tariff, regardless of how closly related in function. (See Chart 1 of Appendix I for list of key rate elements.) To further complicate matters, there is an apparent lack of internal rate structure consistency in the BSOC 6. Under the tariff two major subclassifications of facilities are proposed: intraexchange facilities and interexchange facilities, roughly equivalent to what we have termed intracity and intercity respectively. The two resultant rate structures have certain rate elements in common, and others which are unique to each structure. Even to the extent rate elements are used in common, they are poorly defined and non-comparable for all practical purposes. (See especially paras. 30–33 and para. 35, *infra*.) Also, the tariff introduces a great deal of new terminology and new pricing concepts. These comments on BSOC 6 are not intended, it must be emphasized, to condemn any of the basic concepts of the tariff but rather are intended to highlight the problems of rate structure inconsistency and lack of comparability we have observed. There is no intent here, for example, to criticize the subdivision of the tariff into intracity and intercity channels. If anything, we would view this as a positive step which if properly implemented in the other tariffs, may help to resolve a number of existing rate problems. Regardless of the merits of the underlying concepts, however, they do not serve to justify the extreme degree of complexity of BSOC 6 or the total lack of structural consistency with all other tariffs. In the following paragraphs we will review in greater detail the problems we have observed.

18. *Multiplicity of Offerings.* AT&T has a number of different tariff provisions under which the same or comparable services are offered under different rates, rate structures or terms and conditions.[26] This is, of course, perhaps the most striking and obvious inconsistency when viewing that carrier's private line offerings as a whole. In essence, the result of this practice is that two customers ordering exactly the same service, or its functional equivalent, can be subject to two different rate structures and perhaps different terms and conditions. More precisely, a customer desiring simple voice grade private line service could receive service under either Series 2000, 3000, 4000 (but see note 36, *infra*), 5000 or 8000 of the 260 Tariff or under the proposed BSOC 6 Tariff. A customer

[23] The term Bell System Operating Companies has been used in the tariffs as a collective term to include the Long Lines Department of AT&T as well as the associated Bell System telephone companies.

[24] It should be noted that BSOC No. 8, Exchange Network Facilities for Interstate Access (ENFIA), is not included in this proceeding as this offering to other common carriers engaged in MTS/WATS—type competition has the characteristics of common use, rather than private line, service.

[25] In brief, any physically intrastate private line which can be connected to other lines so as to enable use of the intrastate line for communications which extend to points in other states (or internationally) becomes jurisdictionally interstate and falls under the Commission's regulatory authority.

[26] *See* Appendix A for examples.

for telegraph grade service could receive it under Series 1000 or 5000 of the 260 Tariff and under the BSOC 6 Tariff.[27] A customer desiring a circuit for data transmission could receive it (albeit at perhaps different transmission bit rates) under Series 1000, 2000, 3000, 5000 or 8000 of the 260 Tariff, under the BSOC 6 Tariff or the 267 or 268 Tariffs (DDS). It should be noted, however, that the customer does not necessarily have complete freedom to select any of these offerings; they carry various restrictions involving volume of use and customer classification.[28]

19. *Rate elements.* In looking more closely at each of these offerings, it becomes obvious that one of the major differences between these like or comparable services is the result of the inconsistent use of rate elements. Even though each of these groups of services as mentioned in paragraph 13, *supra* (*i.e.,* voice, telegraph and data private lines and switched private line systems) involves essentially the same service functions—*e.g.,* local distribution channels and intercity channels—they are represented by different rate elements. Sometimes the rate elements are defined differently, are given different nomenclature, or represent different service functions or parts of service functions. This not only causes confusion and makes comparison difficult or impossible for the customer as well as the Commission, but almost invariably results in different charges or limitations on similarly situated customers. The problems generated by the inconsistent use of rate elements are discussed in more detail in paragraphs 26–37 below.

20. *Pricing Mechanisms and Approaches.* Another major source of inconsistency between and within these various private line offerings results from the multiplicity of pricing mechanisms and approaches employed by AT&T. There are so many instances of this that rather than try to list each case we believe it would be best to attempt to categorize the various practices and give some examples of each. In several instances the same example is used to illustrate more than one category of pricing practices.

21. The first category we note is the basis upon which price differentials or discounts are established. Generally speaking, the bases for these differentials tend to be usage related but a number of different measures are used. For example, in TELPAK (Series 5000) discounts are based on circuit cross section density, *i.e.,* a substantial discount is available if the customer subscribes to a minimum of 60 circuits which are specified as providing communications capability between two points.[29] A somewhat similar approach is used in Series 8000 where a customer can subscribe to a 48 kHz circuit and have it subdivided by the telephone company into twelve equivalent voice grade channels for which the customer pays different, generally lower rates than for the same twelve channels obtained under Series 2000/3000. Another discounting device might be said to reflect volume use of all customers in an area. In the MPL offering (Series 2000/3000) Bell has lower rates for those customers whose communications requirements lie along high density or capacity routes. No such pricing mechanism exists in any other comparable or like category.[30] In AT&T's most recent Series 7000 (television relay) tariff filing there was a usage based rate distinction, but the rate depended on whether the customer used a television channel on a full or part time basis.[31] Bell did have one example of a non-usage based price distinction which we could classify as a quality related differential. Curiously, however, the lower grade channel carried the higher price. In its initial DDS tariff (No. 267) Bell offered a reportedly higher quality data transmission channel at generally lower rates than for comparable data channels under its Series 2000/3000 offering where these latter channels were used exclusively for data.[32]

22. Another category reflects the different pricing of like or comparable rate elements in different offerings such as is the case with the local distribution channel. In most tariffs these channels are priced at a flat rate (which varies according to the service offering and the definition of the rate element). However, in its proposed BSOC 6 Tariff, Bell would base the price of these local distribution channels on a mileage basis plus a flat charge component. But unlike other instances where it applies mileage charges on an airline mile basis between the points served, BSOC 6 would price these channels in part on the airline mileage between "wire centers".[33] An example of inconsistent pricing of like or comparable rate elements may be found in the way Bell prices its intercity transmission channels (interexchange channels or IXCs) on a mileage basis. This is generally done on a mileage band basis as reflected in the Series 1000, 2000, 3000, 4000, 5000 extension channels and 8000 offerings. However, with one minor exception, the mileage bands in *every* one of these offerings is different.[34] Nonetheless, even this consistent inconsistency is not consistent. In its TELPAK offering, Bell sets the IXC (called "Base Capacity") charge at a flat rate per mile. This is not to say that technological or administrative justification may not exist for differences in mileage banding as well as other differences in pricing techniques. We recognize, first of all, that the very existence of mileage-based rate gradations may represent a reasonable attempt to spread high fixed terminal or multiplexing costs over distance. We are cognizant, furthermore, of the fact that digital systems, for example, have substantially different terminal versus mileage sensitive costs than do analog carrier systems. The fact remains, however, that the carrier should justify the differences in the mileage bands at issue here.

23. A third category might be termed pricing by classification. In this respect Bell apparently bases price differences on certain classification distinctions rather than on significant differences in services or on-costs. Class of user is one classification scheme, the most obvious example of which is Bell's practice of applying different tariffs for services rendered to OCCs as compared to those

[27] Another option for a telegraph channel would be to subscribe to a wider band channel (*e.g.,* voice grade) and use channel derivation equipment to derive multiple telegraph grade channels.

[28] *See* Paragraph 37, *infra.*

[29] The circuits need not be contained in single or contiguous bandwidth segment nor must they have common terminal points. Also, the discounts are so substantial under TELPAK that it often pays the customer to subscribe to a higher number even if he has no use for that many circuits. For example, it would often save the customer money to subscribe to 60 circuits under TELPAK even if he had need for only 30 circuits. Since TELPAK is no more than a pricing mechanism, however, the customer does not actually receive the additional channels. TELPAK is discussed in greater detail in paras. 29 and 40, *infra.*

[30] MPL rates also apply to voice grade channels contained in TELPAK sections of 25 miles or less.

[31] We rejected this filing as unlawful for a number of reasons. Among them, the lack of justification for the substantial difference in rates between the full time and part time user classifications. *See AT&T Series 7000 Rejection* (recon.), note 7, *supra.*

[32] Following the hearing in Docket No. 20288 in which we found the DDS rates unlawful, Bell was ordered, as an interim measure, to revise these rates to be comparable to the Series 2000/3000 rates. *See DDS Rejection Order,* note 7, *supra.*

[33] The wire centers are telephone company offices or operating centers through which the transmission lines are routed and over which the customer has no control. Thus, they bear a closer relationship to Bell's routing than to the distance between customer service points. In no other tariff has AT&T used wire centers in its pricing. In its other interstate tariffs, notably Tariff 260, any costs necessitated by links between wire centers are averaged into the local distribution channel charge on the basis of nationwide averages. Aside from inconsistency, the use of wire centers in the BSOC 6 tariff has resulted in an exceedingly complex and cumbersome schedule of charges.

[34] See Appendix A, Chart II.

rendered to other users. Although this usually results in significantly different rates for the OCCs,[35] under its 268 Tariff for DDS, AT&T applies the same channel rate schedules to OCCs as it does to other customers in its 267 Tariff. Sometimes classification is according to ownership of equipment. For example, an access line to a switch is priced differently depending on whether the switch is provided by Bell or the customer. Another type of classification is by service subscription. For example, one can obtain the same service components, such as an access line, under Common Control Switching Arrangements (CCSA) and Enhanced Private Switched Communications Service (EPSCS), or the identical service under Series 2000 and 5000, and be charged different rates. Classification by type of underlying transmission channels occurs when data transmission service is acquired under either the DDS Tariff or under Series 2000/3000. In some cases, classification is made according to end use by the customer even though there is no significant distinction in the services. An example of this is a Series 4000 channel used for telephoto transmission even though the underlying channel is the duplicate of the underlying channel offered under Series 2000/3000. This is not intended to imply that legitimate cost differences may not exist to support the differences in rates.[36] The diversity of rate structure and the resultant lack of comparability, however, require a justification by the carrier initiating the tariff containing them.

24. A final category that we mention involves pricing relationships, whereby a direct price relationship is sometimes established and used between two services but in other cases involving the same two services is ignored. This category of inconsistent pricing mechanisms is not so prevalent as some of the above categories but is perhaps more obvious where it is used. The best illustration of this is the pricing relationship between a telegraph grade circuit and a voice grade circuit. In the Series 5000 offering (TELPAK), telegraph grade circuits are priced at one half the rate for voice grade circuits, while the same telegraph grade circuits offered under Series 1000 bear no fixed relationship to the same voice grade circuits offered under Series 2000/3000.

5. Rate Element Problems

25. The following paragraphs discuss two related problems concerning the use of rate elements in private line tariffs. The first problem deals with the definitional complexity which is encountered in attempting to understand what is meant by the specific terms used to identify rate elements. The second problem is concerned with the inconsistent relationship which exists between rate elements and service functions and the practice of rate element selection.

26. *Rate element definitional complexity.* A major factor contributing to tariff complexity and rate structure inconsistency is the lack of clearly defined, uniform tariff terminology. We are primarily concerned here with rate element terminology that describes service functions for which a customer is charged a specified rate. It is essential to note that much of the language used to identify and describe rate elements is derived from and dependent upon underlying tariff terminology, such as the terms "exchange" and "rate center". In many instances these tariff terms are poorly defined within a tariff. Therefore, they contribute to the difficulty of understanding rate element terminology which, in and of itself, oftentimes lacks clarity and uniformity. This problem will become more evident in our discussion below.

27. To illustrate the kind of definitional complexity encountered in Bell System private line tariffs, we shall consider the rate element "interexchange channel" as contained in Series 2000 of Tariff 260. There an interexchange channel is generally described as a ". . . through channel which interconnects exchanges . . . ." (AT&T Long Lines—Tariff F.C.C. No. 260 Para. 2.5, 24th Revised Page 26.1). It is evident that the term "exchange" is crucial to understanding what is meant by interexchange channel. The definitional section of Tariff 260 indicates that the term "exchange" denotes a geographical unit established by the telephone company for the administration of communication service in a specified area. In addition, it states that "[w]hen an exchange . . . contains two or more rate centers, interstate private line service offered herein will be furnished as if each rate center were a separate exchange." (Tariff 260, Para. 2.5, 35th Revised Page 26). We now find it necessary to proceed in examining the term "rate center". We learn that a rate center is "a specified [by the telephone company] geographical location within an exchange area . . . from which mileage measurements are determined for the application of interexchange mileage rates". (Tariff 260, Para. 2.5, 17th Revised Page 28). We also learn that there are two different categories of rate centers, distinguished on the basis of relative amounts of transmission capacity (Category "A" Rate Centers and Category "B" Rate Centers), which determine the applicable rate schedule. From these definitions, a customer would not know where an exchange is in any particular geographical location nor whether a channel is an interexchange channel or not. Moreover, there is no consistent basis upon which exchange areas are designated nor any assurance that they will remain the same.

28. The above definitional scenario could be made far more complex with additional detail. However, it demonstrates that the definition of an interexchange channel, as well as the definitional section of Tariff 260, is of little help in truly understanding what is meant by the interexchange channel rate element in Series 2000. In fact, it should be noted that nowhere in the tariff are the service functions associated with the interexchange channel rate element of Series 2000 specified. It is obvious that the definition of an interexchange channel is inconsistent and meaningless with respect to ascertaining functional relationships. According to the tariff definition it is possible to have an interexchange channel within an exchange. Furthermore, only after laboring through this definitional maze can one tentatively conclude that the channels identified by the interexchange channel rate element in Series 2000 actually extend between rate centers, rather than exchanges, and are priced on that basis.

29. Another example of definitional complexity in Bell System private line tariffs can be shown with an examination of the Series 5000 (TELPAK) rate element "Base Capacity". This rate element is defined, in part, as ". . . the potential for communications channels and services which can be realized only with the use of service terminals . . . furnished in such manner as the Telephone Company may elect, whether by wire, radio or a combination thereof and whether or not by means of a single facility or route". (Tariff 260, Paragraph 3.2.5 (A)(1)). It should be noted that this definition is

[35] Obviously, once a class of customers is segregated out of a general market, the costs for service reflect the use characteristics for that class alone. Since no other class is stratified into separate markets by line of business, the "discrimination" is an obvious one, the question being only whether it is lawful or not.

[36] It should be noted, however, that rate packaging is employed under Series 4000 in such a manner as to partially disguise the underlying similarity. Specifically, Series 400 combines channel conditioning with the interexchange channel rate element whereas under Series 2000/3000, channel conditioning is separate. *See* paragraph 37 below for a general discussion of this type of practice.

vague in the sense that it avoids specifying the kind or amount of plant this rate element represents. Only with a thorough knowledge of TELPAK is it possible to understand that base capacity essentially is a pricing mechanism and not a physical facility. As economics dictate, single channels obtained or available under Series 1000 through 4000 may be grouped together, for pricing purposes only, into TELPAK base capacity sections. These individual channels need not be contiguous in bandwidth; that is, they may be contained in separate transmission systems. Moreover, the TELPAK pricing mechanism is such that TELPAK pricing mileage may be substantially different from airline mileage between the service points which the actual interexchange channel connects. Thus base capacity is descriptive only of a discount pricing mechanism rather than a rate element comparable to rate elements in other tariffs having a distinguishable function.

30. As noted above, the recently filed BSOC-6 tariff provides still another illustrative example of the kind of definitional problems that contribute to the difficulties encountered by the public and the Commission in attempting to fully comprehend AT&T private line tariffs. We shall consider two intraexchange rate elements identified in the BSOC tariff. They are the "facility link" and the "facility loop." The facility link is defined as providing "for a transmission path between an OCC Operating Center and its serving wire centers." [37] The facility loop is defined a providing "for a transmission path between an OCC's terminal location or a patron's premises and its serving wire center".[38] In considering these two rate elements, it is relevant to begin by examining the basic tariff terminology used to describe these two rate elements.

31. The basic tariff terminology "OCC Operating Center", "OCC terminal location," "patron", "premises","wire center", and "serving wire center", are all defined in the general definitional section of the BSOC 6 tariff. We note first that the criteria used to distinguish between an OCC Operating Center and an OCC terminal location have little if any relevance in understanding the significance of the facility link and facility loop rate elements in the context of the tariff. What is relevant and not made clear in the definitions of these terms, or the tariff itself, is that both the OCC Operating Center and the OCC terminal location are termination points where OCC communication facilities are located, and equivalent in all regards to other customers' stations under other tariffs. Similarly, a patron's premises is distinguished from an OCC terminal location and an OCC operating center although each of these terms designates, in a general sense, a termination point on the customer's network. If we were to assume that the rate differentials associated with these different types of termination points are justifiable, then, in that context and that context only would such terms be required. In fact, however, these terms have been used to form a definitional framework wherein terms are used in the first instance to differentiate rate elements, thus embedding in the rate structure a presumption that there are inherent functional differences in rendering service to a patron's premises as opposed to an OCC premises. (See also para. 33, infra.)

32. We turn now to the terms "wire center" and "serving wire center", terms unique to the BSOC 6 tariff among tariffs filed with the Commission. In examining the definitions of these two terms, we find that a wire center is basically a telephone company central office or operating centers and a serving wire center is nothing more than a wire center which serves termination points, such as those described above, within a given geographical area. The point to note here is that wire center and serving wire center are two of a number of terms that are used in different contexts to describe a telephone company operating center. What becomes evident is that the use of numerous terms to describe a telephone company operating center lends little if anything to understanding private line services or tariffs. In fact, the practice confuses descriptions of rate elements, service functions, and associated rates.

33. In view of our examination of the basic tariff terminology it is evident that the intraexchange rate elements "facility link" and "facility loop" relate to the similar service function of customer terminations. Since the same types of plant and facilities are used to perform this service function of customer termination, there appears to be no logical basis for having two distinct rate elements differentiated on the artificial basis of where the termination occurs. Even if rate differentials were shown to be justified, there would still be no apparent basis for differences in terminology. This kind of rate element development only creates confusion and unnecessary complexity in a rate structure. Furthermore, it prevents comparability between rate structures in other tariffs, such as Tariff 260, where different rate elements are not distinguishable on the basis of whether the termination occurs at a customer-owned switch, an operating center, or other type of customer station.

b. Rate element service function inconsistency

34. Aside from definitional complexity and confusion, other problems include the failure to use rate element terminology that can consistently be identified with the same service functions throughout all rate structures and the failure to select rate elements representing service functions which reasonably reflect customer needs. We shall examine this problem area through the use of three categories of illustrative examples. The first category will show the inconsistency of use of rate element terminology. The second category will show how the same service functions are represented by different rate element terminology. The last category will deal with the inappropriate selection of rate elements, the most obvious problem of which is the combining or "bundling" of what would otherwise be discrete rate elements. Although the problems represented in all three categories overlap, we are using this approach to give different conceptional perspectives from which the overall problem can be viewed.

35. *Inconsistency of Rate Element Use.* The interexchange channel rate element provides us with an illustrative example of how, even where the same rate element terminology is used, the scope of that element in terms of service functions covered varies from one rate structure to another. Under Series 2000/3000, the overall MPL rate structure contains two key rate elements, the "station terminal" and "interexchange channel". Under Series 4000, we again find a two-element rate structure, this time comprised of an "interexchange channel" and a "service terminal." [39] Although the interexchange channel rate element is defined in the tariff the same in either case, we find that in fact this element covers different service functions. Under MPL, the interexchange channel essentially covers the intercity transmission lines and the intercity channel terminating arrangements at the telephone company central offices. Under Series 4000, this latter function is covered partly by the interexchange channel element and partly by the service terminal element. In addition, the Series 4000 interexchange channel

[37] Proposed Tariff BSOC 6, paragraph 3.1.4. (A).

[38] *Id.*

[39] The service terminal covers terminating arrangements at the telephone company central office as well as at the customer station whereas the station terminal covers only the latter.

covers the function of channel conditioning [40] which is required for the operation of certain types of facsimile machines. Another example of where the same rate element, common in both name and definition, is used inconsistently is the case of the "facility equipment package" (FEP) used in connection with the proposed BSOC-6. Both in the tariff and the supporting documentation which accompanies the tariff filing the FEP is defined as performing the identical functions with the same associated costs. Yet, upon inspection of the rate shown in the tariff schedule, we find the rate for an FEP used for intracity service radically differs—by as much as $34.55 per month—from an FEP used in connection with intercity channels. The explanation for this is that another rate element, the "facility section",[41] covers that major portion of the cost associated with the intracity FEP, thus, the intercity FEP becomes little more than a mathematical correction factor of $2.90 per month. The intercity FEP, then, bears no relationship either in terms of function, rate level or pricing mechanism (i.e., one is a flat monthly rate and the other varies by the type of FEP required) to the intracity FEP. Both of these examples make it clear that the same rate element terminolgy is used inconsistenly to describe different service functions.

36. *Same Service Function Represented by Different Rate Elements.* As difficult as it is to compare even commonly named rate elements such as the interexchange channel, the problem is compounded when we find totally different nomenclature used to designate similar or identical rate elements under other rate structures. As noted, under TELPAK the term "base capacity" is used to denote the intercity transmission line-haul function. Under BSOC 6, the identical function is called a "facility section" and under Series 1000–4000 an "interexchange channel." Both of these latter rate elements appear to represent the same service functions since the rates applicable to the facility section are obtained through cross reference to tariff 260 interexchange channel rates.

37. *Rate element bundling.* We turn to the problem of what we will generally term "rate bundling," [42] a term used to include the grouping of different rate elements into single packages as well as the tying together of rate elements or rate structures so that one is available only in conjunction with the other. Illustrations of the use of bundling include combining the access line (equivalent to an intracity or local channel) and switch access charge in the Enhanced Private Switched Communications Services [EPSCS] into a single rate element. This practice, for mechanical reasons alone, makes it extremely difficult to compare access lines as they appear under different rate structures and rate elements. A second example involves a companion service, Common Control Switching Arrangements [CCSA] Service, where the access line is shown separate and apart from the switch access charge but is available only to CCSA customers. This type of bundling in essence allows the use of a rate element only to select service customers. A similar bundling occurs with respect to the rates for TELPAK extension channels which are available only to TELPAK base capacity customers. Rates for these extension channels, it should be observed, are structured so as to result in generally lower charges for short-haul channels than for MPL, thus tracking more closely with typical TELPAK user requirements. A third example involves the combining of conditioning with the interexchange channel rate element under Series 4000. Under other schedules, notably Series 2000/3000, conditioning is available as a separate option. While some Series 4000 customers may need conditioning, others may not, depending on the type of facsimile terminal equipment used. The point is that the customer under Series 4000 must pay for this conditioning whether he needs it or not.[43] As another example, under Series 4000, 5000 and 8000, we find a service terminal used to include functions covered under Series 1000 by a combination of two rate elements, a "channel terminal" plus a "station terminal." In the past, prior to the introduction of MPL, the channel terminal plus station terminal was used under Series 2000 and 3000. Looking back over the tariff history, we have been able to discern no clear pattern or rationale for the use of the service terminal element versus the separate station terminal plus channel terminal, except to note that the bundling of these latter two elements into one mandates that the customer obtain the local distribution channel and the interexchange channel from the same supplier.

6. Corrective Action

38. We believe the above discussion demonstrates that Bell's private line services involve a maze of inconsistent and often conflicting offerings. The existing service classifications, subclassifications and associated rate structures, overall, bear little or no relevance to the underlying natural or generic market classifications being served. As a result, we have experienced increasing difficulty in analyzing tariffs to determine their lawfulness. Aside from our own difficulties in reviewing such a complex set of tariffs and rate structures, we cannot ignore the monumental problems the customer must have in attempting to analyze the various service options he has and attempting to make an intelligent selection. For example, in analyzing the proposed BSOC 6 tariff, we found we were unable to compare the rate structure and rate elements to existing Bell tariffs, including the OCC tariffs which BSOC 6 would replace. Because of this lack of comparability, it becomes exceedingly difficult to resolve questions of discrimination, preference or prejudice or to determine the impact of Bell's rate structure changes.

39. In the following paragraphs we are proposing general guidelines which are intended to assist AT&T in reevaluating its private line offerings. We will, of course, seek comment on these guidelines. However, the primary purpose of this proceeding is not the development of hard and fast rules but rather a restructuring of Bell's private line tariffs to facilitate effective regulatory scrutiny and to assist customers in making intelligent choices with full knowledge of alternatives. Thus, the guidelines are not an end in themselves but are to be used primarily as a guide to assist AT&T in making necessary rate structure reforms. Our concern over the difficulty in understanding tariffs is heightened by our policies regarding competitive entry into the telecommunications market. Availability of clear information regarding Bell's offerings is essential to informed decisionmaking by both existing and potential competitors as to

[40] Conditioning, or channel conditioning, involves the electrical modification of a standard voice-grade channel to enhance its suitability for carrying various types of non-voice signals.

[41] The rate for the facility section, in turn, is found by cross reference to the MPL rate schedule for Series 2000/3000 as contained in Tariff F.C.C. No. 260.

[42] The opposite of bundling may be termed "splintering" whereby an excessive number of rate elements are used, adding confusion and complexity to the rate structure. Although less prevalent than bundling, there are some examples of splintering, such as the BSOC 6 tariff which proposes to use four different rate elements to represent a local or intracity circuit, in lieu of the single rate element normally employed in other tariffs. This, of course, when translated into actual rate levels, inherently causes differences in the manner in which rates are averaged.

[43] Notwithstanding this type of bundling, we recognize that most customers, if knowledgeable, may avoid the conditioning charge by taking service, for example, under Series 3000, the category under which voice-grade channels for data transmission are available. This does not, however, justify the practice.

the feasibility of adjusting existing, or introducing new, competitive services.

40. *The guidelines.* First, there would be an integrated rate structure for all like services. This means that multiple offerings, whether under different tariffs or different series, would be eliminated in favor of a single integrated rate structure. This rate structure could include multiple pricing (e.g., volume sensitive pricing) where justified, and different service options for different customer requirements. Such a structure would preclude would preclude the possibility of quoting different prices for the exact same service. Thus, all identical voice-grade private line services, for example, which currently constitute the whole or part of Series 2000, 3000, 4000, 5000, 8000 and the OCC tariffs, would have to employ a single, integrated rate structure within which any surviving rate differentials would have to be shown within a common frame of reference.

41. Second, comparable services would have to have consistent rate structures, and where like service functions are used they would have to be priced consistently unless some deviation were justified. Thus, if we assume that DDS and voice grade private line service are comparable, then the rate structures should be consistent to the degree to which the underlying functions are common. As examples of consistency in this case we would expect that both would generally have rate elements defining the same service functions (e.g., intercity tranmission and local distribution); however, one service may have a service function that is not reflected by equipment requirements of the other. Where rate elements between the two respresent the same service functions, we would normally expect the pricing mechanisms of those elements to be the same. Thus, wherever Bell employs rate averaging, based generally upon the averaging of selected underlying cost factors,[44] it would be expected to use identical methods of averaging for a given rate element wherever it appears in the tariffs.

42. Third, rate elements would have to be selected so as to reflect market requirements, i.e., either current or potential independent customer demand or to involve some separate pricing utility. Where there is a substantial market for any service function individually such as unequipped, unconditioned voice-grade channels, switching capacity or the like, we would expect Bell to offer such services in the form of separately priced rate elements. To the extent, furthermore, that a rate element is available separately under a given rate structure owing to market demand or other cause, all other rate structures under which equivalent service functions are offered must also show such elements separately for the sake of comparability. Under this guideline we would expect the selected rate elements to bear discrete correlation to underlying service functions and reflect the needs of the marketplace. In too many cases AT&T has unnecessarily "bundled" service functions together under one rate element, thus effectively denying customers the option of utilizing less than all of the service functions under that element. In other cases, it has unnecessarily "splintered" its rate elements, thus complicating the calculation of a customer's charges as well as creating difficulties in our attempts to determine underlying functional relationships. This guideline is intended to eliminate the extremes, to require that rate elements be reasonably related to market requirements. For example, in a practical sense an intercity private line service consists of two basic service functions, intercity transmission with its associated central office terminating arrangements and local distribution. From a customer demand point of view, there would appear no need to separate the transmission line from its associated central office terminating arrangements since there would not appear to be any independent demand for one without the other. As noted above, however, pricing utility may justify separation. Thus we recognize that a separation of the intercity transmission function into two elements may be reasonable.[45] The second function, local distribution, would seem to be another separate rate element [46] and would not include customer station equipment, as is currently the case under several Bell tariffs, since the customer should have the option of providing his own terminal equipment.

43. Fourth, rate elements would have to be consistently defined and employed. This would require that all rate elements that involve the same service functions carry the same name and be defined in the same way. Definitions of rate elements should clearly identify the discrete service functions or parts thereof covered by the rate element. Such definitional identity should be precise enough so as to make costs associated with a particular rate element more readily identifiable. This is not to say, however, that under this guideline a rate element must necessarily be priced to recover its costs. As noted before, questions relating to the reasonableness of a precise rate level for an element are not an object of this proceeding.[47] Our primary concern here is with consistency of pricing approaches. As a result of this guideline we would expect consistently defined and employed rate elements in all the private line services. For example, in comparing voice grade and telegraph grade services we would expect to find essentially the same rate elements employed in simple private line configurations, although some rate elements (e.g., the intercity element) would be priced differently in accordance with any cost differences.

44. Finally, in accordance with our Rules, we would require rate structures, and associated terms and conditions, to be designed with simplicity and ease of understanding in mind. Tariffs should be complete in themselves with the use of cross references only where required to avoid complexity and excessive length.[48]

III. Volume Discounts

1. Introduction and Background

45. It is our belief that a number of the problems noted in Bell's private line tariffs and rate structures may be attributable to an effort by it to provide volume-based discounts to certain users of its private line services. We also believe that restructure of Bell's private line tariffs in accordance with the principles we have proposed will serve to make such discounts, and any price

[44] *See*, for example, the MPL rate structure in Series 2000/3000 where rate averaging for interexchange channels is effected in three primary tiers based upon the facility density at the terminal points. This type of averaging is not employed for other services.

[45] For example, on a multipoint private line, the question arises as to whether it is reasonable to charge for the central office terminating arrangements as though they were the same as for two-point channels. Also, at international border crossing points such as with Canada, it may not be reasonable to charge the customer for a termination at the border which he does not require and which may or may not be needed.

[46] We do not imply by this that a single rate element necessarily involves only a single rate or pricing figure. While we emphasize simplicity as an overall objective, we recognize that the pricing factors may be diverse to reflect differences in cost characteristics (such as those that may be distance sensitive as compared to those that are not).

[47] We have, of course, strongly supported cost based rates in recent years. While we have generally not attempted to analyze a service's rates on an element by element basis, we are inclined to believe that rate element pricing designed to recover the costs of that element may yield a more reasonable and equitable pricing structure.

[48] In this regard we note Bell's practice of sometimes employing rates contained in intrastate tariffs in connection with local distribution lines and local channels. Where such lines are clearly part of an interstate service, the applicable rates should be contained in the appropriate interstate tariff.

discriminations among users, readily apparent. Moreover, integration of rate structures to the extent we envision would not be possible without uniform discount policies. Accordingly, we believe it appropriate to explore the matter of volume-based discounts as they affect AT&T's communications offerings. We intend to inquire into the nature of such discounts and whether they may be offered consistent with the objectives of the Communications Act, and, if so, in what form.

46. Before proceeding with an analysis, it would be helpful to review the manner in which we have handled volume discounts in the past. Bell's Series 5000, or TELPAK, offering has been noted as exemplifying many of the points we have made regarding the relationship bulk discounts have with nomenclature problems and rate structure inconsistency.[49] TELPAK originally was offered as a response to the Commission's decision in *Allocation of Frequencies in the Bands Above 890 Mc.*, 27 F.C.C. 359, *recon. denied*, 29 F.C.C. 825 (1960). That case announced a policy of licensing private point-to-point microwave communications systems.[50] Bell was concerned that the new microwave services would meet customers' bulk or multiple channel needs more satisfactorily than its own offerings and result in a diversion of customers. It constructed a rate schedule which attempted to simulate private microwave relay systems' contiguous, point-to-point transmission characteristics by employing a concept of "base capacity." The offering was divided into TELPAK A through D, available in 12, 24, 60 and 240 voice grade channel equivalencies respectively. Discounts ranged up to 81 percent of the comparable individual voice grade channel rates. As noted above, "base capacity" is not in fact a service function. TELPAK, as originally offered, was essentially no more than a grouping, for pricing purposes only, of the same channels provided under Series 1000, 2000, 3000, 4000 offered at a rate many times lower than an equivalent number of these channels.

47. TELPAK was investigated by the Commission in the Docket 18128 proceeding, note 1, supra. In finding it to be like various other private line services offered by Bell for purposes of Section 202(a), we addressed possible justifications for price level differentials between like services which raise Section 202(a) concerns. In the context of TELPAK, we stated that "a discrimination is not unjust or unreasonable if the like service which is priced to meet competition can satisfy the competitive necessity test, or is otherwise justified with relation to the cost of providing service, *or on the basis of other policy considerations.*" (*Emphasis* supplied) 61 F.C.C. 2d at 656. We concluded Bell had not demonstrated TELPAK C and D (60 and 240 channels, respectively) to be lawful and ordered it to terminate the offering or, alternatively, to file a lawful replacement.[51] On reconsideration, however, we stayed our Order and agreed to reexamine TELPAK's lawfulness. We also slightly modified the standard by which the offering would be judged:

> Thus in the private line context in order for a carrier which provides both monopoly and competitive services to justify a discount rate to volume users of a private line service which is "like" non-discounted private line services, the following must be proved:
>
> (1) The discriminatory bulk discount classification must be cost justified, i.e., it must be proved that there are material cost savings associated with provision of the service on a volume basis.
>
> (2) The discount rate must be an exact reflection of such cost savings and must also be targeted to recover full costs on an FDC [Fully Distributed Cost] Method 7 basis.
>
> (3) Absent proof of cost justification, or upon departure from FDC Method based rates which mirror actual cost savings, no discriminatory discount rates may be filed absent a waiver. Waivers may be granted upon proof that the rate differential is required by competitive necessity.

64 F.C.C. 2d 985, 986. We later noted, parenthetically, that we also would consider waiver from this standard on grounds other than competitive necessity although we did not identify what those grounds might be. 64 F.C.C. 2d 971 at 987.

48. In describing the cost justification standard indicated in (1) and (2) above, we stated that cost differentials must be real and documented, in proportion to actual cost savings, and targeted to yield the authorized rate of return. As to (3), the competitive necessity test has been held to consist of two elements: (a) Those benefiting from the discriminatory pricing must have an alternative source to which they will switch absent the discrimination and (b) the discrimination must benefit users being discriminated against such as, for example, where lower charges to them result due to economies of scale.[52] We set rather rigorous standards for any attempt to justify discrimination on the basis of competitive necessity. The carrier must show, among other things, the existence and extent of alternative supply sources on a route by route basis. The particular user's demand must be shown to be economically sufficient to justify the alternatives, and the showing must address concerns of size, variability, growth characteristics, route and length of haul, economic considerations, service quality, reliability and flexibility. The user's willingness to construct a private microwave system or to use specialized services from other common carriers must be demonstrated in light of the criteria. 64 F.C.C. 2d 971 at 987.

2. Discussion

49. As noted above, our experience with Bell's private line and other tariff filings has been a frustrating one. AT&T has continued to offer substantial bulk discounts which we have attempted to address either in terms of cost justification or on the basis of competitive necessity. Bell has not satisfied either criterion for justification, which has led in part to a pattern where there is a tariff filing by the carrier, a finding of unlawfulness by the Commission, and a carrier refiling.[53] Despite our findings of unlawfulness, the discounts survive through one device or another. In view of the continued presence of volume discounts, the fact that all such discounts will be more clearly identifiable as a result of a restructuring of AT&T's tariffs, and the need to break the repetitive tariff cycle described above, we seek comment on AT&T's discount policies and on the proper way to evaluate them. In particular, we are concerned that currently used cost-justification techniques applied by the Commission may be too narrow. For example, discounts could encourage greater use of facilities, thereby increasing the efficiency of existing plant and possibly

[49] *See, e.g.*, paras. 21, 22, 24 and 37, *supra*.

[50] These systems consist of discrete, point-to-point communications paths which may be employed for broadband services such as television, or subdivided into channels of lesser capacity such as for voice-band services.

[51] TELPAK A and B, corresponding to 12 and 24 channel units, were eliminated in 1964 pursuant to Commission Order. *See AT&T TELPAK*, 38 F.C.C. 370, 37 F.C.C. 1111 (1964), *aff'd sub nom., American Trucking Ass'ns, Inc.* v. *FCC*, 377 F.2d 121 (D.C. Cir. 1966) *cert. denied*, 386 U.S. 943 (1967). AT&T attempted to withdraw the TELPAK C and D offering remaining in response to our *Resale and Shared Use* decision, 60 F.C.C. 2d 261 (1976), *recon.*, 62 F.C.C. 2d 588 (1977), *aff'd sub nom., AT&T* v. *FCC*, 572 F. 2d 17 (2d Cir. 1978), *cert. denied*, 99 S. Ct. 213 (1978). This attempt was stayed by an order of the District of Columbia Court of Appeals (order of July 21, 1977). *See Termination of TELPAK SERVICE*, 64 F.C.C. 2d 959, *recon. denied*, 65 F.C.C. 2d 7 (1977), *appeal pending sub nom., ARINC* v. *FCC*, note 1, *supra*.

[52] We stated in our Docket 18128 decision that a third element may be used in evaluating non-TELPAK cases: whether the discriminatory rate is just sufficient to retain business which would otherwise be lost. 61 F.C.C. 2d 587 at 655.

[53] *See e.g., Series 7000 Rejection*, note 7, *supra*.

leading to lower costs per unit of service. Increased use of telecommunications services also may be associated with productivity and efficiency gains among users. We seek comment on whether this broader treatment of cost justification is what was meant in the Commission's reference to a third possible justification for discounts noted in the Docket 18128 decision, i.e., other possible public interest considerations. More specifically, we seek comment on whether volume discounts that are not cost justified on an individual basis or which do not satisfy the competitive necessity test may nonetheless be offered consistent with our regulatory concerns and the public interest, and, if so, in what manner.

50. We do not seek comment on other Docket 18128 requirements, such as the obligation of the carrier to allocate costs to all services on the basis of FDC-7 methodology—a matter which has given Bell difficulty in a number of proceedings (*See, e.g., DDS Rejection*, note 7, *supra*)—or to target the aggregate rates of each service to recover that service's costs and the authorized rate of return. Rather, we seek to focus on prior indications that there may be bases for justifying volume discounts other than "cost justified" or "competitive necessity"—as used heretofore. We seek to understand better the nature of such discounts both in general and as they operate in the telecommunications market. We seek comment on the ways in which they may affect our statutory and other public interest concerns, and ask whether they could be structured in a form that would be compatible with those concerns.

51. Primary among our concerns are those reflected as provisions of the Communications Act. Section 1, for example, 47 U.S.C., § 151, charges us with assuring that communications services are efficient, available at reasonable charges and supported by adequate facilities. Discounts could affect these concerns in a number of ways. We are open to identification of the benefits and deficiencies involved in allowing discounts based on this broader understanding of cost, or on concepts deviating more or less from costs altogether. We are hopeful that commenting parties will provide evidence concerning their experience with quantity discounts generally and among regulated industries specifically. Of particular interest is the actual experience parties have had with Bell System volume sensitive discounts such as TELPAK and the less obvious forms of volume sensitive pricing found within Bell's major service categories (e.g., Series 7000 and 8000). Case studies and other empirical evidence would be most helpful.

52. In this connection, we ask what the impact our decision in *Resale and Shared Use of Common Carrier Services*,[54] has had and is likely to have under a discount scheme.[55] In that proceeding, we ordered Bell to eliminate tariff restrictions against the resale and shared use of its non-monoply services so that customers having smaller needs could aggregate those needs and take advantage of various volume discounts. Our judgment was that discount services would permit the brokerage and sharing of common carrier services and ultimately result in, among other things, a further trend toward cost-related pricing by underlying carriers and a reduction in the public resources devoted to enforcement of Sections 201(b) and 202(a). 60 F.C.C. 2d 261, at 302. We seek comment on the extent to which that decision otherwise may have generally affected carrier discounts. We also ask what effect our tariff reform proposals may have on resale and discounts. It is our preliminary belief that integrated rate structures, consistent use of rate elements, simplified tariffs and the like will enable consumers to choose more easily the least expensive satisfactory offering and enable competitors and resellers to ascertain market conditions in making entry decisions.

53. Attached to this Order as Appendix B are a number of questions to which we direct commenting parties. While we ask that comments submitted be structured, to the extent possible, as responses to those questions, we do not wish to constrain unduly contributions. Parties should feel free to contribute all comments and studies they feel germane.

IV. Conclusion

54. As seen from our analysis in Part II, supra, it is our tenative conclusion that AT&T's private line rate structures and tariff offerings are confusing, overly complex, and inconsistent, providing identical services and facilities in many instances under different terms, conditions and charges. As such, we believe they may be unreasonable and unduly discriminatory in violation of Sections 201(b) and 202(a). of the Act and that they violate Section 61.55(g) and (h) of the Commission's rules in many respects. These tariff offerings also make comparability between services very difficult, if not impossible; as such, they tend to thwart the Commission in the exercise of its regulatory responsibilities. Moreover, we believe they tend to thwart the operations of the competitive marketplace by making it difficult for customers to understand their options and intelligently choose the most advantageous. Thus, under Sections 4(i) and 4(j) of the Act, 47 U.S.C. §§ 154(i), (j), we believe we must take action to insure that we can adequately discharge our responsibilities.

55. We will, of course, allow AT&T an opportunity to rebut these tentative conclusions. If it does not convince us that its private line offerings are fully lawful in all the respects we have discussed herein, it is our objective in this proceeding to prescribe reasonable and non-discriminatory rate structures and tariff offerings (but not rates and rate levels) which will be consistent and clearly understandable. To this end we believe the proposed guidelines discussed in Part II above will be of significant assistance. Moreover, we believe that a review of our proposed policy concerning bulk discounts as set forth in Part III will not only more adequately address a troublesome area but will facilitate the consolidation of rates for all like services within a single rate structure.

56. We will provide for three rounds of comments concerning our tentative conclusions and proposals as set forth herein. In addition, we shall require AT&T to submit, with its comments, an outline of its proposal to restructure its private line offerings.[56] For purposes of submitting such a proposal it shall be assumed that the guidelines as set forth in Part II will be adopted by the Commission. However, if AT&T takes substantial issue with any part of the guidelines, it may also set forth an alternate form of restructured private line offerings. Such an alternate proposal shall set forth the recommended changes in the guidelines proposals upon which it is based. The proposal (and alternate proposal if submitted) shall be organized as follows:

(a) Each separate tariff offering, including each distinct service offering therein (e.g., voice grade, telegraph grade, television relay) where a separate rate structure is deemed necessary, shall be identified. The basis upon

[54] *See, e.g., Resale and Shared Use*, note 51, *supra*; *Customer Interconnection* (Docket 20003), 61 F.C.C. 2d 766 (1976).

[55] We recognize that court action in the case of TELPAK (see note 51) which in effect exempted TELPAK from resale, has limited the effect of our resale policies in this area; thus the full impact of resale has not been felt in the private line services.

[56] Other interested parties may also submit a proposal in this regard if they desire.

which such selection was made shall be explained. An outline of the contents of each tariff shall be given.

(b) Each distinct service offering shall be broken down into the rate elements upon which charges would be made. The nomenclature and definition (including the identity of service functions involved) of each rate element shall be given, as well as the rationale for selection of such rate element.

(c) Rates for each rate element need not be given, but the reason for and method of applying or calculating charges shall be explained (e.g., flat rates, charge per mile).

(d) Where rate elements (both within and between services) have the same nomenclature, it shall be assumed that the identical rate will apply unless it is noted to the contrary. The nature and general reasons for any such differences shall be explained.[57]

(e) Where rate elements (both within or between services) represent the same service functions but are given different names or definitions, a full explanation and justification shall be given.

(f) Where volume discounts are to be reflected in the rate schedules, the nature of discounting shall be outlined and explained. The approximate quantities at which discounts will apply and the approximate discount below the base rate shall be identified. The basis for the discount shall be noted.[58]

(g) Where any service offering is to contain any significant restriction in use or by classification of customer, each such restriction shall be explained and justified.

(h) Information to indicate the type of tariff changes contemplated to simplify and clarify tariff offerings shall be included. Examples of efforts to simplify (e.g., in tariff organization, definitional improvement, and rate explanation) should be given.

57. One final matter concerns AT&T's BSOC 6 tariff filing. As can be seen from our observations herein on that tariff, it has many deficiencies. In some respects it epitomizes many of the problems outlined relative to Bell's private line rate structures in general. We, of course, have not undertaken to analyze that tariff here in light of the numerous petitions filed against it. However, to be consistent with the tentative conculsions reached herein we believe substantial revisions should be made in that tariff before it takes effect.[59] Therefore, we suggest that AT&T defer the effective date of that tariff pending our determinations following the receipt of comments in this proceeding.[60] At that time AT&T can make whatever revisions that may be necessary in light of our final findings there. Because of the importance of the issues involved and their inter-relationship with all of Bell's private line offerings, we intend to move as expeditiously as possible to complete this proceeding.

58. Since the matters involved herein largely concern questions of policy which are best resolved in a broad notice and comment context, we do not anticipate any need for evidentiary hearings, an Initial Decision by an Administrative Law Judge, or oral argument. However, should at any point during the comment process it becomes necessary to employ additional procedures to develop an adequate record we will act appropriately, either upon our own motion or upon that of a party. Parties are requested to address the proposals in the respective sections separately and should feel free to submit any independent or in-house studies on the matters discussed herein as appropriate. In addition to the comments we hope to receive from interested carriers and consumers, we are designating a separate trial staff of the Common Carrier Bureau to lend its expertise to resolution of the designated proposals and issues.[61] We believe that a knowledgeable trial staff can make a substantial contribution in critiquing Bell's proposal and perhaps making its own counterproposal. In order to give Bell a chance to respond to any counterproposals, we will provide for three comment rounds.

Ordering Clauses

59. Accordingly, it is ordered, That pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 203, 204, 205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§154(i), (j), 201, 202, 203, 204, 205 and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. §553, there is hereby instituted an inquiry and notice of proposed rulemaking and possible prescription involving the foregoing matters. Members of the public are put on notice that any such policies which may be established in this proceeding may be embodied in the Rules and Regulations of the Commission.

60. It is further ordered, That all interested persons MAY FILE comments on the matters discussed in Parts II and III of this Notice, the supporting analysis, and the Appendices on or before January 7, 1980. AT&T shall file its rate and tariff restructuring proposal(s) on the same date. Responsive comments and counterproposals shall be filed on or before February 22, 1980. Reply comments shall be filed on or before March 24, 1980. In reaching this decision, the Commission may take into consideration ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, 47 C.F.R. § 1.419, and original and five (5) copies of all comments and proposals shall be furnished to the Commission.

61. It is further ordered, That a separated Trial Staff of the Common Carrier Bureau, as designated by the Bureau Chief, will participate in the above-captioned proceeding. Such Trial Staff will be separated in accordance with Section 1.1209 of the Commission's Rules, 47 C.F.R. § 1.1209.

62. It is further ordered, That AT&T shall promptly respond to requests for information by the Trial Staff.

63. It is further ordered, That the Chief, Common Carrier Bureau IS DELEGATED authority to require the submission of additional information, make further inquiries, and modify dates and procedures, if necessary, to provide for a fuller record and more efficient proceeding.

64. It is further ordered, That the Secretary will cause this Notice of Inquiry and Proposed Rulemaking to be published in the Federal Register.

Federal Communications Commission.[62]

William J. Tricarico,
Secretary.

[57] As indicated previously, it is not our purpose to evaluate the lawfulness of particular rates or rate levels. Thus, here we wish only to understand Bell's general rationale and need in a rate structure to apply different rates to the same rate element.

[58] We recognize that AT&T is under a judicial constraining order at the present time with respect to its TELPAK offering (see note 51 *supra*). However, we anticipate such judicial action will be resolved prior to the conclusion of this proceeding. Therefore, with respect to volume discounts, AT&T should make its restructure proposal under the assumption that no relevant court order will affect it.

[59] Aside from the deficiencies relating to rate structure discussed above, we also note that the cost allocation methodology employed in developing the BSOC-6 rates appears the same as we found unlawful in connection with AT&T's Multi-Schedule Private Line tariff. *See AT&T* (Docket 20814), FCC 79-564 (released October 4, 1979).

[60] If AT&T does not defer the tariff, we anticipate that the Chief of the Common Carrier Bureau, acting under delegated authority, will consider the BSOC-6 filing prior to its October 1 effective date.

[61] We are hopeful that we will benefit from the participation of private line users of all sizes, rather than just larger users as is usually the case. In an attempt to receive broader based input from the public, the Trial Staff and the Office of Consumer Affairs will attempt to coordinate the efforts in this regard.

[62] See attached Statement of Chairman Ferris.

Appendix A

The following charts are intended to illustrate, in as simplified a manner as possible, the structured diversity of Bell's rates for like and comparable services and facilities and the attendant difficulty of making inter-service rate comparisons. Selected rate levels are shown only for the purpose of illustrating the substantial differences which do exist in actual rates for like and comparable offerings, and thus to emphasize the need for a general restructing of Bell's private line tariffs.

Chart I.—*Key Rate Elements in Selected Private Line Channel Offerings*

Service	Rate elements
Series 1000 (Telegraph-grade Channels).	Station Terminal. Channel Terminal. Interexchange Channel.
Series 2000/3000 (Voice-grade Channels—MPL).	Station Terminal. Interexchange Channel.
Series 4000 (Voice-grade Channels).	Service Terminal. Interexchange Channel.
Series 5000 (Voice and telegraph grade—(TELPAK).	Station Terminal.[1] Service Terminal. Connecting Arrangements. Base Capacity. Interexchange Channel.[2]

Chart I.—*Key Rate Elements in Selected Private Line Channel Offerings*

Service	Rate elements
Series 8000 (When used only for voice-grade Channels).	Service Terminal. Interexchange Channel. Terminal Control Arrangement.
BSOC 6 (proposed) (Voice and Telegraph-Grade).	Facility Link. Facility Loop. Facility Section. Facility Terminal. Facility Equipment Package.

[1] Applicable only in connection with TELPAK voice-grade channels of 25 miles or less.
[2] Applicable only in connection with TELPAK voice-grade channels of 25 miles or less and TELPAK Extension Channels.

Chart II.—*Interexchange Channel[1] Characteristics Under Various Telegraph and Voice-Grade Rate Structures*

Schedule	Mileage bands	Other pricing characteristics
Series 1000 (telegraph-grade)	1-100, 101-150, 151-250, 251-500, Over 500	Rate level variable by channel type.
Series 2000, 3000 (voice-grade) (MPL)	1, 2-15, 16-25, 26-40, 41-60, 61-80, 81-100, 101-1000, over 1000.	Rate level variable by rate center termination (Ch Category "A" and "B" rate Centers). Charge for first mile comprised of a per mile rate component plus a $50 fixed charge which is reduced for channels terminating at international border crossing points as well as certain special construction cases.
Series 4000 (voice-grade)	Type 4001: 1-250, 251-500, 501-1000, 1001-1500, over 1500.	10% or 25% rate differential between half and full duplex.
	Type 4002: 1-25, 26-100, 101-250, 251-500, over 500.	Rate variable by channel Type.
Series 5000 Extension Channels (voice-grade)	1-25, 26-100, 101-250, 251-500, over 500	10% rate differential between half and full duplex.
Series 8000	1-250, 251-500, over 500	

[1] All interexchange channel rate elements shown here are characterized by a rate per mile which declines, in steps, with distance. These steps are in the form of mileage bands. Series 5000 (TELEPAK) "base capacity", equivalent in a structural sense to the interexchange channel rate element, is characterized by a fixed rate per mile which does not vary with distance except for channels of 25 miles or less.

Chart III.—*Illustrative Voice Grade Private Line Charges for 175 Mile Intercity Channel*

[Schedule and channel mileage charge]

Series 2000/3000 (MPL):	
Schedule I	$244.70
Schedule II	289.70
Schedule III	346.60
Series 4000 [1]	757.75
Series 5000 Base Capacity:[2]	
Telpak C	94.85
Telpak D	67.00
Series 5000 Extension Channels [3]	374.25

[1] Rate shown is for ½ duplex Type 4001 channel. Includes channel conditioning.
[2] Rate shown assumes 100% TELPAK fill, i.e., 60 and 240 voice grade channels for TELPAK C and D respectively.
[3] Rate shown is for ½ duplex.

Chart IV.—*Illustrative Terminating Arrangement Charges (including local loop) for Intercity Voice Grade Channels*

[Schedule]

Series 2000/3000 (MPL), Station Terminal	$25.00
Series 4000:[1]	
Service Terminal	32.50
Additional Service Terminal [2]	16.20
Series 5000 (Telpak), Service Terminal	43.40
Base Capacity, Additional Service Terminal	21.65
Series 5000 (Telpak), Service Terminal	16.20
Extension Channel,[3] Additional Service Terminal	10.80
Series 8000:[4]	
Service Terminal	13.55
Additional Service Terminal	8.15
BSOC-6:[5]	
Facility Terminal: Type I	.90
Type II, 6.00	
Facility Link: Up to ¼ mi.	.90
Up to ½ mi. 1.75	
Up to ¾ mi. 2.65	
Up to 1 mi. 3.55	
Over 1 mi. 4.70	
Facility Equipment Package	[6]8.90

[1] Rate shown is for ½ duplex Type 4001 channel.
[2] Applies to additional service terminal on same service and in same exchange as Service Terminal.
[3] Rate shown is for ½ duplex.
[4] In addition to rate shown, a charge of $271 applies for a
[5] Rates shown are for 2-wire voice facility.
[6] One such charge applies per intercity channel.

Appendix B

In order to develop a more complete record to enable us to fully evaluate the effect of volume discounts generally, and as they apply to communications common carriers particularly, we seek comment on the following matters. We invite comment from all knowledgeable parties. While we recognize that the questions below overlap to some extent, we would prefer that comments be structured as responses to the questions asked to facilitate analysis. We again stress that the comments which will be of greatest value are those that are specific and supported. In conjunction with our discussion above, we seek comment on the following:

1. Generally.

(a) What role do discounts play in the marketplace, both in theory and in practice?

(b) Are theoretical assumptions borne out by practice?

(c) How do these assumptions and practices apply to the common carrier industry generally and to Bell specifically?

(d) What has been the actual experience with various volume discount systems offered by Bell for private line service in the past?

(e) What has been the actual experience in industries where discounts are offered, particularly with regard to rate-regulated industries?

(f) What has been the experience in the air travel industry? Is that experience relevant to the telecommunications market?

(g) Should the Commission permit Bell to offer volume-based discounts which are not cost justified or do not satisfy the competitive necessity test for users of its competitive private line services?

(h) If a monopolist is permitted to offer a service below cost-based rates, on grounds of competitive necessity, should that fact affect its overall rate of return?

(i) Would continuous or graduated volume-based discounts within a particular category of like service where the service earns its rate of return serve the public interest?

(j) Are there other approaches which should be considered with respect to volume discounts? If so, what are they? How would they serve the public and our goal of administrative efficiency?

2. Section 1 concerns.

(a) To what extent, if any, are volume-based discounts consistent with or inconsistent with the purposes of the Commission as described in Section 1 of the Communications Act?

(b) Is the competitive communications private line market price-elastic? To what extent?

(c) Do volume-sensitive discounts attract marginal users?

(d) If so, is this likely to result in lower unit costs? Why?

(e) Is the growth of the use of telecommunications facilities related to other general public welfare benefits?

(f) Do discounts significantly encourage this growth?

3. Section 202(a) concerns.

(a) Are any discounts consistent with Section 202(a) of the Communications Act? What restrictions are imposed on the Commission by the Act's proscription of unreasonable or unduly discriminatory discounts?

(b) What considerations should govern a Commission evaluation of whether volume discounts are consistent with the requirements of the Communications Act?

4. Accountability concerns.

(a) How would discounts affect the Commission's efforts to ensure that Bell's particular service categories earn their authorized rate of return?

(b) Could they be expected to assist AT&T's attempts to comply with the cost allocation principles of Docket 18128?

(c) What effects would such a discount scheme have on the requirement that rates be just and reasonable?

5. Competition concerns.

(a) What effect do discounts have on the competitive private line marketplace?

(b) Should the Commission permit discounts on any basis other than described herein (i.e., cost justified, competitive necessity) such as gradual declining steps or some other form?

(c) To what extent, if any, has the Commission's decision in *Resale and Shared Use of Common Carrier Services, supra,* affected various volume based discounts?

(d) Has this policy acted to prevent discrimination among users?

(e) Is it likely to do so?

(f) Assuming the continuing effectiveness of our Resale and Shared Use policies are Commission guidelines necessary to prevent discriminatory discounts?

(g) What would be the effect of applying the resale (shared use) policies to a graduated discount scheme, or any other discount plan submitted in the comments?

Additional Statement of Charles D. Ferris, Chairman

On the notice of inquiry and proposed rulemaking into the private line rate structure and volume discounts of the American Telephone and Telegraph Company.

Today's action instituting a Notice of Inquiry and Proposed Rulemaking into the private line rate structure of AT&T is designed first and fundamentally to aid consumers of telecommunications services. Consumers now face a complex, almost bewildering variety of AT&T private lines tariffs which cannot easily be compared.

For example, in different tariffs different terminology is used to describe the same service feature. Rates for the same communication's pipeline are calculated in different ways in different tariffs. In these circumstances it is extremely difficult for customers to make informed choices as to what private line services they want and need, whether offered by AT&T or its competitors.

In many different proceedings this Commission is attempting to foster competition in the telecommunications marketplace. As the marketplace becomes more competitive the role to be played by regulators can, and should, be significantly reduced. But consumer access to clear, simple, and straight forward information is critical for effective competition. This proceding is one step toward insuring such access for the American people.

[FR Doc. 79-32739 Filed 10-23-79; 8:45 am]

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47 CFR Part 73

[Docket No. 21049; FCC 79-659]

Commerical Television Network Practices; Order Setting Comments and Reply Comments Dates on Preliminary Reports

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Preliminary Reports of the Network Inquiry Special Staff, conducting the inquiry into Commercial Telelvision Network Practices, have been released. Deadlines for comments have been established.

DATES: Comments on the Preliminary Reports issued thus far are due January 14, 1980; reply comments are due January 29, 1980.

Comments on subsequent Preliminary Reports are due 90 days after the issuance thereof; reply comments are due 15 days thereafter.

Comments on the topics described in Paragraphs 43–53 of the Further Notice of Inquiry (43 FR 50126) are due February 15, 1980.

ADDRESSES: Federal Communications Commission 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley M. Besen, Thomas G. Krattenmaker, Co-Directors, Network Inquiry Special Staff, (202) 254–7030.

Adopted: October 16, 1979.

Released: October 18, 1979.

By the Commission: Chairman Ferris issuing a separate statement.

1. On October 26, 1978, we issued the *Further Notice of Inquiry* in this proceeding. (43 FR 50126; Dec. 1, 1978, 43 FR 56251). The *Further Notice* established certain procedures to be followed, including the issuance of preliminary reports with dates for filing comments and reply comments, and notification to interested parties of deadlines for filing comments on the second phase of the Inquiry (Paragraphs 43–53 of the *Further Notice:* Prospects for additional networks).

2. The first set of preliminary reports is being released at this time, and we are setting a period of 90 days for comments on these reports, with an additional 15 days for reply comments. All subsequent preliminary reports will likewise have 90 day comment periods from date of release and 15 day reply comment periods, with specific deadline dates set at the time of the release of those reports. We do not anticipate holding Commission meetings in conjunction with the release of all subsequent preliminary reports. In order to complete the Inquiry in a timely manner, it is essential that these deadlines be observed. Thus, we will view with disfavor any requests for extensions of time for filing comments in this proceeding.

3. In paragraph 64 of the *Further Notice of Inquiry* we said that at a later date we would set specific deadlines for comments on the second phase of the Inquiry, paragraphs 43–53 of the *Further Notice* (prospects for additional networks). We now establish February 15, 1980, as that deadline.

4. Accordingly, It is ordered, That comments on the Preliminary Reports of the Network Inquiry Special Staff released on October 16, 1979, must be filed by the close of business January 14, 1980; and reply comments on these reports must be filed by the close of business January 29, 1980.

It is further ordered, That Network Inquiry Staff is delegated authority to release any and all subsequent preliminary reports, and that comments on forthcoming Preliminary Reports of the Network Inquiry Special Staff must be filed within 90 days of the release of such reports, and reply comments must be filed within 15 days thereafter.

It is further ordered, That comments on the topics described in paragraphs 43–53 of the *Further Notice of Inquiry,* in this proceeding (October 26, 1978) must be filed by the close of business February 15, 1980, in order to be considered by the staff in preparing its preliminary reports on these topics.

5. In accordance with the provisions of Section 1.419 of the rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished to the Commission.

Material filed will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

October 16, 1979.

Separate Statement—Charles D. Ferris, Chairman

In the Matter of Commercial Television Network Practices (Docket No. 21049).

I applaud the fine efforts of the Network Inquiry Special Staff on this occasion of release of the first six preliminary reports of the Commission's inquiry into commercial television network practices. These reports constitute the first release of FCC studies of the television networks in this country undertaken since 1959. The more than two decades since that time have been a period of dramatic growth and change in U.S. television, and we need to reevaluate the provisions of our existing regulatory scheme for this medium.

The manner in which these reports are being released merits particular attention. These are not yet final reports to the Commissioners. A final report of the Inquiry staff will be released next year. Rather they are preliminary reports made public at this early stage by the Network Inquiry Special Staff to obtain wide public comment about their content. Before they are made final and submitted for formal consideration by the Commissioners, interested parties will have an opportunity to comment on their accuracy.

I believe that this procedure is novel to the FCC, and perhaps even to the administrative law field. This experiment should tell us whether this procedure should be adopted in other FCC proceedings and could assist other agencies with similar studies underway.

These preliminary reports are being issued directly by the independent office of the Network Inquiry Special Staff. While these reports were released at a Commission meeting, subsequent reports may be released during the next several months without such a meeting. I believe this procedure illustrates the independence with which the Special Staff has and will continue to acquit itself in analyzing the commercial television network practices and potential regulatory responses to them.

I also note that these reports reflect an unusual but welcome candidness about the Commission processes used in arriving at past policy decisions. I applaud the frankness and honesty with which the writers of these studies have approached their topic. Only a fresh, uninhibited approach to the study of the FCC's regulations regarding commercial television network practices can insure that the final report and subsequent Commission's action will be based on an accurate assessment of the impact of past regulatory efforts.

[1] See attached Separate Statement of Chairman Charles D. Ferris.

[FR Doc. 79-32775 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 4

Procedures for the Identification and Protection of Archeological, Historic, and Scientific Properties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes policies and procedures to meet the Fish and Wildlife Service's responsibilities in the identification, protection, preservation, and management of archeological, historic, scientific, and other cultural resources. These regulations are intended to reflect the particular program needs of the Fish and Wildlife Service in fulfilling its requirements set forth in Executive Order 11593 and applicable historic preservation laws. The regulations were developed in consultation with the Advisory Council on Historic Preservation pursuant to section 1(3) of Executive Order 11593 and the President's Memorandum on Environmental Quality and Water Resources Management of July 12, 1978.

DATES: Comments must be received on or before November 23, 1979.

ADDRESSES: Comments should be submitted to the Director, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Pulliam, Jr., Deputy Associate Director, National Wildlife Refuge System, Fish and Wildlife Service, Washington, D.C. 20240, (202)-343-5333.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: David Siegel, Archeologist, Fish and Wildlife Service, Albuquerque, New Mexico, telephone number: (505)-766-2036; James W. Pulliam, Jr., Deputy Associate Director, National Wildlife Refuge System, Washington, D.C., telephone number: (202)-343-5333.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations.

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

Pursuant to the authority contained in the national Historic Preservation Act of 1966 and Executive Order 11593 of May 13, 1971, it is hereby proposed to establish a new Part 4 of Title 50 to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

* * * * *

PART 4—PROCEDURES FOR THE IDENTIFICATION AND PROTECTION OF ARCHEOLOGICAL AND HISTORIC PROPERTIES

* * * * *

Sec.
4.1 Purpose and authorities.
4.2 Responsibilities.
4.3 Definitions.
4.4 Program procedures.
4.5 Coordination with Service requirements under the National Environmental Policy Act.
4.6 Coordination with other agencies and entities.
4.7 Administration.
4.8 Records and reports.
4.9 Public information.

Authority: E.O. 11593 of May 13, 1971, "Protection and Enhancement of The Cultural Environment"; 16 U.S.C. 470, National Historic Preservation Act.

§ 4.1 Purpose and authorities.

This part provides guidance for the identification, preservation, and management of archeological, historic and scientific resources, pursuant to the following public laws, Federal rules, executive orders, and Departmental directives:

(a) Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431);

(b) Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461-467);

(c) Reservoir Salvage Act of 1960 (74 Stat. 220, 16 U.S.C. 469) as amended by Pub. L. 93-291, the Archeological and Historic Preservation Act of 1974 (88 Stat. 174, 16 U.S.C. 469);

(d) National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) as amended in 1973 by P.L. 93-54 and in 1976 by the Land and Water Conservation Fund Act, P.L. 94-422;

(e) National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4332);

(f) Executive Order 11593, for "Protection and Enhancement of the Cultural Environment," May 13, 1971;

(g) Council on Environmental Quality National Environmental Policy Act Regulations (40 CFR Part 1500-1508);

(h) National Register of Historic Places (36 CFR Part 60);

(i) Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800);

(j) Determinations of Eligibility for Inclusion in the National Register of Historic Places (36 CFR Part 63);

(k) Executive Order 11514 (Protection and Enhancement of Environmental Quality);

(l) Executive Order 11990 (Protection of Wetlands);

(m) Executive Order 11988 (Floodplain Management);

(n) Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(o) Presidential Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.

§ 4.2 Responsibilities.

(a) Secretary of the Interior. The Secretary of the Interior is responsible for providing consultation and performing the functions necessary to execute the policies prescribed in Executive Order 11593 and other applicable historic preservation laws.

(b) Director, U.S. Fish and Wildlife Service. The Director is responsible for the identification and protection of historic, archeological, architectural, and scientific resources, hereinafter referred to as cultural resources, affected by Fish and Wildlife Service undertakings or on lands of Service jurisdictions. The Director will manage the cultural resources on Service lands in compliance with national policies in an effort to protect, preserve, rehabilitate, and maintain the properties, as appropriate. The Director is responsible for identifying and considering cultural resources on non-Federally owned areas which are or will be affected by Service undertakings including activities which are funded by or through the Service. The Director is responsible for identifying and considering cultural resources on activities licensed or authorized under permit by the Service. These responsibilities shall be fully considered in the earliest stages in project planning, construction, operation, and maintenance, and in the design and implementation of any proposed program, management direction, or other course of action. These responsibilities apply to all areas affected by a Service undertaking and on Service owned, withdrawn, or acquired lands or land in which the Service acquires or retains an interest. The Director is responsible for the Service's compliance with Executive Order 11593 and the applicable provisions of the laws and rules referenced in § 4.1.

(c) Regional directors. Each regional director is responsible for insuring that proposed and existing Service activities are executed according to the provisions of this Part 4. This responsibility cannot be delegated to individuals or organizations outside of the Service, except as is provided under the Archeological and Historic Preservation Act of 1974 (see § 4.1(c)).

(d) Service Historic Preservation Officer. The Service Historic Preservation Officer, provides advice to the Director and furnishes technical assistance to and coordinates with the regional directors in carrying out the Service's cultural resource management policy. The Service Historic Preservation Officer is the signatory official to the memorandum of agreement under § 4.4(d)(2)(ii).

(e) Advisory Council on Historic Preservation (Advisory Council). Under the provisions of section 106 of the National Historic Preservation Act and Executive Order 11593, the Advisory Council must be afforded an opportunity to comment on Federal, federally assisted, or federally licensed undertakings that may affect cultural resources. The procedures for consultation with the Advisory Council are contained in 36 CFR Part 800.

(f) State Historic Preservation Officer (SHPO). The SHPO is the State official, designated pursuant to 36 CFR Part 60, responsible for liaison with Federal agencies in their implementation of the National Historic Preservation Act of 1966 and Executive Order 11593, and for the coordination of the Statewide survey of historic properties and the development of a comprehensive State historic preservation plan.

§ 4.3 Definitions.

(a) "Advisory Council" means the Advisory Council on Historic Preservation, a twenty-nine member board which was created by the National Historic Preservation Act of 1966. To carry out its consultative role as described in § 4.2(c) the Advisory Council retains staffs for review and compliance in Denver, Colorado, and Washington, D.C.

(b) "Consultation" means the act of formally seeking advice or conferring with the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer, as provided under 36 CFR Part 800.

(c) "Effect" is the extent of an undertaking's impact on a cultural resource as determined according to the Advisory Council's "Criteria of Effect" (36 CFR 800.3 and 800.4).

(d) "Federally licensed activity" refers to construction or development work carried out under service or other Federal agency licenses, leases, contracts, special use permits, and other permits or funding.

(e) "Mitigation" refers to those actions that will be taken to avoid, reduce, or ameliorate possible or probable adverse effect on a cultural resource. Mitigation can include data retrieval. Mitigation measures are accomplished within the formal consultation procedures of 36 CFR Part 800.

(f) "National Register" refers to the National Register of Historic Places which is maintained by the Secretary of the Interior under authority of Section 101(a)(1) of the National Historic Preservation Act of 1966. It is a register of districts, buildings, structures, and objects having national, State or local significance in American history, architecture, archeology, and culture.

(g) "National Register or eligible" means cultural resource properties which meet the criteria for eligibility for inclusion in the National Register. (See 36 CFR 60.6).

(h) "Service jurisdiction" means Fish and Wildlife Service administered lands, including withdrawn public lands, lands administered by cooperative agreement, and private lands which the Service has acquired in fee title or has a lesser interest in the form of a lease, easement, license, or permit.

(i) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archeological value regardless of the value of any existing structures or site components. Examples are prehistoric cultural debris, battlefields, prehistoric or historic trails, historic farms and homesteads.

(j) "State Historic Preservation Officer (SHPO)" is the State official designated by 36 CFR Part 60, responsible for liaison with Federal agencies in implementing the National Historic Preservation Act of 1966 and Executive Order 11593.

(k) "Survey" refers to a study relevant to an area in order to locate and evaluate the cultural resources that are, or may be present. Survey involves field examination by a qualified professional to identify cultural remains.

(l) "Undertaking" is any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity, or program. This definition if further elaborated on under 36 CFR 800.2(c).

§ 4.4 Program procedures.

(a) *Policy.* The Service will identify and protect cultural resources affected by Service undertakings or on lands of Service jurisdiction. The Service will manage the cultural resources on lands of Service jurisdiction in compliance with national policies in an effort to protect, preserve, rehabilitate, and maintain the historic, archeological, architectural, and scientific values of those resources. In all matters related to cultural resources, the Service rules of this Part 4 and policy memorandums developed in further definition and implementation of these general rules govern the undertakings of the Service.

(b) *Undertakings requiring compliance with these rules.* An undertaking, as is used throughout these rules includes all classes of action taken by the Service which could effect cultural resources. They would include but are not limited to: construction projects initiated by the Service, permits for mineral entry including entry into mineral reserves which remain in private ownership, permits for rights-of-way, land sales or exchanges, alteration or removal of existing structures, funding of construction projects through various funding authorities and Federal aid programs, and management of a known cultural resource property. These types of undertakings will require cultural resource evaluations, as defined in § 4.4(c), which should be completed early in the planning stages of the undertaking. Land acquisitions will not require cultural resource evaluations, but the SHPO should be given an opportunity to comment on the acquisition, particularly if a property currently listed on the National Register is situated on the acreage which is to be acquired.

(c) *Cultural resource evaluations.* Cultural resource evaluations will involve, at a minimum, survey and inventory reports for all areas which may be affected by a Service undertaking or where Service undertakings are currently being planned. Undertakings which are purposely designed to alter the character of a known site or structure, such as building removal or demolition, will also undergo a cultural resource evaluation, to include at a minimum sufficient research to adequately document an initial determination of eligibility (36 CFR 800.4(a)(3)). The determination of eligibility in consultation with the State Historic Preservation Officer will be completed in both forms of cultural resource evaluation.

(1) Cultural resource evaluation for undertakings involving no known standing structures. Intensive surveys are to be carried out throughout the entire area of an undertaking's impact. Sampling or other partial inventories of the impact area will not be acceptable in lieu of a complete knowledge of the resources within the impact area. Surveys outside of the immediate impact area of an undertaking cannot be considered in lieu of resource information within the impact zone. Additional survey outside of the impact zone is acceptable as a supplemental source of cultural resource information, if appropriate or specifically warranted by the circumstances of the undertaking. Surveys consist of intensive on-the-ground examinations of all the areas affected by the Service undertaking. They are designed to locate and make a preliminary evaluation of all identified cultural resources. Surveys may require limited test excavation for the purpose of evaluating the cultural resources. All cultural resources identified in the impact area must undergo the initial determination of eligibility process under 36 CFR 800.4(a)(3).

(2) Cultural resource evaluation for undertakings involving modification to known standing structures. Assessments of a cultural resource property shall be made prior to any action which would alter, refurbish, stablize, relocate, demolish, or in any way change the character of any structure that is at least 50 years old. The assessment shall be completed as part of the initial determination of the eligibility process, under 36 CFR 800.4(a)(3). Information relevant to the age, occupational history, historical significance, or architectural uniqueness of a historic structure shall be included in the assessment. Plans for the stabilization or reconstruction of other prehistoric and historic ruins also require a cultural resource evaluation assessment, which is to include an initial determination of eligibility under 36 CFR 800.4(a)(3).

(d) *Determination of further action.* The Service must take additional action once the cultural resource evaluation process under § 4.4(c) has been completed.

(1) Acting when no cultural resources have been identified within the undertaking's area of environmental impact. When no cultural resources have been identified within the area of environmental impact of the undertaking, as determined by the cultural resource evaluation procedure outlined in § 4.4(c), the Service shall notify the State Historic Preservation Officer of this finding. If the SHPO does not respond within 30 days after receipt of this notification, the undertaking may proceed. The Service will maintain adequate documentation of having followed this procedure.

(2) Action to be taken when cultural resources are identified within the area of environmental impact. As part of the process outlined in § 4.4(c), the Service is to have completed a determination of eligibility in consultation with the SHPO under 36 CFR 800.4(a)(3) for all cultural resources identified within the scope or environmental impact area of the undertaking. This formal process will have established which cultural resources merit further consideration and which do not. If the resource does not merit further consideration, as provided under 36 CFR 800.4(a)(3), then the undertaking may proceed. The Service will retain adequate documentation of its completion of this process. If it is determined that the resource does merit further consideration, as provided under 36 CFR 800.4(a)(3), the Service must determine what effect the undertaking will have upon the resource. This determination must be made to ascertain whether or not the effect is adverse.

(i) Determination of no adverse effect. If the Service, in consultation with the SHPO, finds that the undertaking will have no adverse effect on the cultural resource, the Service shall forward adequate documentation of this determination, including written evidence of the views of the SHPO, to the Executive Director of the Advisory Council. Unless the Executive Director of the Advisory Council objects to the determination within 30 days after receipt of an adequately documented determination of no adverse effect, the Service will be considered to have satisfied the cultural resources requirements and may proceed with the undertaking. If after 30 days the SHPO has not responded to the Service's initial request for a determination of no adverse effect, the Service may send its documentation to the Executive Director of the Advisory Council along with evidence that contact with SHPO had been established. The Executive Director of the Advisory Council will either respond immediately, or, if the Executive Director does not respond within 30 days, the undertaking may proceed.

(ii) Determination of adverse effect. If the Service, the SHPO, or the Executive Director finds the effects of the undertaking on the cultural resource to be adverse, or if either the SHPO or the Executive Director do not accept the Service's determination that the

undertaking will have no adverse effect, the Service must plan alternative courses of action to avoid the cultural resource or to mitigate the adverse impact of the undertaking on the resource. Avoidance of the cultural resource is the preferred alternative. In all cases, including avoidance, the Service, the SHPO, and the Executive Director of the Advisory Council shall be the consulting parties to consider feasible and prudent alternatives to the undertaking that could avoid, mitigate, or minimize adverse effects on the cultural resource. Specific provisions for this consultation process appear under 36 CFR 800.6. The execution of a memorandum of agreement among the Service, the SHPO, and the Advisory Council, will conclude the consultation requirements set forth in these regulations. Until completing its requirements under these regulations, the Service is precluded from taking or sanctioning any action or making any irreversible for irretrievable commitment that could result in an adverse effect on a cultural resource or that would foreclose the consideration of modifications or alternatives to the proposed undertaking that could avoid, mitigate, or minimize such adverse effects.

(e) *Cultural resources discovered during construction.* If the Service has previously met its responsibilities under these rules, and the Service finds or is notified after construction has started that an undertaking will impact a previously unidentified cultural resource, the Service must cease work that may further affect the property. Pursuant to the Archeological and Historic Preservation Act (16 U.S.C. 469(a)), the Service shall immediately notify the Secretary and provide such information as is available on the circumstances. If the Secretary advises the Service that the adverse effects on the property and the significance of the property require consultation with the Advisory Council to determine an appropriate course of action, or if the Service and the Secretary cannot agree on whether or how the effects should be mitigated, the Service shall request the comments of the Council in accordance with § 4.4(d)(2)(ii) of this Part 4.

(f) *Undertakings which may be exempt from the cultural resource evaluation requirement.* There will be many types of undertakings which, due to the magnitude of the environmental impacts involved or the low probability of encountering cultural resources in the area of impact, may be exempted from the cultural resource evaluation requirement. However, this determination can only be made in consultation with the State Historic Preservation Officer. When a question arises as to the need for a Cultural Resource Evaluation, the SHPO must be given an opportunity to comment on the undertaking. The Service must provide the SHPO with sufficient information regarding project design, environmental effects, and relevant environmental factors. The recommendations of SHPO shall be considered final. If the SHPO fails to respond to the notification within 30 days after receipt, the undertaking may proceed. The Service shall retain full documentation of having notified SHPO in the matter.

§ 4.5 Coordination with Service requirements under the National Environmental Policy Act.

The Service should coordinate the National Environmental Policy Act (NEPA) compliance with these procedures to ensure that historic and cultural properties are given proper consideration in the preparation of environmental assessments and environmental impact statements. The environmental assessment and environmental impact statement must contain evidence that the provisions set forth in these procedures have been met. A reference to an intent to follow this Part 4 at a later stage is not acceptable for the purposes of this section. Service obligations pursuant to the National Historic Preservation Act and Executive Order 11593, as established by this Part 4, must be complied with even when an environmental assessment or environmental impact statement are not required.

Preparation of an environmental assessment or an environmental impact statement may fulfill the requirements for reports and documentation under these regulations. Circulation for comment pursuant to section 102(2)(C) of NEPA shall constitute a request for SHPO and Advisory Council comments under Section 4.4 of this Part 4 if the Service so requests in cover letters circulated with environmental assessments and draft environmental impact statements. Cultural resource sections of final environmental impact statements must show evidence that the Service has completed all segments of the process prescribed by these procedures under § 4.4. The comments received from the SHPO and the Advisory Council should be included in the final environmental impact statement. Completion of the SHPO and Advisory Council commenting process in accordance with these procedures should precede issuance of the final environmental impact statement.

§ 4.6 Coordination with other agencies and entities.

If Federal lands administered by, or in cooperation with, another Federal agency will be affected by a Service undertaking or by an undertaking initiated by or through the other agency, coordination and consultation shall be required with that agency having primary responsibility for existing or potential cultural resources on such lands. If an undertaking on Service lands is a federally licensed activity which is planned, initiated, or permitted by another agency, it is the responsibility of the Service to insure that the agency or primary licensing authority has taken steps to comply with the regulations pursuant to the National Historic Preservation Act and Executive Order 11593, 36 CFR Part 800.

§ 4.7 Administration.

(a) *Program establishment.* The Service, through the regional directors, will insure that proposed and existing Service undertakings under their jurisdiction are executed according to the provisions of this Part 4. Coordination for this responsibility will be at the regional level in terms of the day to day implementation of this part.

(b) *Funding.* The Service must ensure that the identification and preservation of cultural resources are adequately considered and incorporated into the annual budgeting process. Construction projects will not be initiated unless funds have been identified for cultural resource evaluations and data recovery.

(c) *Contracts.* Contracting for consultant services, not available in the Service, may be either direct with a qualified firm or institution or through transfer of funds to other agencies with special expertise. Direct contracting, in accordance with existing procedures and procurement restrictions, will enable the Service to maintain more effective internal control over the contract. If determined appropriate by the contracting officer, all direct contracts, purchase orders, or transfers of funds for cultural resource work and the selection of contractors shall be reviewed by the Service Historic Preservation Officer. Copies of all actions taken by a regional director shall be provided to the Service Historic Preservation Officer.

§ 4.8 Records and reports.

(a) *Record of actions involving cultural resources.* A record shall be kept of all Service actions involving cultural resources. These records shall include, but are not limited to, contracts for work, contract completion reports, cultural resource evaluation survey and

assessment reports, relevant correspondence, and all materials generated by compliance with these procedures. Records of site forms and building reports will be retained along with National Register nomination forms.

(b) *Technical reports.* Prior to the Service's acceptance of completed contractual obligations, all reports concerning cultural resource evaluations and/or mitigation studies shall be reviewed for technical accuracy, completeness, and adequacy by the Service Historic Preservation Officer and/or others he may designate. Copies of final accepted reports shall be furnished to:

(1) Service Historic Preservation Officer, for distribution to the Department of the Interior Library and the National Technical Information Service.

(2) State Historic Preservation Officer.

(3) Representatives of other Federal agencies whose lands may be affected.

(c) *Curation of collections.* Cultural resources and objects of antiquity that are located on or recovered from Service lands or have been gathered pursuant to these rules, remain the property of the United States. The Service may reassign curatorial services for materials recovered from cultural resources site explorations, cultural resource evaluations, or studies done under contract. Arrangements may be made with museums, universities, institutions, and/or other agencies to provide storage and curatorial services. These materials may be maintained by the holding institution, if not required by the Service for interpretive displays, research, or other compatible uses. All curatorial services will be arranged in consultation with the Service Historic Preservation Officer. Curatorial responsibility for palenontological and archeological materials recovered under the Antiquities Act of 1906 will be processed in accordance with the uniform rules and regulations set forth in 43 CFR Part 3.

§ 4.9 Public information.

All major actions taken under these guidelines which might generate significant public interest should be accompanied by an effort to inform the public of the nature and purpose of the action. News releases, public meetings, and letters to informed individuals are examples of appropriate means of establishing public contact.

Dated: October 15, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-32724 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Amended Meeting

In FR Doc. 79-31598 appearing on page 58933, Vol. 44, No. 199, Friday, October 12, 1979. Meeting has been changed from Seventh Floor conference room to Fourth Floor conference room of Covington & Burling, 888 16th Street, N.W.

Richard K. Berg,
Executive Secretary.
October 19, 1979.
[FR Doc. 79-32818 Filed 10-23-79; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding the Urban Initiatives Program of the Urban Mass Transportation Administration

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Department of Transportation, Urban Mass Transportation Administration, and the National Conference of State Historic Preservation Officers concerning the Urban Inititatives program authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601), as amended, Pub. L. 95-599.

COMMENTS DUE: November 23, 1979.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 536, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Smith, Chief, Division of Federal Program Review, 1522 K Street NW., Suite 536, Washington, D.C. 20005. Telephone: 202-254-3495; Mr. Peter Benjamin, Director, Office of Program Analysis, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590. Telephone: 202-472-2435.

SUPPLEMENTARY INFORMATION: This notice of the proposed agreement invites comments from interested parties.

Copies of the proposed agreement are available from the Council. The agreement concerns the manner in which the Urban Mass Transportation Administration will meets its responsibilities under Section 106 of the National Historic Preservation Act and the Council's implementing regulations, 36 CFR Part 800. Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal or federally assisted or licensed undertaking affecting properties in or eligible for the National Register of Historic Places shall afford the Council a reasonable opportunity for comment. The proposed agreement provides that the Urban Mass Transportation Administration will condition grant awards upon satisfactory completion of the Section 106 review process. Any rehabilitation work of National Register or eligible properties shall be carried out in accordance with the Secretary of the Interior's Standards for Historic Preservation Projects. The consultation process under the Council's regulations is to be initiated during project development.

Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 79-32788 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-10-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on November 8, 1979 from 10 a.m. to 6 p.m. and on November 9, 1979 from 8:30 a.m. to 12:30 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of October 17, 1979 made by the Director of the U.S. Arms Control and Disarmanent Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: October 18, 1979.

Charles R. Oleszycki,
Advisory Committee Management Office.
[FR Doc. 79-32746 Filed 10-23-79; 8:45 am]
BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc National Forest Grazing Advisory Board; Meeting

The fall meeting of Modoc National Forest Grazing Advisory Board will be held at 0900, November 9, 1979, at the Ranger Station in Adin, California. This meeting will consist of a field tour to examine range improvement practices on the Big Valley Ranger District. The meeting will be open to the public. For additional information contact Jim Kaderabek, District Ranger, 916-299-3125 or Bill Britton, Range and Wildlife Officer, 916-233-3521.

G. Lynn Sprague,
Forest Supervisor,
October 15, 1979.
[FR Doc. 79-32767 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-11-M

Corrected Notice of Intent To Prepare Environmental Statements for Certain Areas of Idaho, Montana, and Washington

In the matter of: Nezperce National Forest Plan, Idaho County, Idaho; Clearwater National Forest Plan, Idaho, Lewis, Shoshone, and Clearwater Counties, Idaho; Idaho Panhandle National Forests Plan, Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, and Shoshone Counties, Idaho, Sanders and Lincoln Counties, Mont., and Pend Oreille County, Wash.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare Environmental Statements for proposed Forest Land and Resource Management Plans for the Nezperce, Clearwater, and Idaho Panhandle National Forests. The management plan for each Forest will encompass the entire Forest of 2,242,572 acres (Nezperce National Forest), 1,838,549 acres (Clearwater National Forest) and 2,499,689 acres (Idaho Panhandle National Forests). The Idaho Panhandle National Forests include 2,352,426 acres in Idaho, 118,767 acres in Washington and 28,496 acres in Montana.

Preparation of the plans will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, including the Secretary's Regulations provided therein.

The resulting plans will provide for multiple use and sustained yield of products and services from the Nezperce, Clearwater, and Idaho Panhandle National Forests. The plans will guide all natural resource management activities and establish management standards and guidelines. They will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

Each Forest Plan will be selected from among representative alternatives which will include at least:

a. A no change in existing resource outputs alternative;

b. A range of alternatives that displays possible outputs of resources available at each of several expenditure levels; and

c. Alternatives designed to resolve the identified major public issues and management concerns.

Public participation will be an integral part of the planning process. "Scoping" meetings to identify issues to be addressed will be held early in the process. Times and places for these meetings will be announced by notices in area newspapers, news releases to news media, and brochures mailed to other agencies, organizations, and individuals known to have interest in management of the Nezperce, Clearwater, or Idaho Panhandle National Forests.

Tom Coston, Regional Forester, is the responsible official for these plans.

Further information about the planning and Environmental Impact Statement process; or comments on the Notice of Intent should be directed to:

Ed Laven, Forest Planning Staff Officer, *Nezperce National Forest*, 319 E. Main, Grangeville, ID 83530, Telephone (208) 983-1950.

John Underwood, Forest Planning Staff Officer, Clearwater National Forest, Route 4, Orofino, ID 83544, Telephone (208) 476-4541.

Gerry House, Forest Planning Team Leader, Idaho Panhandle National Forests, 1201 Ironwood Drive, Coeur d'Alene, ID 83814, Telephone (208) 667-2561.

The estimated dates for filing draft Environmental Impact Statements are: Nezperce, October 1980; Clearwater, April 1981; and Idaho Panhandle, April 1981; and for filing Final Environmental Statements: Nezperce, March 1981; Clearwater, October 1981; and Idaho Panhandle, January 1982.

Dated: October 12, 1979.

James E. Reid,

Acting Regional Forester.

[FR Doc. 79-32770 Filed 10-23-79; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Structure of Agriculture; Public Meetings

Notice is hereby given that public meetings will be conducted by the Secretary of Agriculture as follows:

Time: 9:00 A.M. to 5:00 P.M.

Dates and Locations:

Montpelier, Vt., Nov. 27; Tavern Motor Inn, 100 State St.

Fayetteville, N.C., Nov. 28; Bordeaux Motor Inn, 1707 Owen Dr.

Huntsville, Ala., Nov. 29; Huntsville Hilton Inn, 401 Williams St.

South Sioux City, Nebr. (across the river from Sioux City, Iowa), Dec. 4; Marina Inn, 4th and B Streets.

Sedalia, Mo., Dec. 5; Liberty Park Convention Hall.

Wichita Falls, Texas, Dec. 6; Wichita Falls Activities Center, 10th and Indiana Streets.

Denver, Colo., Dec. 11; Regency Inn, 3900 Elati St.

Spokane, Wash., Dec. 12; Ridpath Motor Inn, 515 W. First St.

Fresno, Calif., Dec. 13; Sheraton Inn, I-99 at West Clinton.

Lafayette, Ind., Dec. 18; Howard Johnson's East, 4343 State Rd. 26 East.

Matters to be considered: The objectives of this Dialogue on the Structure of Agriculture are to collect and review information about the current structure of agriculture and the forces that affect it, and with the goal of establishing national policies and programs that will best promote the kind of agriculture and rural life Americans want for the future.

Broad areas of concern to be addressed include: Land ownership, control and tenancy; barriers to entering and leaving farming; production efficiency, size of farms and the role of technology; government programs; tax and credit policies; farm input supply system; farm product marketing system; present and future energy supplies; environmental concerns, including conservation and use of soil and water; returns to farmers; costs to consumers; and, quality of life in rural areas.

These meetings are part of USDA efforts to obtain as broad a record as possible of public comments and recommendations on these matters.

The meetings will be open to the public.

The agenda for each meeting will include statements by scheduled speakers, as well as time for impromptu comments or questions from the audience. Those interested in being scheduled to speak should contact USDA, giving their name, address, telephone number, and a brief description of the issue or issues they wish to address.

Requests to speak should be sent to: Project Coordinator, Structure of Agriculture, USDA, Washington, D.C. 20250. For further information about the scheduling of speakers, contact Elizabeth Webber (202) 447-2113. Scheduled Speakers will be notified of the time they will appear on the program approximately two weeks in advance of the hearing date. Persons unable to attend any of the meetings are encouraged to send their comments in writing to the Project Coordinator. All comments will be made part of the public record.

Contact person for more information: Richard W. Long, Assistant Project Coordinator, (202) 426-3964.

Susan Sechler,

Project Coordinator.

October 19, 1979.

[FR Doc. 79-32786 Filed 10-23-79; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Order 79-10-101]

Agreements Adopted by the International Air Transport Association Regarding Conditions of Carriage; Cargo

Adopted by the Civil Aeronutics Board at its office in Washington, D.C., on the 17th day of October, 1979.

In the matter of order on petitions for reconsideration and stay: Order 79-10-101; Agreement CAB 2698, R-41; Agreement CAB 2699, R-49; Agreement CAB 2700, R-43; Agreement CAB 3119; Agreement CAB 7648, R-107; Agreement CAB 24475, R-4 and R-5, Docket 25280; Agreement CAB 25186, R-12, Docket 27573; Agreement CAB 25954, R-1, R-2, and R-3, Docket 27573; Agreement CAB 26701, R-9; Agreement CAB 27886, R-3.

On August 27, 1979, Swissair filed a petition for reconsideration, accompanied by a motion for stay, of Order 79-7-166, July 24, 1979, only insofar as the order dealt with Article (1)6 of the IATA conditions of cargo carriage.[1] On September 19, 1979, Swissair filed an amendment to its petition for reconsideration.

On August 15, 1979, Delta Air Lines filed a petition for reconsideration of the same order, respecting the substitute service provisions in Article (1)9 of these same IATA conditions of carriage.

By way of background, by Order 78-8-10, August 3, 1978, we approved (some conditionally) and disapproved provisions in IATA Resolutions 600b and 600j, restating the conditions of carriage to appear on the back and front of cargo air waybills. In response to Order 78-8-10, IATA submitted revisions to the conditions of carriage, including a revised Article (1)9. However, IATA failed to address Article (1)6 which deals with the question of the weight to be used in determining a carrier's monetary liability for loss, damage or delay of a shipment. In Order 78-8-10, we noted that Article (1)6, which provided that the actual weight should be used in the determination of a carrier's liability, appeared inequitable in the situation where transportation charges are based on an asumed weight which is greater than the actual weight.[2] We concluded that the shipper who pays transportation charges based on an assumed greater weight should be covered by such greater weight rather than the lesser actual weight.[3] Thus, we approved Article (1)6 on condition that the chargeable weight, as distinguished from the actual weight, be taken into account in the determination of a carrier's liability for loss, damage or delay. In Order 79-7-166, we found that the revised conditions of carriage corrected most of the deficiencies detailed in Order 78-8-10, but since IATA had failed to address Article (1)6, we prescribe the language for Article (1)6, providing in that the chargeable weight should be used.[4]

In its amended petition for reconsideration, Swissair proposes the following language for ordering clause 3 of Order 79-7-166 dealing with Article (1)6:

3. (a) We withdraw our conditional approval of Article (1)6 in Order 78-8-10 and Article (1)6 is approved only insofar as it applies to shipments not moving in foreign air transportation; and

(b) We order that insofar as shipments moving in foreign air transportation are concerned, Article (1)6 shall be stated in the following language:

> For air transportation as defined in the U.S. Federal Aviation Act, in case of loss or damage or delay of a shipment or part thereof, the weight to be used in determining the carrier's limit of liability shall be the weight which is used (or a pro rata share in the case of a part shipment, loss, damage or delay) to determine the transportation charge for such shipment.

We will grant Swissair's petition for reconsideration.

We will approve Article (1)6, as formulated by IATA, insofar as it applies to international shipments not moving in foreign air transportation; as defined by the Act. In transportation to/from the U.S., we will hold to the language prescribed in Order 79-7-166.

We recognize that foreign governments have a far greater interest than the United States in traffic that moves between points wholly outside the U.S. While we still believe that the fairest general rule would require "chargeable weight" to be used as the measure of a carrier's liability for loss, damage or delay claims, we do not believe that, as it applies to traffic between foreign points, the proposed clause 3(a) is so onerous that it should outweigh the greater interests of the foreign governments most directly affected. Accordingly, as a matter of comity, we have decided to grant, with slight modifications, the relief sought by Swissair. As stated in Order 79-8-194, August 30, 1978, in which we withdrew our tentative disapproval of the IATA rate conference arrangements insofar as they relate to transportation between non-U.S. points:

> Further consideration * * * has sharpened our recognition that the interests of foreign sovereign nations in the conditions governing air transportation between them greatly exceed any that we might have by reason of U.S. carrier participation or U.S. citizen travel. Accordingly, we believe that comity and deference to those nations in matters where their interests are much more intense than our own require that we henceforth confine the scope of this proceeding * * * to that area which most directly involves our national interest—namely, whether we should continue to approve and provide immunity for IATA rate and rate-related resolutions involving air transportation to or from the United States.

Turning to Delta's petition, it states that it is concerned with the substitution of truck service for air service in the domestic sectors of international freight routings. In Order 79-7-166, we found that Article (1)9, as revised and amended, corrected the prior deficiency. We remain of the same view. In any event, the matter of substitute service is before us in Docket 29525, and we will resolve it in that proceeding.

Accordingly, 1. We deny the petition for reconsideration of Order 79-7-166 filed by Delta;

2. We withdraw our conditional approval of Article (1)6 in Order 78-7-10;

3. We vacate ordering clause (3) of Order 79-7-166, and in lieu, clause (3) shall read as follows:[5]

> 3. (a) Article (1)6 of IATA Resolution 600b is approved only insofar as it applies to international transportation not involving foreign air transportation as defined in the Act.
>
> (b) For transportation to/from the United States, Article (1)6 shall be stated in the following language: Notwithstanding any other provision, for foreign air transportation as defined in the U.S. Federal Aviation Act, as amended, in case of loss or damage or delay of a shipment or part thereof, the weight to be used in determining the carrier's limit of liability shall be the weight which is used (or a *pro rata* share in the case of a part shipment loss, damage or delay) to determine the transportation charge for such shipment.

4. We exempt IATA, its member carriers, and any other person affected by this order from the operations of the

[1] Swissair filed a motion for leave to file its petition and motion for stay out of time. For good cause shown, we grant the motion. TWA filed a motion for leave to file late an answer supporting Swissair's petition. We grant its motion as well. Scandinavian Airline System filed an answer in support of Swissair's petition and motion for stay.

[2] In the case of light, but bulky articles, the transportation charges are based on an assumed higher weight to compensate for the space occupied.

[3] Under the Warsaw Convention, a carrier's monetary liability for loss, damage or delay is limited to the weight of the shipment. Warsaw itself contains no reference to the loss, damage, or delay of part of a shipment. The Hague Protocol fills this omission, but the Hague Protocol has not been ratified by the United States.

[4] At the same time, we withdrew the conditional approval of Article (1)6 in Order 78-8-10.

[5] We have altered the language suggested by Swissair to more accurately reflect its proposal.

antitrust laws, with respect to the subject matter of this order, as provided in section 414 of the Act;

5. We deny the motion for stay filed by Swissair;

6. We grant the petition for reconsideration filed by Swissair insofar as it is consistent with this order and otherwise deny it; and

7. In all other respects, Order 79-7-166 is to remain in full force and effect.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.[6]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32792 Filed 10-23-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 10-79]

Foreign-Trade Zone—Oakland, Calif.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Oakland, a municipal corporation of the State of California, requesting authority to establish a general-purpose foreign-trade zone in the City, within the San Francisco/Oakland Customs port of entry.

The application was submitted to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the Regulations of the Board (14 CFR Part 400). It was formally filed on October 12, 1979. The City, as applicant, is authorized to make this proposal under Chapter 4, Section 6302, of the California Government Code.

The proposal calls for the establishment of a foreign-trade zone on a 13-acre site being developed as an International Trade Center. The facility is situated near the City's port facilities on San Francisco Bay as well as the Oakland International Airport. It will be operated under agreement with the City by the Oakland International Trade Center, a private California corporation. An existing 126,000 square foot building on the site will be modified to serve as the zone's intial facility. Future plans call for a light manufacturing facility.

The application contains economic data and information concerning the need for providing zone services in the Oakland area, and the importance of this project to the City's economic development efforts. Several firms have indicated their intention to use the zone for storage, exhibition, and light manufacturing activities on a wide range of products including electrical welders, furniture, medical supplies, alcoholic beverages, photographic equipment, power generating machinery, and jewelry.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230; Dan W. Lane, Chief, Merchandise Control, U.S. Customs District San Francisco, 555 Battery Street, San Francisco, California 94126; and Colonel John M. Adsit, U.S. Army Engineer District San Francisco, 211 Main Street, San Francisco, California 94105.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on November 28, 1979, beginning at 9:00 a.m., in Room 115 of the Oakland City Hall at 14th and Washington Streets in Oakland. The purpose of the hearing is to help inform interested persons about the proposals, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. They should notify the Board's Executive Secretary by November 21 of their desire to be heard in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through December 28, 1979. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing.

A copy of the application and accompanying exhibits will be available for public inspection during the comment period at each of the following locations:

Office of the District Director, U.S. Department of Commerce, Federal Building, Box 36013, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6880-B, Washington, D.C. 20230.

Dated: October 15, 1979.

John J. Da Ponte,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-32716 Filed 10-23-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will hold an additional "scoping meeting" under NEPA, to obtain comments and recommendations in relation to its intention to develop Environmental Impact Statements and fishery management plans for: (1) Deep-Water Reef Fishes and, (2) two species of mollusks: Conch (*Strombus gigas*) and Whelk (*Livonia pica*). A list of the species to be included in the Deep-Water Reef Fish Plan can be obtained directly from the Council.

DATE: The meeting will convene at 7:30 p.m. on Thursday, November 8, 1979. The meeting is open to the public.

ADDRESS: The meeting will take place at the Conference Room of the U.S. Virgin Islands' Legislature, Christiansted, St. Croix, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: October 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine — Fisheries Service.

[FR Doc. 79-32230 Filed 10-23-79; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Designated Self-Regulatory Organization

The Commodity Exchange Act, as amended, ("Act"), and the Commodity Futures Trading Commission's ("Commission") minimum financial and related requirements promulgated under the Act make each self-regulatory organization ("SRO") responsible for supervising compliance by their member futures commission merchants ("FCMs") with the organizations' financial

[6] All members concurred.

requirements.[1] When FCMs are members of more than one such organization, Section 1.52 of the regulations permits the establishment of a plan whereunder one of the organizations is made responsible for the necessary oversight. The principal purpose of such a plan is to alleviate what would otherwise be multiple reporting and related auditing burdens on the FCMs and SROs involved.

The Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee, Sugar & Cocoa Exchange, Inc.,[2] New York Cotton Exchange and New York Mercantile Exchange have submitted such a plan, which they have termed a "Joint Audit Plan", pursuant to Section 1.52(c) of the Commission's regulations, since several FCMs are members of more than one of these seven exchanges.

The Commission is, hereby, publishing a summary and description of the Joint Audit Plan and requesting public comment on the plan in accordance with regulation 1.52(g). Requests for a copy of the plan may be made to the Executive Secretariat. The parties submitting the plan have asked that certain portions thereof be given confidential treatment, and any requests for a copy will be considered under the Act, the Freedom of Information Act (5 U.S.C. 552), and the Commission's regulations promulgated thereunder. Any person interested in expressing views on the proposed Joint Audit Plan should send comments on or before November 23, 1979, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. For further information, contact Daniel Driscoll, Chief Accountant, Division of Trading and Markets, at the same address, (202) 254-8955. Copies of all comments will be available for inspection at the Commission's Washington office.

SUPPLEMENTARY INFORMATION: On August 29, 1978, the Commission adopted regulation 1.52 as part of its minimum financial regulations. Section 1.52(a) requires each SRO to adopt and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all of its members who are registered FCMs. Section 1.52(b) requires each SRO to have in effect and enforce such minimum financial and related reporting requirements which have been approved by the Commission. Section 1.52(c) provides that any two or more SROs may file with the Commission a plan for delegating to a DSRO for any FCM which is a member of more than one such SRO, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such SROs pursuant to section 1.52(a); and
(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Section 1.52(c) further provides that such a plan may also delegate the responsibility of examining the books and records kept by such FCM relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3) of the Commission's regulations.

The following summary of the plan was filed by the participating SROs as part of their submission:

The Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee and Sugar Exchange, Inc.,[3] New York Cotton Exchange and New York Mercantile Exchange have entered into a Joint Audit Plan pursuant to Regulation Section 1.52 of the Commodity Exchange Act, as amended. This section provides for the allocation of regulatory responsibilities to Designated Self Regulatory Organizations ("DSRO"). The contract markets participating in this plan believe that it will help those Futures Commission Merchants ("FCM") who are members of two or more participating contract markets in the following ways: (1) reduce the multiple monitoring and auditing for compliance with the minimum financial rules; and (2) reduce multiple reporting of the financial information necessitated by such minimum financial requirements.

This plan allows one contract market to be the DSRO for any FCM which is a member of two or more participating contract markets. It is intended that non-DSRO participating contract markets will not be required to visit a member firm to which it is not assigned, except for the purpose of conducting special reviews. This plan does not, however, preclude a non-DSRO participating contract market from visiting a member firm whenever and for whatever reason it deems necessary.

FCM's have been divided into two groups:

(1) *Members of at least one participating contract market and the New York Stock Exchange ("NYSE").* The participating contract markets have entered into an agreement with the NYSE whereby the NYSE will perform auditing and monitoring functions for dual members. As such, FCMs which are members of the NYSE need not file the 1-FR with any participating contract market. Filing with the NYSE will satisfy that requirement. (FCM's registered as broker/dealers may file the FOCUS Report together with a schedule of segregation requirements in lieu of the 1-FR.) The NYSE will perform annual financial audits and audits meeting the requirements of Regulation Section 1.51(a)(3) of the Commodity Exchange Act, prepare written reports setting forth results of these audits, provide access to all workpapers and information applicable to such audits, provide access to those employees of the NYSE who are responsible for the monitoring of the financial and operational condition of such dual members and furnish a monthly summary report of key financial data based on information contained in the FOCUS Reports as received by the NYSE.

A DSRO has been established for each FCM who is a dual member with the NYSE. The NYSE will disseminate all the above mentioned results and reports to that DSRO who will then in turn forward the applicable information to the other participating contract markets of which that FCM is a member.

(2) *Members of at least two participating contract markets.* DSRO's have been established for each dual member. The DSRO will be responsible for receiving the required financial reports, monitoring and auditing for compliance with the minimum financial and related reporting requirements and auditing for the requirements of Regulation Section 1.51(a)(3) of the Commodity Exchange Act.

A Joint Audit Committee, with one representative from each of the participating contract markets, has been established. The Joint Audit Committee has the responsibility for overseeing the implementation and functioning of all aspects of the Joint Audit Plan.

The Joint Audit Plan will become effective immediately upon [Commission] approval.

The DSROs under the proposed plan would be:

New York Mercantile Exchange

Ace American, Inc.
B & B Commodities
Beaver Brooks Commodities
Bushwick Commission Company, Inc.
Canada Packers Div. Wm. Davies Co., Inc.
Cleary Trading Co., Inc.
Delos Commodities, Inc.
Drexel, Burnham Lambert, Inc.*
Edelstein and Company, Inc.
Sam Fishberg & Company
Grappel Trading Company, Inc.
Helfer Commodities Corporation
King Commodities
Marc Commodities Corporation
MFX Commodities
MPG Commodities, Inc.
Manhattan Metals (non-ferrous) Ltd.
Meierfeld, S., Inc.
Paris Securities Corporation
Piper, Jaffray & Hopwood, Inc.*
RAM Commodities, Inc.
Reardon Commodities, Inc.
Rosenberg Commodities, Inc.

[1] Under the minimum financial regulations, such SRO's are referred to as designated self-regulatory organizations ("DSROs"). These regulations as well as the definitions of the terms referred to can be found at 43 FR 39956 (September 8, 1978).

[2] When the plan was submitted, one of the parties to the plan was the New York Coffee and Sugar Exchange, Inc., which has since merged with the former New York Cocoa Exchange, Inc., and the resulting entity is now known as the New York Coffee, Sugar & Cocoa Exchange, Inc.

[3] See note 2 above.

Sinclair & Company, Inc.
United Equities (Commodities) Company
U.S. Asahi, Inc.

New York Cotton Exchange

Dunavant Commodity Corporation
First Wall Street Settlement Corp.*
Klein & Company
Loeb Rhoades Hornblower, Inc.*
Weill Brothers & Butler

Commodity Exchange, Inc.

ACLI International Commodity Services, Inc.
J. Aron Commodities Corporation
Bache Halsey Stuart Shields, Inc.*
Balfour Maclaine, Inc.
Brandeis, Goldschmidt & Co. (Commodities), Inc.
Brody, White & Co., Inc.
Commodity International Co.
Cowen & Company*
Easton & Company
Eisen & Blum, Inc.
Fahnestock & Co.*
Gerald Commodities Service, Inc.
Goldman Sachs & Co.*
Interstate Securities Corp.*
Lehaman Bros. Kuhn Loeb, Inc.*
McCormick Commodity, Inc.
OCC Commodities, Inc.
Oppenheimer & Co.*
Primary Metal & Mineral Corporation
Redel Trading Company, Inc.
Republic Clearing Corp.
Thomsom McKinnon Securities, Inc.*
Truebner & Company, Inc.
Rudolf Wolff Commodity Brokers, Inc.

New York Coffee, Sugar & Cocoa Exchange, Inc.[3]

Amerop Division of Westway Trading Corporation
Anderson Clayton Trading Company, Inc.
Christman Clearing Co.
Czarnikow-Rionda Company, Inc.
Dyer & Co., B.W.
Espo Commodities, Inc.
Forward Clearing Corporation
Lonray (Sugar) Inc.
Macro International Group, Inc.
MGC Commodity Corp.
Montgomery & Company, D.W.
Pellas Co., Inc., S.F.
Richardson Commodities, Inc.
Scholtz & Company Inc.
Smith Barney, Harris, Upham & Co., Incorporated*
Volkart Brokerage Inc.
W.C.L. Commodities Inc.
Woodhouse, Drake & Carey, Inc.

AMEX Commodities Exchange, Inc.

Blyth Eastman Dillon & Co., Inc.*
Bruns, Nordeman, Rea & Co.*
Cohn Commodities
Ernst & Co.*
Goodman-Manaster & Co.
Granger & Co.*
Grayson, Burger & Co.*
Gruss, (Oscar) & Co.*
Herald & Co., Bernard, Inc.*
Illinois Co., Inc.*
MKI Securities Corp.*
Morgan Stanley & Co., Inc.*
Primary Commodity Resources, Inc.

[3] See note 2 above.

Robinson-Humphrey Company, Inc.*
Delphi Commodities, Inc.
Wheat, First Securities, Inc.
Rauscher Pierce & Ressnes, Inc.

Midamerica Commodity Exchange

Archer Commodities, Inc.
Chicago Discount Commodity
Hogan-Orr, Inc.
Justin & Skydell, Inc.
A. J. Riffel & Company

Chicago Mercantile Exchange

Agra Trading Inc.
American TransEuro Corp.
Anspacher and Associates, Inc.
Barnes Brokerage Co., Inc.
Bear Stearns & Co.*
A.G. Becker, Incorporated*
A.G. Becker, Kipnis & Co.*
Cargill Investor Services, Inc.
Carl, Jack Associates
Clayton Brokerage Co., of St. Louis, Inc.
CSA, Inc.
Collins Commodities, Inc.
Conti-Commodity Services, Inc.
Dean Witter Reynolds, Inc.*
Dellsher Investment Co., Inc.
Discount Corp. of New York Futures
Donaldson, Lufkin & Jenrette Securities, Corp.*
Dunavent Financial, Inc.
Edwards, A.G., & Sons, Inc.*
First Mid-America, Inc.*
Friedman, Ray E. & Co.
Freehling & Co.*
Geldermann & Co., Inc.
GNP Commodities, Inc.
Garvey Commodities Corp.
Heinold Commodities, Inc.
Hennessy & Associates
Hutton, E.F. & Co., Inc.*
K & S Commodities, Inc.
Keystone Trading Corp.
King & King, Inc.
Kohn & Co.
Lincoln-Staley Commodities, Inc.
Lincolnwood, Inc.
Lind-Waldock & Co.
Madda Trading Co.
Maduff & Sons, Inc.
McCarthy Commodities, Inc.
Merrill Lynch, Pierce, Fenner & Smith, Inc.*
Miller, G.H. & Company
Miller-Jesser, Inc.
O'Brien, R.J. Associates, Inc.
O'Connor Grain Co.
Packers Trading Company, Inc.
Paine, Webber, Jackson & Curtis, Inc.*
Peavey Company
Peters & Co.
Rich, Sol & Co., Inc.
Richardson Securities, Inc.*
Ritten, Louis N. & Co., Inc.
Rosenthal & Co.
Rufenacht, Bromagen & Hertz, Inc.
Shearson Hayden Stone, Inc.*
Siegel Trading Co., Inc., The
Stotler & Company
Stern, Lee B. & Company, Ltd.
Stone, Saul & Company
Tabor Grain Co.
Weinberg Brothers & Co.
Woodstock, Inc.

*New York Exchange Member.

Issued in Washington, D.C. on October 19, 1979.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc 79-32723 Filed 10-23-79; 8:45 am]
BILLING CODE 6351-01-M

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to Rules 1001, 1002 and 1010 of the Amex Commodities Exchange, Inc.

The Commodity Futures Trading Commission ("Commission"), in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 12, 92 Stat. 871 (1978), has determined that amendments to rules 1001, 1002 and 1010, submitted by the Amex Commodities Exchange, Inc., are of major economic significance. These amendments broaden the class of U.S. Treasury bills eligible for delivery against the Exchange 90-day U.S. Treasury bill contract to include any bill maturing within the third month following the delivery month.

The rules, as amended, are printed below showing deletions in brackets and addition underscored:

Rule 1001—Application of Regulation

Futures transactions in 90-day Treasury bills shall be subject to the general rules of the Exchange as far as applicable and shall also be subject to the regulations contained in this chapter which are exclusively applicable to trading in this instrument. The term "90 day Treasury bills" as used in these rules shall refer to *any* United States Government Treasury bills [maturing 90, 91, and 92 days after delivery *which mature during the third month following the delivery month.*

Rule 1002—Standards

(a) The contract grade for delivery on futures contracts made under these regulations shall be 90-day Treasury bills having a face value at maturity totalling $1,000,000. At seller's option a delivery unit may be composed of *any* Treasury bills [having a maturity of 90, 91, or 92 days] *Which mature during the third month following the delivery month.*

(b) (c) (d) no changes.

(e) [In the event that an auction of 90-day Treasury bills is not conducted for the week during which the delivery against futures contracts is scheduled to occur, or, i] *If* for any reason the potential supply of [90-day] Treasury bills available for delivery against the

contract appears to be inadequate, the Board or a duly appointed Committee of the Board shall have the authority to specify as deliverable on the contract such other deliverable Treasury securities as it deems substitutable, including any appropriate price adjustments.

Rule 1010—Last Day of Trading

[No trades in 90-day Treasury bill futures deliverable in the current month shall be made after the second day following the third Monday of that month. In the event that a 90-day Treasury bill auction is not conducted that week,] Trading in 90-day Treasury bill futures shall terminate on the Wednesday following the third Monday of the contract month, unless that day is a scheduled Exchange holiday. In such instance, trading shall terminate on the previous Exchange business day.

Any person interested in submitting written data, views, arguments on these rules should send his comments by December 24, 1979, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C. on October 19, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-32726 Filed 10-23-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Sam Houston, Tex.; Filing of Environmental Impact Statement

The Army, on October 19, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort Sam Houston, Texas. The alternatives of maintaining, discontinuing, or changing missions at Fort Sam Houston are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Sam Houston, ATTN: Directorate Facilities Engineering, Fort Sam Houston, TX 78234.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694-3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-32790 Filed 10-23-79; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Navy Resale Service and Support Activity Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) notice is hereby given that the Navy Resale Services and Support Activity Advisory Committee will meet on November 12, 1979, at Savoy Room of the Plaza Hotel, 768 Fifth Avenue, New York, New York. The first session from 9:00 a.m. to 10:30 will be open to the public. The second session from 10:45 a.m. to 12:00 noon will be closed to the public.

The agenda will consist of discussions of operations, organizations, industrial relations, procurement, distribution, field support, and financial management.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting, which will involve discussion of information relating solely to either internal agency personnel rules and practices or trade secrets, or confidential or privileged commercial or financial information, be closed to the public. These matters fall within the exemptions listed in subsections 552b(c)(2) and (c)(4) of title 5, United States Code. The first session of the meeting which will involve other nonprivileged matter related to the Navy Exchange Resale Services and Support Activity, will be open to the public.

For further information concerning this meeting, contact: Commander J. R. Akers, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 801, Crystal Mall, Building No. 3, Arlington, VA 20376, telephone number (202) 695-5457.

Dated: October 17, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-32769 Filed 10-23-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

PGP Gas Products, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order and for potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date: August 13, 1979.

COMMENTS BY: November 23, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [Phone] 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 13, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with PGP Gas Products, Inc. of Midland, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

PGP Gas Products, Inc. (PGP), with its home office located in Midland, Texas, is a firm engaged in the processing of natural gas and sale of natural gas liquids (NGLs) and plant condensate, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of PGP, the Office of Enforcement, ERA, and PGP entered into a proposed Consent Order, the significant terms of which are as follows:

1. The period of the audit was from May 1974 through December 1978 and it included all sales of a mixed natural gas liquid stream to UPG, Inc. and sales of plant condensate to Scurlock Oil Company.

2. PGP improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subparts D, E, and K, when determining the prices to be charged for its natural gas liquids and plant condensate; and, as a consequence, charged prices in excess of the maximum lawful selling prices resulting in overcharges to its customers.

3. PGP voluntarily refunded $900,868 in overcharges on NGLs between August 1975 and February 1976. PGP agrees to refund an additional $459,800 to UPG, Inc., plus interest on all the overcharges, within 90 days of the effective date of this Consent Order.

4. Because sales of the plant condensate were not made to ultimate consumers, and they are not readily identifiable, the refund of $25,484 will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, PGP agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the sales of NGLs, $459,800 plus interest within 90 days of the effective date of this Consent Order. Refunds of overcharges will be made directly to UPG, Inc.

PGP also agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the sales of plant condensate, $25,484 plus interest within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential claimants:* Interested persons who believed that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other comments:* The ERA invites interest persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on PGP Gas Products, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 23, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 31st day of August, 1979.

Herbert F. Buchanan,

Deputy District Manager, Southwest District Enforcement Economic Regulatory Administration.

[FR Doc. 79-32727 Filed 10-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-R-79-49]

Use of Natural Gas Authorities To Increase Coal and Other Nonpetroleum Fuel Usage and Heavy Oil Production

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Inquiry.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice of its consideration of the use of its natural gas authorities for the purpose of inducing increased coal and other non-petroleum fuel usage and the production of heavy oil. For purposes of this notice other non-petroleum fuels shall include all such fuels including synthetic fuels. ERA is seeking the best way of utilizing its natural gas authorities, in conjunction with its authorities under the Powerplant and Industrial Fuel Use Act, to increase coal and other non-petroleum fuel usage in existing facilities and to provide incentives for the building of new coal and non-petroleum fuel-capable facilities. ERA is also seeking comments on ways its natural gas authorities may be used to increase the production of heavy oil. Specifically, this notice seeks comments on proposals to accomplish these purposes and invites any alternate suggestions for achieving these goals through available natural gas authorities.

DATES: Written comments by December 21, 1979, 4:30 p.m.

ADDRESS: All comments should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2213, Docket No. ERA-R-79-49, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461 (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461 (202) 634-2170.

Paula Daigneault (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street NW., Room 3308, Washington, D.C. 20461 (202) 632-4721.

James G. Beste (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Ave. NW., Room 7140, Washington, D.C. 20461 (202) 633-8788.

SUPPLEMENTARY INFORMATION:

I. Background
II. Options to Induce Increased Coal Usage and Heavy Oil Production
A. Curtailment Priority Rule
B. Direct Purchase Transportation Rule
III. Issues for Comment
IV. Comment Procedures

I. Background

A major purpose of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) (FUA) is to encourage and foster the greater use of coal and other non-petroleum fuels, in lieu of natural gas and petroleum, as a primary energy source. It does this by placing restrictions on the use of natural gas and petroleum in electric powerplants and major fuel burning installations (MFBI's). In addition, the President in his July 15, 1979, address to the Nation, and accompanying fact sheet of July 16, 1979, described a program to encourage greater use of coal and to make natural gas available for the production of heavy oils. The purpose of this notice is to seek comments on several possible changes to the existing Federal system of gas regulation which may provide incentives for the conversion of existing facilities to coal and other non-petroleum fuels, the building of new coal and other non-petroleum fuel capable facilities, and the increased production of heavy oil.

The Federal Energy Regulatory Commission (FERC) in its "Notice of Inquiry on Regulations Implementing the Second Stage Incremental Pricing Provisions of the Natural Gas Policy Act of 1978" (Docket No. RM79-56, June 28, 1979, page 8), suggested the option of ERA's providing electric powerplants high-priority status in the curtailment plans of interstate pipeline companies for the purpose of facilitating conversion to coal. Powerplants would be eligible to receive gas if they have been issued a proposed or final FUA order prohibiting the use of fuel oil or natural gas or have voluntarily provided sufficient evidence that they will convert to coal within a reasonable time, such as five years. Traditionally, powerplants have been the first to be curtailed in a natural gas shortage and many, because they have been continuously curtailed, have had to develop other, more costly sources of supply. The FERC notice suggests that priority access to the cheaper natural gas pipeline system supplies might represent both an incentive and, since it is cheaper, a means for acquiring new coal burning equipment or converting existing equipment to coal or other non-petroleum fuel.

It has been suggested that priority access to natural gas may also result in increased coal usage by facilitating the opportunity for powerplants to obtain a mixture exemption under FUA. Under sections 212(d) and 312(d) of FUA, powerplants may be granted authorization by ERA to burn natural gas and coal or another non-petroleum fuel either in combination or on an intermittent basis under the FUA mixture exemption. Use of natural gas along with coal in order to meet required environmental standards would result in more total coal usage in clean air non-attainment areas than would be possible with the use of coal alone. For example, a plant might use such gas during an air-temperature inversion during the summer. In addition, the use of natural gas in combination with synthetic fuels under the FUA mixture or synthetic fuel exemptions may facilitate the development of synthetic fuels, such as synthetic natural gas produced from coal by offsetting the costs of such development.

We have confined our proposals relating to incentives for increased coal and alternate fuel usage to the consideration of electric powerplants because their consumption of energy for boiler fuel use is quite large in comparison to MFBI's and the benefits of eliminating oil usage in a few plants would be substantial. Also, since electric powerplants are not subject to the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978 (Pub. L. 95-621) (NGPA), pipeline system supply gas sold to powerplants in many cases may be cheaper than that purchased by MFBI's. The possibility of access to less expensive gas by obtaining a high curtailment priority may create an incentive to increase coal usage. Although the incentive for MFBI's would not exist to the same degree since they are subject to incremental pricing, we ask for your comments on whether it would be in the public interest to include MFBI's as well as electric powerplants in any action to facilitate coal or other non-petroleum fuel use which we may later propose.

The second area of concern relates to heavy oil production. This is the recovery of highly viscous crude oil by thermal recovery methods, primarily in California. Petroleum fuels are now being use to generate steam injected into the wells to provide heat, thus reducing the viscosity of the heavy oils and facilitating recovery. Because of environmental problems, it may not be possible to continue or expand large scale use of petroleum fuels for that purpose. Also, additional petroleum fuels may not be available to permit increased production even if no environmental problem exists. Our intent is to explore whether the federal curtailment priority system or other natural gas authorities may be used to facilitate the use of natural gas to increase heavy oil production.

II. Options To Induce Increased Coal Usage and Heavy Oil Production

We are proposing for comment two alternative mechanisms to achieve these goals. The first is a natural gas curtailment priority rule which would be issued by ERA, pursuant to its responsibility to establish and review curtailment priorities under sections 301(b) and 402(a) of the Department of Energy Organization Act (Pub. L. 95-91) (DOE Act). The second is a direct purchase transportation rule which would facilitate the transportation by interstate pipeline companies of gas owned by powerplants scheduled either to begin burning coal or a non-petroleum fuel to increase their present fuel usage at some specified date. A direct purchase transportation rule can be proposed by ERA under Section 403 of the DOE Act to the FERC for their consideration and adoption.

We would like comments on the effectiveness and feasibility of both mechanisms, and whether one would be more appropriate than the other. In particular, we request comments on the advantages and disadvantages of each mechanism and identification of any other vehicles available under existing natural gas authority to achieve these public policy goals.

An example of an issue we wish discussed is whether the placement of electric powerplants, which have been prohibited by DOE from using petroleum or natural gas or which voluntarily have determined to convert to coal or another alternate fuel, in a relatively high position in an interstate pipeline company's curtailment plan would be an effective incentive to increase coal usage. While a curtailment priority rule could provide an inducement to increase coal or alternate fuel usage, it has been suggested that access to cheaper pipeline system gas might actually be an incentive for utilities to remain on gas and avoid going to an alternate fuel as long as possible. Also, because Federal curtailment jurisdiction has not been applied at the "burner tip," it has been suggested that such an incentive might be illusory without changes in state-approved curtailment priority plant assuring access by the powerplants in

question to natural gas. Active participation by the states in determining whether particular facilities receive the gas may be necessary to implement this option effectively.

Following are more detailed descriptions of the various options which could be proposed by ERA:

A. Curtailment Priority Rule Option

ERA could propose a rule directing that interstate pipeline companies may not curtail deliveries to designated electric utilities or heavy oil producers unless necessary to meet the needs of those essential industrial process and feedstock uses, essential agricultural uses and high-priority users protected by Title IV of the NGPA and any ERA regulations implementing this title. The rule could contain the following provisions:

1. *Coal Incentives.* Any electric powerplant which has (1) received a temporary FUA exemption allowing it to burn natural gas while converting to coal or alternate fuel usage, (2) received a permanent FUA exemption to burn a mixture of natural gas and coal, or natural gas and some other non-petroleum fuel including a synthetic fuel, (3) received a proposed or final FUA prohibition order, (4) or indicated the intention to voluntarily convert within a reasonable time, and provided sufficient evidence of that intent, or (5) received a delayed compliance order pursuant to section 113(d)(5) of the Clean Air Act; would be placed in a curtailment plan priority just below essential industrial process and feedstock uses if, in compliance with the FUA exemption or a proposed or final prohibition order, the powerplant has filed a plan complying with the terms and conditions set by the Secretary of Energy or his delegate for increasing coal or other alternate fuel usage, including a synthetic fuel, converting to coal or another fuel, including a synthetic fuel, or building new coal or alternate fuel burning facilities.

- The priority would automatically terminate on the date of the powerplant's ERA approved compliance plan commits them to go exclusively to coal or other alternate fuel use.
- Adjustments would be made to the powerplant's requirements for gas to reflect individual schedules for phasing in coal or other fuel usage.
- The priority would cease at any point in time it was determined that the powerplant was not able to meet the terms and conditions specified in the compliance plan.
- Other powerplants would be placed in the same priority if they could certify that a specified amount of natural gas when used in combination with another fuel for environmental purposes would permit them to build new coal burning facilities or otherwise increase their coal usage. There would be no termination date for this latter use; the amount of gas specified as needed for this purpose would serve as their requirements for curtailment purposes.

2. *Heavy Oil Incentives.* Users of natural gas for heavy oil production through thermal recovery methods would be placed in the same priority with the designated coal users.

3. *Implementation.* The priority rule could be implemented either on a generic basis or a case-by-case approach. In the latter approach, the priority would only be given once the FERC had determined that a specific powerplant had filed the required compliance plans with DOE and was committed to phasing in an alternate fuel use. A priority would be given to specific heavy oil production sites when the determination was made that production by other methods was impractical.

B. Direct Purchase Transportation Rule

1. *Coal Incentives.* The ERA would propose under section 403 of the DOE Act that the FERC adopt a rule facilitating the granting of transportation certificates of public convenience and necessity under Section 7 of the Natural Gas Act to interstate pipeline companies permitting the transportation of user owned gas to the powerplants temporarily allowed to burn natural gas under a FUA exemption or prohibition order as outlined above in II.A. for the following purposes:

- To utilize natural gas until their existing facilities have been converted to coal or other non-petroleum fuels (including synthetic) as specified by the terms and conditions approved by the Secretary or his delegate;
- To utilize natural gas in existing facilities until a new coal-burning or alternate fuel facility is in place; or
- To utilize natural gas on an intermittent basis in a new coal burning facility to allow the facility to operate during temporary periods when clean air standards are being violated.
- The direct purchase rule could permit the transportation of any gas or be limited only to the first sale of high cost gas as defined by the FERC pursuant to Section 107 of the NGPA. The rule could also allow the FERC to condition the transportation approval to ensure that high-priority users will be served. An example of such condition would be to allow the interstate pipeline company transporting the gas to buy the user-owned gas, if necessary, to meet the needs of high-priority users.

2. *Heavy Oil Incentives.* Such a rule could also facilitate the interstate transportation of user-owned gas to oil producers who require the gas for heavy oil recovery, where the gas will serve to initiate or increase heavy oil production.

III. Issues for Comment

We would like to have specific comments on the effectiveness and appropriateness of these alternatives and particularly on the following issues:

1. Would the changes in the curtailment priority system provide an incentive or disincentive for both conversion of existing facilities to coal and the building of new coal or alternate fuel burning facilities? Would such a rule be effective in encouraging the burning of natural gas in combination with coal to meet environmental standards and result in increased total use of coal?

2. If giving a priority to electric powerplants is desirable, should it be done on a generic or case-by-case basis?

3. Would the direct purchase transportation option outlined in II.(B) induce greater coal usage than the curtailment option outlined in II.(A)?

4. In Option II. (B), should the transportation of only "high cost gas" be permitted or should it apply to all gas?

5. Even if coal usage could be increased through the use of one or more of these options, are there overriding reasons why any of these options should not be undertaken? Would there be any costs incurred which would be measurably greater than the benefits to be obtained with greater coal usage?

6. Are there any changes which could be made to these proposed options that would increase coal usage and mitigate against any potentially harmful effects on other gas users?

7. Would heavy oil production be increased if the changes outlined in II. (A) or (B) are made? For what reason, if any, would a direct purchase transportation rule be preferred? What other steps could be taken by ERA to encourage greater production of heavy oil deposits?

8. For what reasons, if any, should MFBI's be included in any of these options?

9. Give state direct control over who receives natural gas, how could such a rule (II.A and/or II.B) insure that a curtailment priority is given at the end-use level to those electric powerplants who will convert to or increase their usage of coal or other non-petroleum fuels?

10. Will natural gas supplies for the next decade be sufficient to warrant

allowing powerplants (and perhaps MFBI's), which are in the process of converting to coal or alternate fuels or which can expand their coal usage, access to natural gas by either the curtailment priority or user-owned transportation mechanism? Even if supplies will not be adequate to serve all natural gas customers during this period, does the public interest inherent in facilitating the maximum use of coal, particularly where it is displacing fuel oil, warrant that ERA take any of the above described steps to facilitate the use of natural gas for this purpose by powerplants and, perhaps, MFBI's?

11. ERA is aware that the use of gas in combination with coal on an intermittent basis as proposed above is currently disfavored by the Clean Air Act and we invite comment on whether there would be an increase in coal usage if such an option were to be implemented and what further actions would be necessary to reach this goal.

IV. Comment Procedures

You are invited to participate in this inquiry by submitting written comments, data, views, or arguments with respect to the proposals set forth in this notice and any other relevant suggestions or proposals to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-49, 2000 M Street NW., Washington, D.C. 20461. You may hand-deliver your comments to this room between 8:00 a.m. and 4:30 p.m., Monday through Friday; or you may mail your comments to the above address. You should submit fifteen copies and should include on the first page of each comment, and on any envelope, the docket number and the designation "Increased Coal Usage and Heavy Oil Production." We will consider all comments received by 4:30 p.m. on December 21, 1979, and all other relevant information. Please indicate the specific issue or issues you are addressing by number.

Any information you consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

Public hearings are not required at this preliminary stage. We will provide opportunities for hearings later once we have reviewed the written comments, prepared the required analyses, and published proposed rules, if any.

Issued in Washington, D.C., October 18, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 79-32809 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP78-123, et al.]

Northwest Alaskan Pipeline Co.; Procedure To Be Followed for the Adoption of Conditions Implementing Section 17 of the Alaska Natural Gas Transportation Act

Issued: October 18, 1979.

Section 17 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. § 719, requires Federal agencies to take affirmative action to assure that no person will be excluded, on the grounds of race, creed, color, national origin, or sex, from participation in any activity connected with the construction and operation of the Alaska Natural Gas Transportation System (ANGTS). Condition 11 of the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Decision), contains a similar direction to the companies that are authorized to construct and operate the system, requiring the development of plans to ensure the participation of minority business enterprises in the construction and operation of ANGTS.

Seven Federal agencies must grant some authorizations to facilitate action to construct ANGTS: The Federal Energy Regulatory Commission, the Department of Interior, the Corps of Engineers, the Environmental Protection Agency, the Department of Transportation, the Department of Agriculture, and the Department of Energy. These are the agencies which have been working together to draft a uniform set of affirmative action requirements. Because of the Department of Interior's experience in formulating and implementing similar requirements under the Trans-Alaska Pipeline Act, it was chosen, within the framework of the Executive Policy Board, to act as the lead agency in this effort.

The Commission staff has been working in close concert with Interior's staff, in consultation with other agencies, and with the advice from the Federal Inspector, to formulate and draft a uniform set of requirements to implement Section 17 and Condition 11.

The Commission considered proposed affirmative action requirements, resulting from this process, at its meeting on August 9, 1979. At that time the Commission approved, in principle, the proposed requirements and authorized the Commission staff to continue to work with the other agencies involved to coordinate the final stages necessary to publish, and eventually adopt, a uniform set of affirmative action requirements.

The inter-agency consultative process is now essentially completed, and the Department of Interior, as lead agency, published the proposed affirmative action requirements on October 12, 1979 (44 FR 59096); and the public will be invited to comment upon the proposed requirements for a period of sixty (60) days after publication in the Federal Register. In addition, the Department of Interior has scheduled public hearings, in which this Commission will participate on the proposed requirements.

The Commission, by this order, implements its August 9, 1979 vote in principle. The Commission now proposes to adopt the affirmative action requirements published by the Department of Interior as conditions to be included in the temporary and permanent certificates of public convenience and necessary issued to the project sponsors of the Alaska Natural Gas Transportation System.

Interested parties are invited to review and comment upon the proposed affirmative action requirements published by the Department of Interior, on October 12, 1979, as proposed Department of Interior regulations to be located at 43 CFR Part 34. All comments should be addressed to the Department of Interior, as set forth below. The Commission will consider all comments filed with the Department of Interior, and will participate in the public hearings scheduled by the Department of Interior. Public hearings will be held in Chicago on November 5, 1979, in San Francisco on November 6th, in Seattle on November 7th, in Anchorage on November 13th, in Fairbanks on November 14th, in Barrow, Alaska, on November 15th, and in Washington, D.C. on November 27th.

The Commission Orders: (A) Notice is hereby given that the Commission proposes to adopt, as conditions to the conditional certificates of public convenience and necessity issued to the project sponsors by the order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the proposed affirmative action requirements published by the Department of Interior in the Federal Register, on October 12, 1979, to be located at 43 CFR Part 34.

(B) Members of the public desiring to comment upon the proposed requirements should file comments with the Department of Interior within sixty (60) days from the date of publication by the Department of Interior. Filing of such comments with the Department of the Interior shall constitute constructive filing of those comments with the Commission, which will review them before issuance of its final order. Specifically, comments should be addressed to: Mr. Edward E. Shelton, Director, Office of Equal Opportunity, Department of Interior, Washington, D.C. 20240 (202) 343-5693.

(C) The Commission waives section 1.8 of its Rules of Practice and Procedure to the extent necessary to permit the Commission to receive all comments described in ordering pararaph (B) above, and to make all such comments a part of the record upon which the Commission may rely in making its decision, regardless of whether the person submitting the comments has intervened as a party in this docket.

(D) Public hearings on the proposed affirmative action requirements will be held according to the following schedule:

November 5—Chicago, Illinois
November 6—San Francisco, California
November 7—Seattle, Washington
November 13—Anchorage, Alaska
November 14—Fairbanks, Alaska
November 15—Barrow, Alaska
November 27—Washington, D.C.

Parties intereted in scheduling time to speak at the hearings, or in obtaining additional information, should contact Mr. Edward E. Shelton of the Department of Interior at the address given above. Information can also be obtained from. Mr. Leonard Crook, Federal Energy Regulatory Commission, Room 3311, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8180.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32748 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

Availability of Federal Power Commission Reports; Volume No. 48

October 18, 1979.

Notice is hereby given that Volume # 48 of the *Federal Power Commission Reports* is on sale at the United States Government Printing Office Bookstore. Volume # 48 contains Federal Power Commission (Federal Energy Regulatory Commission's predecessor) opinions, orders, and precedential procedural orders for the period July 1 through December 31, 1972. Persons interested in purchasing this volume may remit $19.50 for GPO stock # 061-002-00023-5 to the following address: Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32749 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-78-2; FRL 1345-3]

Air Quality Criteria Document for Oxides of Nitrogen; Extension of Comment Period for Second External Review Draft

The comment period for EPA's second external review draft of Air Quality Criteria for Oxides of Nitrogen (revised June, 1979) is hereby extended from September 30, 1979 (44 FR 50399) to November 30, 1979. The extension of the comment period is based on the following:

(a) The large number of requests for review copies of Air Quality Criteria for Oxides of Nitrogen,

(b) The early exhaustion of the document's first printing, delaying receipt by some requestors, and

(c) The need for thorough evaluation of several articles proposed as additional references for the document, some appearing as recently as late 1978 and early 1979.

Articles referred to in (c) and pertaining specifically to nitrogen oxides exposures are listed below, and full reference citations are given. Interested parties should obtain copies for review through the sources listed.

Evans, M. J. and G. Freeman. Morphologic and Pathologic Effects of NO_2 on the Rat Lung. Preceedings of the Symposium on Nitrogen Oxides, Honolulu, Hawaii, April 4-5, 1979.

Karlinsky, J. B., and G. L. Snider. Animal Models of Emphysema. American Review of Respiratory Disease. *117:* 1109-1133. 1978.

Kennedy, M. C. S. Nitrous Fumes and Coal-Miners with Emphysema. Ann. Occup. Hyg. *15:* 285-300. 1972.

Kerr, H. D., T. J. Kulle, M. L. McIlhany, and P. Swidersky. Effects of Nitrogen Dioxide on Pulmonary Function in Human Subjects: An Environmental Chamber Study. Env. Res *19:*392-404. 1972.

Kosmider, S. and A. Misiewicz. Experimental and Epidemiological investigation of the *effects onf* NO_x *on lipid metabolism. Int.* Arch. Arbeitsmed. *31:*249-256. 1973.

Menzel, D. B. Pharmacological Mechanisms in the toxicity of NO_2 and its relations to Obstructive Respiratory Disease. Proceedings of the Symposium on Nitrogen Oxides, Honolulu, Hawaii, April 4-5, 1979.

Menzel, D. B., D. H. Donovan, and M. Sabransky. Effect of Vitamin E and Dietary Fat on Pulmonary Toxicity of Nitrogen Dioxide. *In:* Nitrogenous Air Pollutants: Chemical and Biological Implications. Grosjean, ed. Ann Arbor Science. Pub. p. 149-163. 1979.

Mittman, C. Antitrypsin Deficiency and Other Genetic Factors in Lung Disease. *In:* The Lung in the Transition between Health and Disease. P.T. MacKlem and S. Permutt, eds., Marcel Dekker, Inc., New York. pp. 245-269. 1979.

Posin, C., K. Clark, M. P. Jones, J. V. Patterson, R. D. Buckley, and J. D. Hackney. Nitrogen Dioxide Inhalation and Human Blood Biochemistry Archives of Environmental Health. Nov./Dec. 1978. pp. 318-324.

Direct comments to Mr. Michael A. Berry at the address given below. Address all written requests for copies of the criteria document to the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone 919/541-3746, and a prerecorded message will provide instructions for placing a telephone request.

Dated: October 12, 1979.

David J. Graham,

Acting Assistant Administrator for Research and Development.

[FR Doc. 79-32753 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1344-8; PF-154]

Pesticide Programs; Filing of Pesticide Petition

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

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: E. I. du Pont de Nemours and Co., Wilmington, DE 19898, has submitted a pesticide petition (PP 9F2266) proposing that 40 CFR 180.303 be amended by establishing a tolerance for residues of the insecticide oxamyl (methyl *N'N'*-dimethyl-*N*-[methylcarbamoyl]oxy]-1-thiooxamimidate) in or on the raw agricultural commodity peppers at 3.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with a sulfur sensitive flame photometric detector.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM-12), Mr. Frank Sanders, Room E-337,

Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-2635. Comments submitted should bear a notation indicating the petition number "PP 9F2266". Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holdiays.

(Section 408(d)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a))

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32750 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL1345-2; PF-157]

Pesticide Programs; Filing of Pesticide and Feed Additive Petitions

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

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that Merck & Co., Inc., Box 2000, Rahway, NJ 07065, has submitted the following petitions to the Agency for consideration.

PP 9F2216. Proposes that 40 CFR 180.242 be amended by establishing tolerances for residues of the fungicide thiabendazole [2-(4-thiazolyl) benzimidazole] in or on the raw agricultural commodities rice at 2.5 parts per million (ppm) and rice straw at 10.0 ppm. The proposed analytical method for determining residues is spectrophotofluorometry.

FAP 9H5240. Proposes that 21 CFR 561.380 be amended by permitting residues of the above fungicide in or on the animal feed rice bran and polishing at 2.5 ppm and rice hulls at 8.0 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-21), Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sections 408(d)(1) and 409(b)(5) [21 U.S.C. 346a and 348 respectively], Federal Food, Drug, and Cosmetic Act)

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32751 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-1; PF-156]

Pesticide Programs; Filing of Pesticide Petition

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

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, has submitted a pesticide petition (PP 9F2267) proposing that 40 CFR 180.320 be amended by establishing a tolerance for residues of the insecticide, 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity blueberries at 25.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography utilizing a sulfur-sensitive flame photometric detector.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-16), Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/7426-9458. Written comments should bear a notation indicating the petition number "PP 9F2267." Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's Office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 408(d)(1), Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a])

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Divison

[FR Doc. 79-32752 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-5]

Science Advisory Board, Water Quality Criteria Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on October 31, 1979, beginning at 9:00 a.m., in Conference Room 2117, Waterside Mall, 401 M Street, SW., Washington, D.C.

This is the third meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's draft report on the methodologies used in the development of water quality criteria to protect aquatic life and human health for the 27 specified pollutants listed in the Federal Register, Part V, pages 15926-15981, March 15, 1979, and for the 26 specified pollutants listed in the Federal Register, Part III, page 43660-43697, July 25, 1979, and on selected criteria documents.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than October 24, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472-9444.

Dated: October 4, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-32863 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available For Processing

Adopted: October 15, 1979; Released: October 17, 1979.

By the Chief, Broadcast Facilities Division: Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's Rules, that on November 30, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on November 29, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on November 29, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 73.3584(a) of the Rules, which specifies

the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT-790301Ia (new), Toquerville & Leeds, Utah, Washington County Television Dept. Req: Channel 66, 782-788 MHz, 100 Watts. Primary: KBYU-TV, Provo, Utah.

BPTT-790305IJ (new), Spruce Pine, North Carolina, University of North Carolina. Req: Channel 59, 740-746 MHz, 100 watts. Primary: WUNE-TV Linville, North Carolina.

BPTT-790305IK (new), Marion, North Carolina, University of North Carolina. Req: Channel 65, 776-782 MHz, 100 watts. Primary: WUNE-TV, Linville, North Carolina.

BPTT-790305IL (new), Burnsville, North Carolina, University of North Carolina. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WUNE-TV, Linville, North Carolina.

BPTT-790312IH (K56AH), Windom, Minnesota, City of Windom. Req: Change primary TV Station to KMSP-TV. Channel 9, Minneapolis, Minnesota.

BPTT-790320IH (K66AZ), Prineville, Oregon, Ochoco Telecasters, Inc. Req: Add Redmond, Oregon to present principal community.

BPTT-790330IM (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 60, 746-752 MHz, 100 watts. Primary: KNXT-TV, Los Angeles, California.

BPTT-790330IN (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KNBC-TV, Los Angeles, California.

BPTT-790330IO (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KTLA-TV, Los Angeles, California.

BPTT-790420IB (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 56, 722-728 MHz, 1 watt. Primary: KTVK-TV, Phoenix, Arizona.

BPTT-790420IC (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 58, 734-740 MHz, 1 watt. Primary: KOOL-TV, Phoenix, Arizona.

BPTT-790420ID (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 60, 746-752 MHz, 1 watt. Primary: KTAR-TV, Phoenix, Arizona.

BPTT-790423IH (new), Colstrip, Rural Forsyth, Ashland & Lame Deer Area, Montana, Colstrip Television District. Req: Channel 61, 752-758 MHz, 100 watts. Primary: KULR-TV, Billings, Montana.

BPTT-790430IJ (new), Clovis, New Mexico, Holsum, Incorporated. Req: Channel 65, 776-782 MHz, 1000 watts. Primary: KBIM-TV, Roswell, New Mexico.

BPTT-790430IK (new), Dora, New Mexico, Holsum, Incorporated. Req: Channel 69, 800-806 MHz, 1000 watts. Primary: KBIM-TV, Roswell, New Mexico.

BPTT-790501IB (K72BE), Walker, Minnesota, Leech Lake TV Corporation. Req: Change frequency to Channel 67, 788-794 MHz, specify primary TV Station as KDLH, Channel 3, Duluth, Minnesota.

BPTT-790501IC (K76BC), Walker, Minnesota, Leech Lake TV Corporation. Req: Change frequency to Channel 69, 800-806 MHz.

BPTT-790517IB (K83BL), Montoya & Newkirk, New Mexico, KOAT Television, Inc. Req: Change frequency to Channel 57, 728-734 MHz.

BPTT-790605IF (new), Willsboro, New York, Northeast New York Educational, Television Association. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WCFE-TV, Plattsburgh, New York.

BPTT-790605IG (new), Saranac Lake, Garbiels & Lake Clear Junction, New York, Northeast New York Educational Television Association. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WCFE-TV, Plattsburgh, New York.

BPTT-790612IC (new), Max & Surrounding Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 60, 746-752 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minnesota.

BPTT-790612ID (new), Max, Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KDLH-TV, Duluth, Minnesota.

BPTT-790612IE (new), Big Fork, Marcell & Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 67, 788-794 MHz, 100 watts. Primary: KDLH-TV, Duluth, Minnesota.

BPTT-790612IF (new), Big Fork, Marcell & Rural Area, Minnesota EZ-TV, Inc. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KBJR-TV, Duluth, Minnesota.

BPTT-790718IA (new), Grays River & Lebam, Washington, Tacoma School District #10. Req: Channel 65, 776-782 MHz, 100 watts. Primary: KTPS-TV, Tacoma, Washington.

BPTT-790809IA (new), Hartwell & Royston, Georgia, State Board of Education of the State of Georgie. Req: Channel 22, 518-524 MHz, 1000 watts. Primary: WCES-TV, Wrens, Georgia.

BPTTV-790307IM (new), Atwood, Kansas, City of Atwood, Kansas. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KLNE-TV, Lexington, Nebraska.

BPTTV-790309IK (new), Haines, Alaska, Lynn Canal Broadcasting. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KTVA-TV, KENI-TV, KIMO-TV, KAKM-TV, Anchorage, Alaska, KTOO-TV, Juneau, Alaska.

BPTTV-790316ID (new), Cody, Nebraska, Village of Cody. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KPLO-TV, Reliance, South Dakota.

BPTTV-790326IT (new), South of Ozona 7 Miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KACB-TV, San Angelo, Texas.

BPTTV-790326IU (new), South of Ozona 7 miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 11, 198-204 MHz, 10 watts. Primary: WFAA-TV, Dallas, Texas.

BPTTV-790326IV (new), South of Ozona 7 miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KCTV-TV, San Angelo, Texas.

BPTTV-790329IJ (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 3, 60-66 MHz, 10 watts. Primary: KIVI-TV, Nampa, Idaho.

BPTTV-790329IK (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 5, 76-82 MHz, 10 watts. Primary: KTVB-TV, Boise, Idaho.

BPTTV-790329IL (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 9, 186-192 MHz, 5 watts. Primary: KAID-TV, Boise, Idaho.

BPTTV-790329IM (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KBCI-TV, Boise, Idaho.

BPTTV-790402IN (K13MI), Squaw Valley, Oregon. Community Television Association, Inc.. Req: Add Wedderburn, Oregon to present principal community and change primary TV Station to KIEM-TV, Channel 3, Eureka, California.

BPTTV-790412IE (new), Ft. Jones, Etna, Greenview & Callahan, California. Scott Valley Chamber of Commerce. Req: Channel 6, 82-88 MHz, 5 watts. Primary: KTVL-TV, Medford, Oregon.

BPTTV-790423II (K06IR), Colstrip, Montana, Colstrip TV Club. Req: Change frequency to Channel 9, 186-192 MHz, increase output power to 10 watts.

BPTTV-790517IA (K12GA), May, Fort Supply, Fargo & Gage, Oklahoma Gage Translator System. Req: Change frequency to Channel 13, 210-216 MHz, specify primary TV Station as KTVY, Channel 4, Oklahoma City, Oklahoma.

BPTTV-790516IC (new), Lake Wenatchee & Plain Area, Washington, Lake Wenatchee TV, Inc. Req: Channel 12, 204-210 MHz, 1 watts. Primary: KREM-TV, Spokane, Washington.

BPTTV-790806IA (K12HF), Gold Hill, Oregon, Sierra Cascade Communications, Inc. Req: Change frequency to Channel 4, 66-72 MHz, specify primary TV Station as KTVL, Channel 10, Medford, Oregon.

BMPTTV-790112IE (K12LE), McDermitt, Nevada, Quinn River Television Maintenance District. Req: Change primary TV Station to KIVI, Channel 6, Nampa, Idaho, increase output power to 5 watts.

FM Translator Applications

BPFT-790606IA (new), Portland, Maine, University of Maine. Req: Channel 283, 104.5 MHz, 1 watt. Primary: WMEA-FM, Portland, Maine.

BPFT-790618IF (new), Lincoln, Pinehurst & Residents of the Walker Creek Valley (Unincorporated Area), (Oregon) & Hornbrook, California, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IG (new), Coos Bay & North Bend, Oregon, State of Oregon Acting by & Through the State Board of Higher

Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IH (new), Camas Valley & Twelve Mile, Oregon, State of Oregon Acting by & Through the State Board Of Higher Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618II (new), Port Oreford, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 207, 89.3MHz, 1 watt. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IJ (new), Crescent City & Gasquet, California, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IL (new), Lakeview, Oregon, State Of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IM (new), Coquille Valley (Unincorporated) & Coquille, Oregon. State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IN (new), Gold Beach & Port Orford, Oregon. State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 21, 90.1MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IO (new), Riddle, Oregon, State of Oregon Acting by & Through the State Board Of Higher Education. Req: Channel 217, 91.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IP (new), Chiloquin & Modoc Point, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 217, 91.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IQ (new), Bandon, Coos Bay, Coquille Valley (Unincorporated) & Coquille, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 220, 91.9 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IR (new), Beaver Marsh, Chemault & Chinchalo, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 220, 91.9MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IK (K217AC), Klamath Falls, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Change frequency to Channel 211, 90.1 MHz.

[FR Doc. 79-32722 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M.

[FCC 79-605, BC Docket No. 79-253, File No. BP-21,160]

KBMR Radio, Inc.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 27, 1979.

Released: October 18, 1979.

By the Commission: Commissioner Lee absent.

In re Application of KBMR RADIO, INC., Lincoln, North Dakota, has: 1130 kHz, 10 kW, D (Bismarck, North Dakota), Req: 1130 kHz; 10kW, 50 kW-LS, DA-2, U (Lincoln, North Dakota), for Construction Permit, BC Docket No. 79-253, File No. BP-21,160.

1. The Commission has before it for consideration the above-captioned application of KBMR Radio, Inc. (hereinafter "KBMR"), licensee of AM Station KBMR, Bismarck, North Dakota, for a construction permit to increase daytime power, add nighttime operation, and change the community of license; (ii) a petition to deny filed by Bismarck-Mandan Communications, Inc. (hereinafter "KBOM"), licensee of AM station KBOM, Bismarck, North Dakota; and (iii) responsive pleadings.

2. Since Bismarck will receive a city grade signal from the proposed facility, KBMR's operation will be in competition with KBOM for audience and advertising revenues. Therefore, we find that the petitioner has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *Sanders Brothers Radio Station* v. *FCC*, 309 U.S. 470 (1940).

3. KBOM contends that KBMR's application should be viewed as one to serve Bismarck and, therefore, that the application should be designated for hearing on a suburban community issue.[1] In support of its request for specification of a suburban community issue, KBOM points to: (i) the excessive power proposed; (ii) KBMR's intention to continue programming primarily for Bismarck; (iii) KBMR's failure to establish a main studio in Lincoln; (iv) KBMR's failure to adequately interview Lincoln community leaders; and (v) the fact that Lincoln is not a separate town, city, or developing suburban population center but merely a suburban extension of Bismarck.

4. In opposition, KBMR maintains that the reassignment of its AM station from Bismarck to the developing suburban community of Lincoln would be consistent with the Commission's 1975 assignment standards as well as with Section 307(b) of the Communications Act of 1934, as amended. In addition, the applicant claims that it is not proposing a substandard central market station because it will provide adequate coverage to Bismarck. Furthermore, KBMR claims Bismarck's 1970 population of 34,703 is significantly less than the 50,000 population necessary to raise the suburban communities presumption. Finally, the applicant contends its ascertainment survey reflects an intention to serve the needs and interests of Lincoln, and that Lincoln is a growing new community entitled to its own local transmission service.

5. Formerly, when an AM applicant's proposed 5 mV/m daytime contour penetrated the geographic boundaries of a community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community, a rebuttable presumption was raised that the applicant realistically intended to serve the larger community. *Policy Statement, supra.* Subsequently, in *AM Station Assignment Standards*, 54 FCC 2d 1, 34 RR 2d 603 (1975), *recon. den.*, 56 FCC 2d 6, 35 RR 2d 151 (1975), we restricted applicability of the suburban community presumption to competing applications in a hearing context. However, in doing so, we reaffirmed our intention to preserve the fundamental principles which the aforementioned presumption was designed to protect believing that any attempted abuses by uncontested applicants could readily be detected during standard review procedures.[2]

[1] *Policy Statement of Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 FCC 2d 190, 6 RR 2d 1901 (1965); *recon. den.*, 2 FCC 2d 865, 6 RR 2d 1908 (1966).

[2] The Commission's Rules permit assignments of AM frequencies as are necessary to provide each community with two independent local aural transmission services. One of the functions of the Commission's suburban communities policy is to ensure that this objective is accomplished by determining whether the applicant's proposal is, in fact, designed to provide a realistic local transmission service for the "suburban" community applied for. A grant of a proposal for a suburban community which realistically intends to provide only an additional nighttime transmission service to the much larger urban community may frustrate accomplishment of the AM assignment policy due to the preclusionary effect created by a grant. For example, a grant of the KBMR proposal could preclude the establishment of a first or second local nighttime transmission service in a community as far away from Bismarck as 500 miles. At the same time, a grant would not serve our assignment objectives if it is determined the applicant proposes

Footnotes continued on next page

6. Contrary to the applicant's belief, the 5 mV/m-50,000 population test has never been treated as an inflexible standard. There have been a number of occasions where the Commission has designated applications for hearing on suburban community issues even through the larger community did not have 50,000 persons. E.g., *V.W.B., Inc.*, 8 FCC 2d 744, 10 RR 2d 563 (1967); *Babcom, Inc.*, 12 FCC 2d 306, 12 RR 2d 998 (Rev. Bd. 1968). Thus, the fact that Bismarck has a population of less than 50,000 is not dispositive. Moreover, the Commission does not dispute KBMR's claim that an aural facility licensed to Lincoln may be consistent with our assignment standards and with Section 307(b) of the Communications Act. Nor does the Commission dispute the applicant's assertion that it is not proposing a substantard central market station. However, both these arguments beg the real issue in this proceeding. The *Policy Statement, supra*, was adopted primarily to insure that all proposals for suburban communities provide a realistic local transmission service for the specified community. Thus, the real question is whether the applicant intends to provide a realistic transmission service to Lincoln or whether it intends to remain a Bismarck, North Dakota Station. *AM Station Assignment Standards, supra.*

7. Daytime AM Station KBMR has been licensed to serve the needs and interests of Bismarck, North Dakota since 1958. KBMR has now applied to increase its authorized daytime power from 10 kW to 50 kW and change its community of license to Lincoln, North Dakota in order to add nighttime operation. [3] Lincoln, North Dakota, incorporated on July 15, 1977, has an estimated population of 677. On the other hand, Bismarck had a 1970 population of 34,703. If the application were granted, KBRM would encompass the entire community of Bismarck with a daytime signal well in excess of 25 mV/m. We believe the applicant's daytime power is greatly in excess of that needed to provide adequate coverage to Lincoln and evinces an intent to serve primarily Bismarck. The applicant has failed to explain why 50 kW of daytime power is necessary to adequately serve Lincoln. Moreover other factors evidence KBMR's intent to serve Bismarck rather than Lincoln. There appears to be some degree of social, political and economic dependence upon Bismarck by Lincoln. By its own admission, the applicant indicates Lincoln does not yet have its own school system, churches, shopping center, police department, of fire department. The applicant's ascertainment survey indicates the only two business establishments operating in Lincoln are those of two building contractors. Thus, it is clear that Lincoln could provide little advertising revenue to support the proposed station and that KBMR would be dependent upon Bismarck for advertising revenues. It is not even clear from KBMR's application that its main studio would be located in Lincoln. Finally, it is also significant to note that the applicant owns an FM station licensed to Bismarck, North Dakota and apparently will continue to duplicate 2.8 percent of its AM station's programming on the FM station.

8. Based upon the information contained in the pleadings and in KBMR's application, it appears that Lincoln, North Dakota is the type of community which could be classified as a "new town." Although consisting initially of little more than newly constructed housing units, its plans include annexation of contiguous residential areas, commerical development, schools and local government. While its present population is less than 700, material submitted by KBMR indicates a projected population of 10,000. We do not quarrel with KBMR assertion that Lincoln is indeed a newly developing suburban community entitled to a local radio station. However, that entitlement does not negate the inference raised by the totality of circumstances discussed in the preceding paragraphs that the applicant's realistic intent is to serve the presently much larger community of Bismarck. Hence, this application will be designated for hearing on a suburban community issue.

9. In Section V-A of KBMR's original application to increase the daytime power of its Bismarck station from 10 kW to 50 kW, KBMR stated that it proposed to locate its main studio in Bismarck, North Dakota. In the amendment to the application which requests authority to change the city of license to Lincoln, North Dakota and to add nighttime operation, KBMR has merely indicated its main studio will be located at a site to be determined. Section 73.30(a) of the Commission's Rules requires that an AM broadcast station's main studio be located in its community of license unless it is located at the transmitter site. From the information provided, we cannot determine that the proposal is in compliance with Section 73.30(a) and we believe that an issue is warranted.

10. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to make a statutory finding that a grant of the subject application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

11. Accordingly, It is ordered, That pursuant to Section 309(e) of the Communication Act of 1934, as amended, the application of KBMR Radio, Inc. is designated for hearing at a time and place to be specified in a subsequent Order upon the following issues:

(1) To determine whether the proposal of KBMR Radio, Inc. will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to a showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programming needs;

(b) The extent to which the needs of the specified station location are being met by existing aural broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specified unsatisfied programming needs of its specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(2) To determine, in the event that it is concluded pursuant to the foregoing issue that the proposal will not realistically provide a local transmission service for its specified station location, whether such proposal meets all the technical provisions of the rules for AM broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission

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Footnotes continued from last page
to provide a local transmission service to Bismarck rather than Lincoln since Bismarck currently has four nighttime local transmission services.

[3] Section 73.37(e)(2) of our Rules lists several alternative criteria, at least one of which must be met, in order for a daytime AM station to be authorized to operate fulltime. One of these criteria, Section 73.37(e)(2)(ii), states as follows:

That the proposed station would provide the community designated in the application with a first, or second authorized nighttime aural transmission service, and that no FM channel is available for use in that community . . .

Since KBMR would not qualify for nighttime operation under either Section 73.37(e)(2)(i) or 73.37(e)(2)(iii), it has proposed to change its station location to Lincoln in order to qualify for nighttime operation as the first or second service under Section 73.37(e)(2)(ii) (Bismarck already has more than two).

service, namely, Bismarck, North Dakota.

(3) To determine whether the proposal of KBMR Radio, Inc. complies with Section 73.30 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances exist which warrant a waiver.

(4) to determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

12. It is further ordered, That the petition to deny filed by Bismarck-Mandan Communications, Inc. Is granted and that Bismarck-Mandan Communications, Inc. Is made a party to this proceeding.

13. It is further ordered, That to avail itself of the opportunity to be heard, the applicant and party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. It is further ordered, That the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32721 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

[FCC 79-593; CC Docket No. 79-250; File No. 21870-CD-P-(4)-75; CC Docket No. 79-251, File No. 20437-CD-P-(13)-75]

South Central Bell Telephone Co.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 27, 1979.

Released: October 22, 1979.

By the Commission: Commissioner Lee absent.

In re Applications of South Central Bell Telephone Company, for construction permit for modification of DPLMRS station KKI454 at Houma, Louisiana, to replace equipment, add channels, and to furnish Improved Mobile Telephone Service; and For construction permit for modification of DPLMRS station KKD292 at New Orleans, Louisiana, to add channels and to furnish Improved Mobile Telephone Service. CC Docket 79-250. File No. 21870-CD-P-(4)-75. CC Docket No. 79-251. File No. 20437-CD-P-(13)-75.

1. Presently before the Commission are the above-captioned applications, filed by South Central Bell Telephone Company (SCB) to improve its mobile telephone facilities at Houma, Louisiana, and at New Orleans, Louisiana. Petitions to deny the two applications were filed by James D. and Lawrence D. Garvey d/b/a Radiofone (petitioner or Radiofone). Also before the Commission is SCB's "Motion to Strike" Radiofone's supplement to its petitions to deny. On September 11, 1974, SCB applied for a construction permit to modify Domestic Public Land Mobile Radio Service (DPLMRS) station KKD 292 at New Orleans, Louisiana (the New Orleans application), to add channels and to convert from manual to a fully automated Improved Mobile Telephone Service (IMTS).[1] A petition to deny the application was filed by Radiofone, and responsive pleadings have been filed thereto.

2. On June 18, 1975, SCB applied for a construction permit to modify DPLMRS station KKI454 at Houma, Louisiana (the Houma application), to replace equipment, add channels, change power, and to furnish IMTS. Radiofone filed a petition to deny the application, and responsive pleadings have been filed thereto.

3. Radiofone later filed supplements to the petitions to deny on October 11, 1977, and December 12, 1977. Responsive pleadings were filed thereto.

4. The following issues are raised for our consideration:

(a) whether SCB has demonstrated a public need for the proposed IMTS facilities;

(b) whether the proposed IMTS rates filed by SCB are compensatory and reasonable;

(c) whether the Communications Act requires that the Commission examine the allegations of anticompetitive practices and other matters raised by Radiofone (the jurisdiction issue); and

(d) whether SCB has engaged in anticompetitive practices.

5. *The need issue.* Radiofone questions the validity of one of the exhibits in the New Orleans application wherein SCB states there are 364 held applications for service. Radiofone alleges that these orders are for the manual service currently provided by SCB and do not demonstrate a need for IMTS, since the proposed rates for IMTS are approximately three times the current rate for manual service. SCB acknowledges that the 364 applications are not for IMTS service but argues that they demonstrate a need for additional channels.

6. We agree with Radiofone. The 364 held applications were for manual service, and there is no reason to conclude that the applications demonstrate a desire for or need of IMTS. SCB acknowledged, in testimony before the Louisiana Public Service Commission (PSC), that IMTS rates were not quoted to prospective users.[2] Nor did SCB provide information as to the identity or occupation of those persons making service inquiries. SCB has not made a sufficient showing under the standards set forth in *New York Telephone Co.*, 47 FCC 2d 488 (1974); *recon. denied*, 49 FCC 2d 264, *aff'd sub nom. Pocket Phone Broadcast Service, Inc.*, 538 F. 2d 447 (D.C. CIR. 1976); *Long Island Paging*, 30 FCC 2d 405 (Rev. Bd., 1971). We will therefore designate an issue to determine whether SCB has demonstrated a public need for the proposed New Orleans facilities. In the Houma application (Exhibit 18) SCB states it has 9 held orders for the Houma area. SCB does not indicate whether costs were quoted to the 9 potential subscribers or whether the held orders were for manual service or IMTS. Additionally, no information was submitted on the identity and occupation of persons, if any, who made service inquiries. The application also refers to expanding business enterprises in Houma, citing the oil industry, the fishing industry, and shipbuilding. No demographics or statistical evidence was submitted showing the nature and numbers of such businesses and industries. We conclude that the Houma application fails to demonstrate public need for the proposed facilities under the standards set forth in *New York Telephone, supra.*[2a] We will therefore

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[1] Improved Mobile Telephone Service (IMTS) automatically scans the channels available to a radio telephone caller and selects an unoccupied channel for immediate placement of the call.

[2] Radiofone "Reply to Opposition to Petition to Deny," footnote, p. 7.

[2a] The applications submitted no evidence on the two other criteria listed in *New York Telephone, supra*, or any other evidence to demonstrate public need.

designate a need issue concerning the proposed Houma facilities. Since the information related to the need issue (for both the New Orleans facilities and the Houma facilities) is exclusively within the possession of the applicant we will place on SCB the burdens of proof and introduction of evidence. In addition, we are unable to conclude from the traffic load study submitted (Exhibit 18) that two additional channels are needed. We will therefore examine, as part of the need issue, whether the Houma application complies with the requirements of Rules Section 21.516.[3]

7. *The Proposed IMTS Rates.* Radiofone contends that SCB has omitted filing a tariff, required in Item 41 of the New Orleans application, for the charges for the proposed service.[4] Radiofone also contends that SCB has structured its charges for the proposed service so as to undercut Radiofone's charges for automatic dial service. In the proceeding before the Louisiana Public Service Commission, SCB refused to answer rate-related interrogatories on what Radiofone contends were highly questionable grounds (proprietary and confidential information). Radiofone charges that SCB has for years maintained the same rate for its manual service by subsidizing that service from the earnings of its local exchange and message toll services. Radiofone argues that SCB has proposed to charge lower IMTS rates than Radiofone, which will seriously affect the viability of Radiofone's business and undermine Radiofone's ability to compete with SCB. In addition Radiofone charges that the alleged cross-subsidization by SCB will frustrate the Commission's decision in Docket No. 8650 (the General Land Mobile Proceeding),[5] one purpose of which was to foster the development of competitive communications common carrier systems.

8. SCB counters that the proposed IMTS service is intrastate in nature, so the proposed rates are beyond the Commission's jurisdiction. SCB contends that, although the Commission may have authority to examine certain rates questions in the context of a rulemaking, this is an application proceeding, not a rulemaking proceeding, so it is not appropriate for the Commission to inquire into rates or anticompetitive practices. SCB argues that the IMTS rate issues raised by Radiofone were properly brought before the Louisiana Public Service Commission (Louisiana PSC), in Docket No. U-12620, that the IMTS rates have been approved, after hearing, by the Louisiana PSC, and the Commission is not presented with any lawful basis for disturbing the decision of the State Commission. SCB argues that Radiofone has not presented the cost factors involved to support its charges that the IMTS rates are noncompensatory.

9. The IMTS rates issue discussed above it integrally related to the jurisdiction issue. Before reaching a determination on the rates issue, we present immediately below the arguments which the parties have made concerning the jurisdiction issue. We will then dispose of both issues together.

10. *The Jurisdiction Issue.* The service proposed by SCB is primarily a local service, the rates of which are not normally subject to the Commission's jurisdiction.[6] Radiofone acknowledges this jurisdictional limit and nevertheless argues that Sections 308(b)[7] and 309(a)[8] of the Communications Act authorize and require the Commission to examine this matter since Radiofone has alleged to the Commission that the proposed rate will result in serious economic harm to Radiofone. The Commission, Radiofone urges, is also required by Section 309 of the Communications Act to investigate evidence of a reasonable *possibility* that anticompetitive activity may result. . . ."[9] Radiofone contends that Section 313[10] of the

[3] Section 21.516 specifies the additional showing required with an application for assignment of additional channels.

[4] SCB has subsequently submitted a schedule of proposed IMTS charges in its reply to the petition to deny.

[5] In Docket No. 8650, the Commission made its initial allocation of frequencies to both wireline common carriers and to radio common carriers for providing Domestic Public Land Mobile Radio Service.

[6] Section 2(b) of the Communications Act provides:

(b) Subject to the provisions of section 301, nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico, except that sections 201 through 205 of this Act, both inclusive, shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4).

Section 221(b) of the Communications Act provides:

(b) Subject to the provisions of section 301, nothing in this Act shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local governmental authority.

[7] Section 308(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 308(b)), provides:

All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulations may prescribed as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of such such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee.

[8] Section 309(a) of the Communications Act of 1934, as amended (47 U.S.C. Section 309(a)), provides:

Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

[9] P. 6, Supplement to Petition to Deny Application.

[10] Section 313 of the Communications Act of 1934, as amended (47 U.S.C. Section 309(a)), provides:

Application of Antitrust Laws; Refusal of Licenses and Permits in Certain Cases

Sec. 313(a) All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever, in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be

Footnotes continued on next page

Communications Act shows that Congress intended serious weight to be given to antitrust considerations and that regulatory agencies have a broad obligation to given high priority to antitrust matters. Radiofone concludes that the Commission must examine this matter, since Radiofone has charged that SCB's proposed rates are noncompensatory and thus anticompetitive in effect as well as a conspiracy in restraint of trade. SCB argues, on the other hand, that Radiofone's mere allegations of anticompetitive practices do not invoke the Commission's jurisdiction. Concerning Radiofone's claim of serious economic harm, SCB responds that Radiofone's business is thriving, so its economic viability has in no way been affected by the SCB rates, whether compensatory or not.

11. While the Commission has stated that it has "an obligation to consider allegations of anticompetitive practices under the broad public interest standard of the Communications Act," [11] the Commission has also required that the petitioner present specific data to make out a threshold showing that the rates in question are anticompetitive as a predicate to FCC review. *United Telephone Company of Ohio,* 26 FCC 2d 417 (1970), *Bonduel Telephone Company.* [12]

12. In the instant case, Radiofone's listing of rates—which it charges are anticompetitively low—is unsupported by any cost analysis. Radiofone contends that the SCB rates for manual service have been noncompensatory for years. Similarly, Radiofone alleges that the SCB IMTS rates in Baton Rouge are not compensatory. In neither of these two complaints does Radiofone submit any cost factors to support its conclusion that the rates are noncompensatory. Finally, Radiofone challenges the IMTS rates which SCB proposes in New Orleans. Again, the complaint lists only rates and does not furnish any cost factors involved to support Radiofone's conclusion that the rates are noncompensatory. [13] We fine that Radiofone has failed to allege sufficient data, as required by *United Telephone of Ohio,* 26 FCC 2d 417 (1970), to present a *prima facie* case of anticompetitive rates.

13. Absent such a showing of unfair competition or unreasonable discimination, the Commission has normally left the question of rates for intrastate services to state jurisdiction. Morrison Radio Relay Corp., 31 FCC 2d 612, 616 (1971). Since the proposed IMTS service is intrastate, we believe the Louisiana PSC is the proper forum for Radiofone's allegations (and calculations of cost factors) related to whether the proposed rates are compensatory. In its April 7, 1975, Order No. U-12620, denying Radiofone's Motion to Compel Answers, the Louisiana PSC stated that, "The (PSC) staff is available to any consumer against whom the rates apply to investigate the reasonableness thereof, or whether there is some arbitrary or discriminatory feature contained in a tariff." The PSC has accepted the proposed rates for filing. It has held itself out, however, to hear complaints from consumers once the IMTS has been implemented and actual rates can then be presented for consideration by the PSC. Radiofone has failed to demonstate why the Commission should at this point disturb the State Commission's disposition of the IMTS rates issue. Thus, we believe, given the evidence before us now, that Radiofone's charges are not an appropriate subject for our review. Radiofone has made additional allegations of anticompetitive practices, which are discussed below. [14]

14. *Anticompetitive Practices of SCB.* Radiofone alleges that SCB twice refused to furnish Radiofone selector level interconnection, falsely claiming that it was unavailable. [15] To support this allegation, Radiofone submits two letters from SCB to Radiofone. In the first letter dated November 12, 1970, SCB informed Radiofone:

> In reference to our previous conversation on I.M.T.S. * * * for Radiofone * * * the Telephone Company does not now provide, nor anticipate providing interconnection arrangements for outpulsing type I.M.T.S. * * *. [16]

On June 26, 1972, SCB informed Radiofone:

> With respect to IMTS, "Improved Mobile Telephone Service" is not available on an outpulsing basis to Miscellaneous Common Carriers.* * * This information was transmitted to you in a letter dated July 23, 1970, signed by Mr. R. E. Nelson, District Sales Manager.

On May 15, 1974, SCB informed the Louisiana PSC:

> In 1971, the Bell System and South Central Bell set an objective to convert all manual and flat rate dial mobile systems to the newer type mobile service referred to as Improved Mobile Telephone Service (IMTS), * * *. Our progress toward implementation of Improved Mobile Telephone Service for Louisiana has been delayed in past years by our earnings situation, inadequate monthly rates for mobile service and our inability to devote capital to anything other than the provision of basic telephone service. *We are now, however, preparing to proceed with a statewide IMTS program beginning in 1975 and completing in 1977* * *. Shown below is the rating structure contained in the enclosed tariff. (Emphasis supplied.)

15. In a letter dated July 27, 1978, the Commission's Mobile Services Division

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Footnotes continued from last page revoked and that all rights under such license shall thereupon cease: Provided, however, that such licensee shall have the same right of appeal or review, as is provided by law in respect of other decrees and judgments of said court.

(b) The Commission is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under this section.

[11] Commonwealth Telephone Company, 61 FCC 2d 246 (1976).

[12] Memorandum Opinion and Order, FCC 78-247, 68 FCC 2d 497, released April 25, 1978.

[13] Petition to Deny Application, filed October 30, 1974; Reply to Opposition to Supplement to Petition to Deny, filed December 12, 1977. While we recognize that most of the information required to support such charges is largely in the possession of SCB, we nevertheless require something more from a petitioner than unsupported accusations. Even employing the liberal standard established under *United Telephone of Ohio, supra,* the petitioner's showing is insufficient.

[14] Radiofone's reliance on the General Land Mobile Proceeding, Docket No. 8658, is misplaced. Radiofone argues that "no RCC can effectively compete with a telephone company which customarily undercuts its rates and which never has to prove to this Commission the justness and reasonableness of such lower rates." Docket No. 8658, however, was not intended to modify or restrict the jurisdiction of the Louisiana PSC over questions of intrastate rates in Louisiana. As discussed above, Radiofone's allegations do not establish a *prima facie* case of anticompetitive practices such that the public interest requires that the Commission examine the "justness" of SCB's IMTS rates.

[15] Selector level interconnection is a trunking arrangement whereby a group of telephone lines or channels are shared to handle calls for a large number of mobile units. (The selector level equipment processes a call at the stage between the telephone company's control office and the DPLMRS licensee's control terminal.) The alternative approach, using line-per-station equipment, dedicates a single line or channel for each mobile unit, which is billed separately for its assigned line. The latter approach is more expensive and involves a less efficient use of telephone lines. The furnishing by SCB of selector level interconnetion was an integral part of Radiofone's plans to furnish IMTS. Without selector level interconnection, Radiofone claims, it became necessary to go the more costly route of installing line-per-station equipment, which forced Radiofone to charge substantially higher IMTS rates. In the "Supplement of Petition to Deny," Radiofone further alleges that it charges of anticompetitive practices are substantiated in Baton Rouge, Louisiana, where SCB has alleged used the same tactics against Radiofone's affiliate, Mobilefone. As a result, Radiofone contends, SCB has made "* * * substantial progress in the destruction of Mobilfone's IMTS service * * *" because, without selector level interconnection, Mobilfone has found it necessary to increase its investment and charge higher rates. This experience, Radiofone argues, proves that the practices of SCB (directed toward both Mobilfone and Radiofone) are destructive of competition and a restraint of trade.

[16] "Outpulsing" is a term used in connection with selector level interconnection. The two terms are loosely used in an interchangeable manner.

staff asked Radiofone if it had offered to pay the costs of central office modifications and other charges involved in furnishing the requested selector level interconnection. Radiofone responded that no such overt offer had been made but that such an implied offer may be inferred from the financial considerations involved. Radiofone states that the installation of selector level interconnection would have permitted Radiofone a savings of $113,010.17 in service charges to its subscribers.[17] Radiofone also alleged that, faced with the complete refusal by SCB to furnish selector level interconnection, Radiofone never had the opportunity to discuss the details of its proposal, including its willingness to pay for central office installation charges. Radiofone further points out that it has had contracts with SCB, for extensive amounts of equipment on a continuing basis since 1960 and has consistently honored all charges made by SCB. Under the circumstances, Radiofone argues, its order for selector level IMTS service was tacitly and legally an agreement to pay the applicable charges.

16. Radiofone also submitted a letter dated November 4, 1974, from SCB to the Louisiana PSC, in which SCB filed a tariff to provide IMTS and thus add selector level interconnection to its own facilities. Radiofone argues that only when SCB had made the decision to improve its own system did it then abandon its previous policy of refusing such interconnection to its competitor, Radiofone.

17. In response,[18] SCB expresses its confidence that Radiofone would have paid for any reasonable and necessary central office modifications. SCB acknowledges that such matters were not discussed by the two parties because, according to SCB, Radiofone did not propose to use a control terminal designed for two-way mobile radio service. When in 1976 Radiofone submitted such a proposal, SCB states, the requested selector level interconnection was supplied. SCB asserts that Radiofone's contentions are premised on the erroneous belief by Radiofone that it could have used the same type of control terminals for two-way mobile radio communications that Radiofone was using in 1970 for paging. Radiofone, on the other hand, argues that when SCB supplied selector level interconnection in 1976, there was no central office conversion cost, merely standard trunk and tie-line charges amounting to less than $500.00 (which Radiofone would have been satisfied to pay); moreover, SCB informed Radiofone at that point that these trunks were suitable for use with both paging and mobile communications. In Radiofone's view, these facts contradict SCB's earlier claim that selector level interconnection was not available.

18. The 1970 letter from SCB (paragraph 10 above), in response to Radiofone's request, did not elaborate beyond the merely conclusory statement that selector level interconnection was "not available." In its October 11, 1978, response to the Bureau staff's inquiry, SCB provides no specifics as to how Radiofone's 1970 proposal was technically unacceptable;[19] moreover, when SCB provided selector level interconnection to Radiofone in 1976, SCB informed Radiofone that both paging and two-way mobile communications could be provided. This statement appears to contradict the SCB contention that Radiofone's earlier request was defective for failure to propose two-way mobile radio service. These matters raise substantial questions as to whether SCB wrongfully refused to furnish Radiofone selector level interconnection either (1) by misrepresenting facts to Radiofone as to the availability of selector level interconnection or (2) by refusing to discuss the details of Radiofone's proposal, thereby precluding the possibility of arriving at a mutually acceptable arrangement. We will therefore add a Section 201 issue to determine whether SCB can justify its past failure to provide selector level interconnection to Radiofone.[20] If SCB cannot provide such justification, the Commission can then determine whether the evidence presented also demonstrates any anticompetitive practices on the part of SCB. Accordingly, we will add an anticompetitive practices issue (separate from a Section 201 issue). Similar allegations have been made in protests against other SCB applications. (File Nos. 20089–CD–P–(4)–79 and 20309–CD–P–(2)–79)). We will condition any action taken with respect to these applications on our findings in this proceeding.

19. *Anticompetitive Practices of the Bell Telephone System.* Radiofone brings to our attention two cases wherein it claims the rates for paging service provided by Bell System affiliates were found to be noncompensatory.[21] It claims that these cases demonstrate a course of conduct of anticompetitive activity on the part of American Telephone and Telegraph Company (AT&T) and its subsidiaries. We find that two instances of noncompensatory rates on the part of two AT&T operating companies[22] do not warrant an issue of anticompetitive conduct on the part of SCB. Two instances of noncompensatory rates do not, in our view, warrant the inference that there might exist a pattern of anticompetitive conduct attributable to SCB. Accordingly, we see no reason for including in the hearing a general issue of anticompetitive practices of the Bell Telephone System. However, we have determined to investigate the specific alleged anticompetitive interconnection practices of SCB, as discussed in paragraph 18 above.

20. Except as otherwise noted above, we find SCB to be legally, technically, financially, and otherwise qualified to construct the proposed facilities. In view of the foregoing, It is ordered, That the petitions to deny and supplements filed thereto by James D. and Lawrence D. Garvey d/b/a Radiofone are granted in part and denied in part as set forth above.

21. It is further ordered, That, pursuant to Sections 202 and 309 of the Communications Act of 1934, as amended, the above-captioned applications of South Central Bell Telephone Company, File Nos. 21780–CD–P–(4)–75 and 20437–CD–P–(13)–75, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine whether SCB has demonstrated public need for the proposed New Orleans facilities in Houma and in New Orleans and has complied with Rules Section 21.516;

[17] Radiofone submitted a cost analysis for each month during the period July 1972 to August 1978, showing charges actually made to subscribers compared to charges which would have been made if selector level interconnection had been installed. The total in additional charges, without interconnection, was $113,010.17. SCB does not dispute or specifically address this cost analysis.

[18] Letter dated October 11, 1978, from SCB to the Bureau staff.

[19] SCB claims that, given the state of the art in 1970, when Radiofone originally requested interconnection, it was the belief of SCB that selector level interconnection was possible for a two-way mobile radio system but not for one-way communications. SCB further contends that Radiofone presented no detailed proposal in 1970 which might have demonstrated that, contrary to the impression of SCB, it was in fact technically feasible to provide the interconnection desired. Radiofone contends that, given the complete refusal by SCB, Radiofone never had the opportunity to discuss details.

[20] Radiofone's allegations concerning Mobilefone in Baton Rouge are unsupported by cost factors, correspondence between parties involved, or other evidence of anticompetitive practices.

[21] California PUC Decision No. 83356, January 20, 1976; Massachusetts DPU No. 18090, May 13, 1977.

[22] New England Telephone and Telegraph Company and Pacific Telephone and Telegraph Company. The two State Commissions concluded that the rates in question were noncompensatory but made no findings of anticompetitive practices.

(b) To determine whether SCB has violated Section 201(a) or (b) of the Communications Act by wrongfully refusing to provide selector level interconnection to Radiofone;

(c) To determine whether the evidence adduced at the hearing pursuant to issue (b) demonstrates anticompetitive practices by SCB; and

(d) To determine, in light of the evidence adduced at the hearing pursuant to the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the above-captioned applications, with or without additional conditions.

22. It is further ordered, That the burden of introduction of evidence and the burden of proof on issue (a) and (d) are on SCB; and the burden of introduction of evidence and the burden of proof on issues (b) and (c) are on Radiofone.

23. It is further ordered, That SCB, Radiofone, and the Commission's Common Carrier Bureau are made parties to this proceeding.

24. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

25. It is further ordered, That parties may avail themselves of the opportunity to be heard by filing with the Commission pursuant to Section 1.221 of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32723 Filed 10-23-79; 8:45 am]

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FEDERAL RESERVE SYSTEM

Banco Union, C.A.; Acquisition of Bank

Banco Union, C.A., Caracas, Venezuela, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 15 per cent of the voting shares of Union Chelsea National Bank, New York, New York. 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 New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32803 Filed 10-23-79; 8:45 am]

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Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than Noverber 19, 1979.

A. *Federal Reserve Bank of Boston,* 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island, (mortgage banking and insurance activities; Georgia) to engage through its indirect subsidiary, DAC Corporation of Georgia, in the origination, sale and servicing of first and second mortgage loans; and in connection with extensions of credit, making available to borrowers credit life and credit accident and health insurance. These activities will be conducted from an office in Savannah, Georgia, serving the immediate metropolitan area of Savannah and Chatham County, Georgia.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angels, California (credit-related insurance activities; Arizona, California, Colorado, Georgia, Kansas, Nevada, New Mexico, South Carolina, Texas, Utah, Washington, Wyoming): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in acting as agent or broker for the sale of credit-related life and credit-related accident and health insurance. These activities would be conducted from offices of Security Pacific Mortgage Corporation in Denver, Colorado, serving the States of Arizona, California, Colorado, Georgia, Kansas, Nevada, New Mexico, South Carolina, Texas, Utah, Washington and Wyoming.

2. Security Pacific Corporation, Los Angeles, California, (mortgage banking activities; Colorado): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortage Corporation's own account or for sale to others and the servicing of such loans for others. These activities would be conducted from an office in Greeley, Colorado, serving the State of Colorado.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32798 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Caddo Holding Co., Inc.; Formation of Bank Holding Company

Caddo Holding Company, Incorporated, Glenwood, Arkansas, 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 by acquiring 54 per cent or more of the voting shares of Caddo State Bank, Glenwood, Arkansas. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32806 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Eagle Bancshares, Inc.; Formation of Bank Holding Company

Eagle Bancshares, Inc., Shallowater, Texas, 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 by acquiring 80 per cent or more of the voting shares of First State Bank of Shallowater, Shallowater, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32802 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Financial Services Corp. of the Midwest; Proposed activity; Issuance and Sale of Money Orders

Financial Services Corporation of the Midwest, Rock Island, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the issuance and sale of money orders through its bank subsidiary and offices of its consumer finance subsidiaries. These activities would be performed from offices of Applicant's bank subsidiary in Illinois and its nonbanking subsidiaries in Iowa, Minnesota, North Dakota and Wisconsin, and the geographic areas to be served are the areas served by Applicant's banking subsidiary and those areas served by Applicant's nonbanking subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1979.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32804 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Maitland Bancshares, Inc.; Formation of Bank Holding Company

Maitland Bancshares, Inc., Maitland, Missouri, 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 by acquiring 80 per cent or more of the voting shares of Maitland Farmers Bank, Maitland, Missouri. 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 Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Govenors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32800 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Moore Bancshares Corp.; Formation of Bank Holding Company

Moore Bancshares, Corporation, Dumas, Texas, 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 by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of First State Bank, Dumas, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32801 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Quad County Bancshares, Inc.; Formation of Bank Holding Company

Quad County Bancshares, Inc., Viburnum, Missouri, 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 by acquiring 80 per cent or more of the voting shares of Quad County State Bank, Viburnum, Missouri. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32799 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Steelville Community Banc-Shares, Inc.; Formation of Bank Holding Company

Steelville Community Banc-shares, Inc., Steelville, Missouri, 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 by acquiring 80.5 per cent or more of the voting shares (less directors' qualifying shares) of Community Bank, Steelville, Missouri. 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)).

Steelville Community Banc-shares, Inc., Steelville, Missouri, has also applied, pursaunt to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage as agent or broker in the sale of credit life insurance and credit accident and health insurance directly related to credit made or acquired by Community Bank, Steelville, Missouri. This activity would be performed from offices of Community Bank, Steelville, Missouri, and the geographic areas to be served are all of Crawford County and the western half of Iron County, Missouri. Such activities, have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 19, 1979.

Board of Governors of the Federal Reserve System, October 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32797 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Texas Security Bancshares, Inc.; Formation of Bank Holding Company

Texas Security Bancshares, Inc., Fort Worth, Texas, 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 by acquiring 80-100 per cent of the voting shares of each of two banks—Central Bank and Trust, Fort Worth, Texas, and North Fort Worth Bank, Fort Worth, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32805 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 8, on November 14, 1979, from 8 a.m. to 4 p.m., in the Wyoming Conference Room, Second Floor of Building 41 at the Denver Federal Center in Denver, Colorado. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for Renovation and Space Conversion at Building 20, Denver Federal Center in Denver, Colorado. The meeting will be open to the public."

Dennis A. Jensen,

Regional Administrator.

[FR Doc. 79-32784 Filed 10-23-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Locations for National Diffusion Network Program; Application Preparation Workshops

AGENCY: Office of Education, HEW.

ACTION: Notice of Locations for National Diffusion Network Program, Application Preparation Workshops.

SUMMARY: Application Preparation Workshops will be held throughout the United States to aid prospective applicants in developing applications for the National Diffusion Network Program (See 44 FR 37178, June 25, 1979).

DATES: Application Preparation Workshops will be conducted on the following dates:

November 2, 1979—Anaheim, California
November 5-6, 1979—Charlotte, North Carolina
November 8-9, 1979—Elizabeth, New Jersey
November 13-14, 1979—Detroit, Michigan

November 15-16, 1979—Oklahoma City, Oklahoma

ADDRESSES: Application Preparation Workshops will be conducted at the following locations:

Anaheim, CA—Disneyland Hotel, November 3, 1979—8:00 am to 5:00 pm.

Charlotte, NC—Sheraton Center Inn, 555 South McDowell Street, November 5, 1979—1:00 pm to 4:00 pm. November 6, 1979—9:00 am to 5:00 pm.

Elizabeth, NJ—Holiday Inn Jetport, 1000-1020 Spring Street, November 8, 1979—9:00 am to 5:00 pm. November 9, 1979—9:00 am to 12:00 pm.

Detroit, MI—Sheraton—Southfield/Detroit, 17017 W. Nine Mile Rd. (at Interstate 696), November 13, 1979—9:00 am to 5:00 pm. November 14, 1979—9:00 am to 12:00 pm.

Oklahoma City, OK—Hilton Inn, Executive Conference Center, West and Interstate 40, Meridian Avenue, November 15, 1979—9:00 am to 5:00 pm. November 16, 1979—9:00 am to 12:00 pm.

FOR FURTHER INFORMATION CONTACT: Drew Lebby, Division of Educational Replication, Room 3621, ROB-3, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: Representatives of the USOE Division of Educational Replication and the USOE Grant and Procurement Management Division will conduct five (5) three part workshops in five cities. The workshops will include a review of the requirements for filing grant applications under the National Diffusion Network program regulations.

The first portion of the workshop will consist of a discussion of the suggested application development guides and general requirements and procedures applicable to the National Diffusion Network program.

The second portion will cover the specific requirements for the National Diffusion Network program. A question and answer session will include the three part workshop.

(Catalog of Federal Domestic Assistance (CFDA) Number 13.553, National Diffusion Network program, by authority of Title III, section 303, Elementary and Secondary Education Act (ESEA) as amended)

Dated: October 19, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-32791 Filed 10-23-79; 8:45 am]

BILLING CODE 4110-02-M

National Demonstration Projects, Upward Bound, and Special Services for Disadvantaged Students; Closing Date for Transmittal of Applications for National Demonstration Projects for Fiscal Year 1980

Applications are invited for National Demonstration projects under the Upward Bound and Special Services for Disadvantaged Students (Special Services) programs.

Authority for these programs is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1).

Under the Special Services program, institutions of higher education and combinations of such institutions are eligible to receive awards. Similarly, under the Upward Bound program, institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools are eligible to receive awards.

The Upward Bound National Demonstration projects will differ from the traditional Upward Bound projects in that the participants will be low-income high school youths who have an exceptional potential or demonstrated aptitude to pursue careers requiring a proficiency in natural and applied sciences.

The Special Services National Demonstration projects will differ from the traditional Special Services projects in that projects will institutionalize the supportive services provided to participants by utilizing faculty members as mentors to provide academic, career, and personal guidance and counseling. The primary focus will be to prepare and assist disadvantaged students to enter graduate and professional schools.

The Commissioner strongly encourages the submission of applications for Upward Bound National Demonstration projects that (1) provide an 8-week summer residential program with a special emphasis in a particular academic discipline in which disadvantaged persons are underrepresented and (2) prepare qualified youths from low-income families for programs of postsecondary education in those disciplines.

The Commissioner also strongly encourages the submission of applications for Special Services National Demonstration projects that provide encouragement to and preparation of freshmen, sophomores, and juniors to enable them to enter graduate and professional schools to pursue and complete programs of study in those areas in which disadvantaged persons, particularly minorities, are underrepresented.

The programs of study in which minorities and women are underrepresented include but are not limited to:

Architecture; Biological Sciences; Computer Science; Dentistry; Engineering; Law; Mathematics; Medicine; Optometry; Osteopathic Medicine; Pharmacy; Physical Sciences; Podiatry; Veterinary Medicine.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand-delivered by March 14, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482 N.D. (for Special Services for Disadvantaged Students) or 13.492 N.D. (for Upward Bound), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly U.S. Postal Service dated postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: All applications for fiscal year 1980 funds will be treated as new applications. Successful applications will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if:

1. The need continues to exist for the services provided by the project;
2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;
3. The project continues to offer promise of success;
4. All required reports have been received and accepted by the Commissioner; and
5. Funds are available to continue the project.

An Application Preparation Workshop will be conducted in Washington, D.C. in early February. For the time and location of the workshop, contact the Program Development Branch (see address in section on FURTHER INFORMATION).

Available funds: It is expected that approximately $130,000,000 will be available for the Special Programs for Students from Disadvantaged Backgrounds in fiscal year 1980. It is estimated that $5,000,000 will be available for National Demonstration Upward Bound, to fund approximately 25 grants averaging $200,000 and $5,000,000 for National Demonstration Special Services, to fund approximately 34 grants averaging $147,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application materials and concept papers will be mailed upon request. Application forms, program information packages, and concept papers are expected to be ready for mailing by January 7, 1980. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Upward Bound Program (45 CFR Part 155) and the Special Services for Disadvantaged Students Program (45 CFR Part 157); and

(b) General Provisions Regulations for Office Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under these programs, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

FURTHER INFORMATION: For further information, contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1)

Dated: September 27, 1979.

(Catalog of Federal Domestic Assistance Numbers 13.482; Special Services for Disadvantaged Students, and 13.492 Upward Bound Program)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-32779 Filed 10-23-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. NI-3]

Intended Environmental Impact Statements; Texas

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of certain projects under various HUD programs as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information that reports other environmental studies planned or completed in the project area; issues and data which the EIS should consider; recommended mitigating measures and alternatives if one identifies a major issue associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. October 19, 1979.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

1. EIS on Hickory Creek, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a subdivision to be known as Hickory Creek located in Fort Bend County, Texas. The purpose of this notice is to solicit from all interested persons, local, state and Federal agencies recommendations regarding the issues to be addressed in depth in the environmental impact statement.

Description. The Elden Corporation of Houston proposes to develop a site of 1,292 acres which is located approximately four miles south of the Town of Katy and on the north side of Texas Farm to Market Road 1093. The developer proposes a residential housing development which will consist of approximately 3,640 single family homes, 450 apartment units, 130 townhouses and 90 duplex dwelling units. when fully developed, it is anticipated the development will accommodate a population of approximately 15,000 persons.

Need. Due to the size and scope of this project, this office has determined that an environmental impact statement will be

prepared pursuant to Pub. L. 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development which will be given consideration are: (1) Accept the project as submitted, (2) accept the project with modification, or (3) reject the project.

Comments. Comments should be sent within 21 days of publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

2. EIS on Wheatstone, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a subdivision to be known as the Wheatstone located in Harris County, Texas and solicits from all interested persons, local, state and Federal agencies recommendations regarding the issues to be addressed in depth in the environmental impact statement.

Description. The firm of Carma Developers (Texas), Inc., proposes to develop within a ten year period a site of 1,200 acres which is located in the western section of Harris County, Texas, approximately 7 miles north of the Daty Freeway (Interstate Highway 10), one Mile west of Texas Highway 6, and 1.5 miles south of Hemstead Highway (U.S. Highway 290). When fully developed, the Wheatstone subdivision will contain 4,260 single family residences and will accommodate a population of approximately 14,910 persons.

Need. Due to size and scope an EIS will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be sent within 21 days following publication of this notice in the Federal Register to the Environmental Office, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

3. EIS on Southwyck, Texas

The Dallas Area Office intends to prepare an environmental impact statement for a development tract of 1,863 acres to be known as Southwyck in Brazoria County, Texas and solicits information and comments for consideration in the EIS.

Description. The proposal calls for development within a ten year period of a site of 1,863 acres which is located in the northern portion of Brazoria County, Texas. The Southwyck tract is located within the extra-territorial jurisdiction of the City of Pearland and is approximately 13 miles south of the Central Business District of the City of Houston. When fully developed, the Southwyck subdivision will provide 6,074 dwelling units consisting of 4,891 single family homes and 1,183 apartment units. The total subdivision will accommodate approximately 21,000 persons when completed.

Need. Due to the size and scope of the proposed project, this office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) Accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be forwarded within 21 days after publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

4. EIS FOR Creekside and River Hills, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for subdivisions to be known as Creekside Village and River Hills Village located in Montgomery County, Texas, and solicits comments and recommendations regarding the issues to be addressed in-depth in the environmental impact statement.

Description. The proposal calls for the development of two tracts of land comprising 431.5 acres of land into two subdivisions. These tracts are located 1.5 to 2.0 miles northwest from the center of the City of Conroe, Texas, which is the County Seat of Montgomery County. The sites are approximately 38 miles north of the central business district of the City of Houston. When fully developed, the two subdivisions will contain about 1,693 single family housing units which will accommodate approximately 5,918 persons.

Need. Due to the size and scope of the proposed projects, this Office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives to the Department are: (1) accept the projects as submitted, (2) accept the projects with modifications, or (3) reject the projects.

Comments. Comments should be forwarded within 21 days after publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

5. EIS for Rosewood, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a development to be known as Rosewood Subdivision, Dallas County, Texas, and solicits comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be discussed in depth in the environmental impact statement.

Description. The firm of Hunt Properties, Incorporated, proposes to develop within a ten year period a site of 1,030 acres. The Rosewood subdivision is to be located within the corporate limits of the City of Cedar Hill, Texas, south of Danieldale Road, east and west of Clark Road and adjacent to the ecologically sensitive White Rock Escarpment. When fully developed, the Rosewood subdivision will contain a total of 2,500 single family homes accommodating a population of approximately 7,250 persons.

Need. Due to the size and the environmentally sensitive issues involved, this office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) Accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be forwarded to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

[FR Doc. 79-32774 Filed 10-23-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Meeting of the Bureau of Indian Affairs Advisory Committee for Exceptional Children; Examine and Discuss Unmet Needs of Exceptional Indian Children

October 24, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary of Indian Affairs by 209 DM 8.

In accordance with section 612(7) of Pub. L. 91-230 as amended by section 5(a) of Pub. L. 94-142, Education of the Handicapped Act, the Bureau of Indian Affairs' Advisory Committee will meet October 26 and 27, 1979, at the Los Olivos Hotel, 202 E. McDowell Rd., Phoenix, Arizona, 9:00 A.M. to 4:00 P.m.

This is a regular meeting of the Advisory Committee during which the primary purpose will be to examine and discuss the unmet needs of exceptional Indian children.

The meeting is open to the public. Any member of the public can file a written statement concerning the matters discussed.

Additional information about the meeting can be obtained from Goodwin K. Cobb, III, Bureau of Indian Affairs, Main Interior, room 3525, phone (202) 343-5519.

Forrest J. Gerard,
Assistant Secretary, Indian Affairs.

[FR Doc. 79-32772 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Receipt of Coral Application

Notice is hereby given that the following application for a permit has

been received under 43 CFR 6224, Viable Coral Communities located on the Outer Continental Shelf.

Applicant

Knox College, Department of Geology, Galesbury, Illinois 61401 (309) 343-0112.

Description of Proposed Operations

It is the purpose of this proposed educational program to collect minimal coral samples in order to provide a representative collection of common coral species for use in college courses. Coral will be removed carefully and selectively by divers using hand tools such as rock hammers. During the permit period the total amount of coral collected will not exceed 10 kilograms dry weight.

The proposed area of operations will be on the OCS offshore Key Largo, Florida, in the Key Largo Coral Reef Marine Sanctuary.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the New Orleans Outer Continental Shelf Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Any such information designated by applicant as proprietary, and not subject to public inspection may be excluded.

Interested persons may comment on this application by submitting written data, views or arguments to the Manager, New Orleans OCS Office at the above address. All relevant comments received within 30 days of the date of this publication will be considered.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

October 16, 1979.

[FR Doc 79-32773 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Winnemucca District Grazing Board will be held on December 6, 1979. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) Election of chairman and vice chairman; (2) Briefing on planning schedules and relation to AMPs; (3) Discuss procedures of range compilation; (4) Discussion of allotments where wild horse and burro problems exist; (5) Report on wild horse and burro gatherings; (6) Reading of letters and public comment period; (7) Arrangement for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 p.m. on December 6, 1979 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by November 5, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: October 16, 1979.

Vaden G. Stickley,

Acting District Manager.

[FR Doc. 79-32768 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 11159]

Oregon; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

Correction

In FR Doc. 79-29994, appearing on page 55669 in the issue of Thursday, September 27, 1979, the following changes should be made:

1. The seventh and eighth lines of the last land description in column one should read:

"S½SW¼, and NW¼SE¼;
Sec. 21, NW¼NW¼"

2. The twenty-first line of the second land description for the Bachelor Butte Recreation Area should read:

"NW¼, NE¼NW¼; NE¼NW¼SW¼"

BILLING CODE 1505-01-M

[AA-6983-A, AA-6983-B, and AA-6983-D]

Alaska Native Claims Selection

On June 11, 1974, Kavilco Incorporated, for the Native village of Kasaan, filed selection application AA-6983-A, later amended, on December 12, 1974, filed selection application AA-6983-B, later amended, and on December 17, 1974, filed selection application AA-6983-D, later amended, under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615(b) (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of the Native village of Kasaan.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating approximately 23,052.885 acres, is considered proper for acquisition by Kavilco Incorporated and is hereby approved for convenance pursuant to Sec. 14(b) of ANCSA.

Mineral Survey 726, known as Stevenstown Nos. 3 and 4, Lode Claims, in Ketchikan Mining District, Alaska.
Containing 32.625 acres.

U.S. Survey 181, Tract A, situated on Lyman Anchorage, Alaska.
Containing 36.16 acres.

U.S. Survey 2131, situated about one-half mile west of the village of Kasaan, Alaska.
Containing 2.62 acres.

U.S. Survey 2174, Tract C, situated at Lyman Point, Clarence Strait, Alaska.
Containing 2.86 acres.

Cooper River Meridian, Alaska

T. 73 S., R. 85 E. (Partially Surveyed)
Sec. 6, lots 1 to 5, inclusive;
Sec. 7, lots 1, 2 and 3, NW¼NE¼;
Sec. 8, lots 1 to 6, inclusive;
Sec. 13, lots 1 to 4, inclusive, NE¼NE¼.
Containing 546 acres.

T. 73 S., R. 86 E. (Surveyed)
Sec. 2, lot 1;
Sec. 3, lots 1 to 4, inclusive, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Secs. 4 and 5, all;
Sec. 6, lots 1 to 4, inclusive, E½, E½W½;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8, 9 and 10, all;
Sec. 11, lots 1 to 5, inclusive, SW¼NW¼, W½SW¼;
Sec. 13, lots 1 to 8, inclusive, SW¼SE¼;
Sec. 14, lots 1 to 6, inclusive, SE¼NW¼, W½W½;
Secs 15 and 16, all;
Sec. 17, lots 1, 2 and 3, E½, E½W½, NW¼NW¼;
Sec. 18, lots 1 to 6, inclusive, lot 7 excluding Alaska Native Claims Settlement Act Sec. 3(e) application AA-26432 for a lighthouse, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 20, lots 1 to 5, inclusive;
Sec. 21, lots 1 to 5, inclusive, NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 22, all;
Sec. 23, lots 1 to 11, inclusive, S½NE¼, W½NW¼, NW¼SW¼, NW¼SE¼;
Sec. 24, lots 1 to 5, inclusive, E½, E½NW¼, SW¼NW¼;
Sec. 25, lots 1 to 6, inclusive, E½, SE¼NW¼, E½SW¼;
Sec. 26, lots 1 to 14, inclusive;
Sec. 27, lots 1 to 6, inclusive;
Sec. 28, lots 1 to 5, inclusive;

Sec. 29, lots 1 to 4, inclusive;
Sec. 30, lots 1 to 4, inclusive;
Sec. 31, lots 1 to 5, inclusive;
Sec. 32, lots 1 to 8, inclusive;
Sec. 33, lots 1 to 13, inclusive, SW¼NE¼, E½NW¼, NW¼NW¼;
Sec. 34, lots 1 to 7, inclusive;
Sec 35, lot 1;
Sec. 36, lots 1 to 5, inclusive, N½NE¼.

Containing approximately 12,467.64 acres.

T. 74 S., R. 85 E. (Partially Surveyed)
Sec. 13, SE¼SW¼, S½SE¼;
Sec. 22, SE¼NW¼, E½SW¼, SE¼;
Sec. 23, S½NW¼, SW¼, S½SE¼;
Sec. 24, lots 1 to 2 and 3, N½, SW¼, N½SE¼;
Sec. 25, lots 1 to 24, inclusive;
Sec. 26, lots 1 to 12, inclusive, N½NW¼;
Sec. 27, lots 1, 2 and 3, NW¼NE¼, E½NW¼;
Sec. 35, lots 1 to 7, inclusive, E½;
Sec. 36, lots 1, 2 and 3, E½NE¼, SW¼NE¼, W¼, W¼SE¼.

Containing 3,126.25 acres.

T. 74 S., R. 86 E. (Partially Surveyed)
Sec. 3, lots 1 to 7, inclusive;
Sec. 4, lots 1 to 6, inclusive;
Sec. 5, lots 1 to 20, inclusive;
Sec. 6, lots 1, 4, 5, 6, 7, 10 and 11, E½W½;
Sec. 7, lots 1, 2, 4, 5, and 6, S½NE¼, E½W½, SE¼;
Sec. 8, lots 1, 2, and 3, S½N½, NE¼NW¼, S½;
Sec. 9, lots 1 to 7, inclusive, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 10, lots 1 to 11, inclusive, SE¼NW¼, NE¼SW¼, NW¼SE¼, S½S½;
Sec. 11, lots 1 to 6, inclusive;
Sec. 14, lot 1, NW¼NW¼, S½NW¼;
Sec. 15, lots 1 to 12, inclusive, E½E½, NW¼NE¼, NE¼NW¼, W½NW¼;
Sec. 16, lots 1 to 41, inclusive, N½NE¼, SE¼NE¼, NW¼NW¼, NE¼SE¼;
Sec. 17, lots 1, 2 and 3, N½, SW¼, W½SE¼;
Sec. 18, lot 4, E½, E½W½;
Sec. 19, lots 1 to 10, inclusive, NE¼, E½,NW¼, NE¼SW¼;
Sec. 20, lots 1 to 13, inclusive, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 21, lots 1 to 19, inclusive;
Sec. 22, lots 1 to 12, inclusive;
Sec. 28, lots 1 to 4, inclusive;
Sec. 29, lots 1 to 5, inclusive;
Sec. 30, lots 1 to 9, inclusive;
Sec. 31, lots 1 to 12, inclusive, SE¼NW¼.
Containing 6,838.73 acres.
Aggregating approximately 23,052.885 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in casefile AA-6983-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Allowable Uses

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

Easements To Be Reserved

a. (EIN 1a C5, D9) An easement for an existing access trail twenty-five (25) feet in width from Polk Inlet in Sec. 27, T. 74 S., R. 85 E., Copper River Meridian, Northwesterly along Old Franks Creek to public lands. The uses allowed are those listed above for twenty-five (25) foot wide trail easement.

b. (EIN 2b D9) A one (1) acre site easement upland of the mean high tide line in Sec. 27, T. 74 S., R. 85 E., Copper River Meridian, on the north shore of Polk Inlet at the beginning of trail EIN 1a C5, D9. The uses allowed are those listed above for a one (1) acre site easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (1976)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. The following third-party interests, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (1976)):

A. right-of-way issued to RCA Alaska Communications, Inc., on February 2, 1971, pursuant to the provisions of the Act of November 14, 1967, the Alaska Communication Disposal Act (81 Stat. 491), for a telephone and telegraph line right-of-way, 50 feet in width (25 feet on either side of the centerline) located in Sec. 11, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

B. Timber Sale Agreement, contract Number A10fs-1042, Ketchikan Pulp and Paper Company, Tps. 73 S., Rs. 85 and 86 E., Copper River Meridian, Alaska.

C. Special Use Permits Issued To:

(1) Ketchikan Pulp Company for three (3) ⅓ acre plots centering at points SU 1, SU 2 and SU 3 for the purpose of cables, boom logs and stiff leg logs secured to the upland to aid in holding log raft storage facilities in place at Linne Bay and Lyman Anchorage, located in Secs. 14 and 23, T. 73 S., R. 86 E., and in Sec. 9, T. 74 S., R. 86 E., Copper River Meridian, Alaska.

(2) Residences

a. Mark Buettner, for a log house (16' x 32'), a frame privy (4' x 4') and a woodshed (10' x 16'), lot 7 of the Happy Harbor Residence Group, containing approximately 1.4 acres, located in Secs. 33 and 34, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

b. H. G. Hamar, for a frame residence and a frame woodshed 16' x 18', lot 8, of the Happy Harbor Residence Group, containing approximately 2 acres, located in Secs. 33 and 34, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

c. Keith Elden Heib, for a residence (16' x 20' and a toilet (4' x 4'), lot 2 of the Happy Harbor Residence Group containing 1.10 acres located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

d. Ivalee Heib, for a 2-story A-frame residence (16' x 40'), an A-frame woodshed (16' x 20') and an outdoor chemical toilet (8' x 6'), lot 4 of the Happy Harbor Residence Group containing approximately 0.4 acres located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

e. Alton G. McAllister, Jr. and Stella McAllister for a log cabin (20' x 30'), a woodshed (15' x 20') and a toilet (4' x 4'), lot 1 of the Happy Harbor Residence Group, containing approximately 0.9 acres, located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

5. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Kavilco Incorporated is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. The total acreage herein approved for conveyance is approximately 23,052.885 acres. This acreage was computed using the rule of approximation as set forth in Sec. 14(d) of ANCSA. Action on the balance of the lands in the selection will be taken at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Kavilco Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Ketchikan Daily News. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until November 23, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kavilco Incorporated, Kasaan, Alaska 99950.
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-32762 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-84-M

Outer Continental Shelf; List of Restricted Joint Bidders

Correction

In FR Doc. 79-32201 appearing on page 60416 in the issue of Friday, October 19, 1979, in the list of companies, "Mobil Oil Corporation & Producing Southeast Inc." should have read "Mobil Oil Exploration & Producing Southeast Inc."

BILLING CODE 1505-01-M

Bureau of Reclamation

Apple Creek Unit, Pick-Sloan Missouri Basin Program, North Dakota; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an Environmental Impact Statement on Apple Creek Unit, Southern Burleigh County, North Dakota. The proposed statement will address the impacts of construction and operation of the Apple Creek Unit.

The proposed project is a multipurpose water resource project. Missouri River water would be diverted to provide water for irrigation, conservation and development of fish and wildlife resources and enhancement of outdoor recreational opportunities.

The project would provide water to irrigate 20,400 acres of existing grassland and dry cropland. Principal features would be a 375 cubic feet per second pumping plant on the Missouri River, conveyance and distribution systems with three smaller pumping plants, a drainage system, wildlife development areas and recreational areas.

Alternative water sources such as ground water and water from the McCluskey Canal will also be addressed.

A scoping meeting was held March 9, 1979, in Bismarck, North Dakota.

Interested public entities and individuals may obtain information on the project and provide input to the draft environmental impact statement, which is expected to be completed in late 1980, by contacting:

Richard McCabe, Biology Branch, Bureau of Reclamation, Missouri-Souris Projects Office, P.O. Box 1017, Bismarck, North Dakota 58501, Telephone: FTS 783-4720—Commercial (701) 255-4011, extension 720.

Dated: October 16, 1979.

Clifford I. Barrett,
Assistant Commissioner.

[FR Doc. 79-32840 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-09-M

Contract Negotiations With the Department of the Army, Yuma Proving Grounds, Arizona; Intent To Begin Negotiations of a Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to negotiate a water service contract with the Department of the Army to provide for the annual delivery of not to exceed 975 acre-feet of Colorado River water. The water will be used to meet the needs of the Yuma Proving Ground located near Yuma, Arizona. The proposed contract will be written pursuant to the Boulder Canyon Act of December 2, 1928 (45 Stat. 1057), as amended and supplemented.

Existing agreements between the Department of the Interior and the Department of the Army provide for annual diversions of not to exceed 55 acre-feet of Colorado River water. The proposed contract will allow the Army to divert an additional 920 acre-feet annually. Also, the proposed contract will change the point of diversion to the vicinity of Imperial Dam.

On August 5, 1977, the Arizona Water Commission endorsed the execution of a contract and other appropriate agreement between the Department of the Interior and the Department of the Army to provide for the annual diversion of 975 acre-feet of Colorado River water to the Yuma Proving Ground.

All meetings scheduled by the Bureau of Reclamation and the Department of the Army for the purpose of negotiating

the proposed water service contract shall be open to the general public as observers. Advance notice of any meeting shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to the meeting. The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completion of contract negotiations. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

For further information about scheduled meetings and copies of the proposed contract, please contact Mr. LeGrand Neilson, Contracts and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293-8651.

Dated: October 16, 1979.

Clifford I. Barrett,

Assistant Commissioner of Reclamation.

[FR Doc. 79-32641 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations With the Georgetown Divide Public Utility District; Intent To Negotiate a Rehabilitation and Betterment Loan Repayment Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Bureau of Reclamation intends to initiate negotiations with Georgetown Divide Public Utility District, Georgetown, California, for repayment of a loan covering the cost of a rehabilitation and betterment (R&B) program to be performed on the Stumpy Meadows Project. The Stumpy Meadows Project is a Small Reclamation Project constructed in 1962 under Pub. L. 84-984.

Georgetown Divide Public Utility District presently provides water for irrigation of 2,500 acres and supplies water for fire protection, domestic, municipal, and industrial use to approximately 3,500 residents in western El Dorado County. The Stumpy Meadows Reservoir is the district's primary source of water supply, and the El Dorado Conduit is a vital link in the conveyance system. A major portion of the El Dorado Conduit is open ditch traversing very steep slopes and hazardous terrain. The proposed R&B program will improve those portions of the El Dorado Conduit which have a high potential for slides and embankment failure. The ever-increasing number of failures and washouts along the conduit and the lack of substantial regulating storage between the unreliable El Dorado Conduit and the service area necessitates corrective measures be taken to assure the dependability of the district's water supply.

The proposed R&B work program will primarily rehabilitate the El Dorado Conduit by placement of approximately 30,000 lineal feet of pipeline and canal lining. The estimate cost of the R&B program is $4,175,000. The district has applied for a $4,000,000 Federal loan pursuant to the Rehabilitation and Betterment Act of 1949 (63 Stat. 724), as amended. The district will repay all loan funds to the United States. The terms and conditions of the proposed contract are ultimately dependent upon the Commissioner of Reclamation's approval of the basis for the loan, the Secretary of the Interior's approval of the form of the proposed contract, and a maximum 60-day congressional review period of the terms of repayment.

All meetings scheduled by the Bureau of Reclamation with the district for the purpose of discussing terms and conditions of the proposed rehabilitation and betterment contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meetings. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 15 days after the completed contract draft is available to the public. Unless significant public interest in the proposed contract is demonstrated in response to this notice, the availability of the negotiated draft contract will not be publicized. Interested parties may obtain copies of the proposed contract by contacting the person below. The Commissioner of Reclamation will review comments submitted and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

For further information on scheduled negotiating sessions and the proposed amendatory contract, please contact Mrs. Betty Riley, Repayment Specialist, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone number (916) 484-4620.

Dated: October 19, 1979.

Clifford I. Barrett,

Assistant Commissioner of Reclamation.

[FR Doc. 79-32817 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-09-M

Heritage Conservation and Recreation Service

[INT FES 79-54]

Patapsco Valley State Park, Md.; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department has prepared a final environmental statement for a proposed acquisition and future development of Patapsco Valley State Park located in Anne Arundel, Baltimore, Carroll, and Howard Counties, Maryland. Land totaling 4,800 acres of inholdings is proposed for acquisition with a Federal grant from the Land and Water Conservation Fund, to be matched with an equal share of State money. The proposed acquisition will eventually be developed for picnic, day use, and interpretive areas. It consists of nearly 400 individual parcels and will result in a total park acreage of 14,400 acres at Patapsco Valley State Park.

Copies are available for review at the following locations:

Office of Public Affairs, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.

Office of Public Affairs, Heritage Conservation and Recreation Service, Room 220, Pension Building, 440 G Street, N.W., Washington, D.C. 20243.

Heritage Conservation and Recreation Service, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

A-95 Clearinghouse, Dept. of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201.

Baltimore Regional Planning Council, 701 Saint Paul Street, Baltimore, MD 21202.

Patapsco Valley State Park, 110 Hilton Avenue, Baltimore, MD 21220.

Department of Natural Resources, C-3 Tawes State Office Building, Annapolis, MD 21401.

A limited number of single copies are available and may be obtained by writing to the Regional Director, Northeast Region, Heritage Conservation and Recreation Service, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

Dated: October 18, 1979.

James Rathlesberger,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-32771 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

[INT FES 79-53]

Designation of the Owyhee River as a Unit in the National Wild and Scenic Rivers System; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposal to designate a 192-mile portion of the Owyhee River in Idaho and Oregon as a National Wild and Scenic River.

Copies are available for inspection at the following locations:

Director, National Park Service, Main Interior Building, Washington, D.C. 20240, Telephone: (202) 343-5213.

Regional Director, Pacific Northwest Region, National Park Service, Fourth & Pike Building, Seattle, Washington 98101, Telephone: (206) 442-5962.

A limited number of single copies are available and may be obtained by writing the above offices.

This document is a combined study report and final environmental statement. The final environmental statement is now available for a 30-day review. Following review of the final environmental statement and subsequent Secretarial approval of the study report, the decision document will be submitted to the President.

Dated: October 18, 1979.

Larry E. Meieroto,

Assistant Secretary of the Interior.

[FR Doc. 79-32765 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-07-M

[INT FES 79-52]

Gunnison Wild and Scenic River Study; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the Gunnison Wild and Scenic River Study.

The Gunnison Wild and Scenic River Study recommends inclusion of a 26-mile segment of the Gunnison River, Colorado, and 12,900 acres of adjacent land to be classified as wild in the National Wild and Scenic Rivers System under the administration of the National Park Service and the Bureau of Land Management, U.S.D.I. This river segment extends from the upstream boundary of the Black Canyon of the Gunnison National Monument to approximately 1 mile below the confluence with the Smith Fork.

Inclusion of 26 miles of the Gunnison River and 12,900 acres comprising its immediate environment in the national system will have an overall effect of preserving the existing outstanding scenic, geologic, recreation, wildlife, and water quality values of the river, in addition to preserving other associated historic and cultural values within this area. Adjacent land uses would remain relatively unchanged. Proposed water resource development projects within the area will be prohibited. Minor soil, vegetation, and wildlife disturbance will occur as a result of this proposal.

In addition to the proposed action, other alternatives considered were (1) no action, and (2) classification options.

Copies of the final environmental statement are available from or for inspection at the following locations:

Rocky Mountain Regional Office, National Park Service, 655 Parket Street, Post Office Box 25287, Denver, Colorado 80225.

Superintendent, Black Canyon of the Gunnison National Monument, Post Office Box 1648, Montrose, Colorado 81401.

Dated: October 18, 1979.

James Rathlesberger,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-32766 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 PM, November 23, 1979, at the Tusten Town Hall, Narrowsburg, New York. The Advisory Council was established by Public Law 95-625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include: 1. Implementation of Section 704 of the National Parks and Recreation Act of 1978. 2. New business.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Kimball, Chief Planner, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, area code 215-597-9655.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Mid-Atlantic Regional Office.

Dated: October 15, 1979.

Richard L. Stanton,

Regional Director, Mid-Atlantic Region.

[FR Doc. 79-32764 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Determination of Completeness for Permanent Program Submission From the State of Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Notice of Determination of Completeness of Submission.

SUMMARY: On August 15, 1979, the state of Wyoming submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Wyoming program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded his review and has determined the Wyoming program submission is complete.

ADDRESSES: Written comments on the Wyoming program and a summary of the public meeting are available for public review, 8:00 a.m.-4:00 p.m., Monday through Friday, excluding holidays at: Office of Surface Mining Reclamation and Enforcement, Region V, Post Office Building, Room 225, 1823 South Street, Denver, Colorado 80202.

Copies of the full text of the proposed Wyoming program are available for review during regular business hours at the OSM Regional Office above and at the following offices of the State regulatory authority: Wyoming

Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

District Offices:

Land Quality Division, 30 East Grinnell Street, Sheridan, Wyoming 82801.
Land Quality Division, 933 Main Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation and Enforcement, Post Office Building, Room 270, 1823 Stout Street, Denver, Colorado 80202.

SUPPLEMENTARY INFORMATION: On August 15, 1979, OSM received a proposed permanent regulatory program from the State of Wyoming. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 F.R. 15326–15328, March 13, 1979), the Regional Director, Region V, published notification of receipt of the program submission in the Federal Register of August 22, 1979, (44 F.R. 49313–49314) and in the following newspapers of general circulation within Wyoming:

Casper Star-Tribune
Cheyenne Wyoming Eagle
Gilette News-Record
Laramie Boomerang
Rawlins Times
Riverton Ranger
Rock Springs Rocket-Miner
Sheridan Press
Northern Wyoming News

The August 22, 1979, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the program submission, announcement of a public review meeting on September 20, 1979, in Cheyenne, Wyoming to discuss the submission and its completeness, and announcement of a public comment period until September 20, 1979, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and Federal Register notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b) and constitutes the Regional Director's decision on the completeness of the Wyoming program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Wyoming submission does fulfill the content requirements for program submission under 30 CFR 731.14 and is therefore complete.

No later than November 27, 1979, the Regional Director will publish a notice in the Federal Register and in the following newspapers of general circulation in Wyoming initiating substantive review of the program submission:

Casper Star-Tribune
Cheyenne Wyoming Eagle
Gilette News-Record
Laramie Boomerang
Rawlins Times
Riverton Ranger
Rock Springs Rocket-Miner
Sheridan Press
Northern Wyoming News

The review will include an informal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Wyoming regulatory program, in accordance with Section 702(d) of SMCRA (30 USC § 1292(d)), which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: October 18, 1979.

Donald A. Crane,

Regional Director.

[FR Doc. 79-32827 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-05-M

Office of the Secretary

Truckee and Carson River Basins of California and Nevada; Operating Criteria and Procedures for Coordinated Operation and Control of the Truckee and Carson Rivers for Service to Newlands Project

The water supply diversions to the Truckee-Carson Irrigation District from both the Truckee and Carson Rivers shall be limited to the amount needed for agricultural purposes, not exceeding 288,129 acre-feet, if available, for the 12 months ending October 31, 1980. The water supply diversion shall be measured at the gaging station below Lahontan Dam and at diversion points along the Truckee Canal. All use of water for power generation shall be incidental to either agricultural use or precautionary drawdown or spill. In satisfying the diversion for agricultural purposes, maximum use will be made of Carson River water and diversions through the Truckee Canal will be minimized.

Stampede Reservoir shall be operated by the United States to provide flood control, fish and wildlife and recreation benefits, and to store water for possible agricultural use by the Truckee-Carson Irrigation District. The operation of Stampede Reservoir will be coordinated with the operation of Lake Tahoe, Prosser Creek Reservoir, and Boca Reservoir to avoid infringing upon the Floristan Rates or water rights established by existing decree and agreements.

In all of the operations, Truckee Canal will be operated to the maximum extent practical with the objectives of maintaining minimum terminal flow to Lahontan Reservoir or Carson River during all periods except when criteria herein specifically permit such deliveries. In order to minimize the rates of fluctuation in the Truckee River below Derby Dam, the change of flow in Truckee Canal within any 24-hour period shall not exceed 50 cubic feet per second or 20 percent of the flow in the Truckee River below Derby Dam, whichever is greater.

During periods of spill or precautionary drawdown of Lahontan Reservoir, the district will be charged only with the predetermined schedule of irrigation releases to be passed at the gaging station below Lahontan Reservoir plus measured diversions from the Truckee Canal and Rock Dam Ditch.

The operation of Stampede Reservoir, Derby Diversion Dam, Truckee Canal, and Lahontan Reservoir will be conducted in accordance with the following criteria in order to minimize diversions from the Truckee River through the Truckee Canal.

Section A—Truckee Diversion Criteria

Subject to conditions specified in section B (Storage Credit at Stampede), the diversions of water from the Truckee River into and through the Truckee Canal will be governed by the following criteria:

(1) If available, sufficient water will be diverted into Truckee Canal to meet direct agricultural requirements along the Truckee Canal.

(2) Diversions through the Truckee Canal into Lahontan Reservoir will be made in accordance with the following tabulation:

Operating month	If accumulated precipitation from October 1 to date at Tahoe City, Calif., is:	Continue Truckee canal diversion to Lahontan Reservoir if storage is less than upper limit			
		Lower limit[1]		Upper limit	
February-March	Inches	Elevation	Acre/feet	Elevation	Acre/feet
February	Less than 16.80	4,145.8	160,000	4,146.3	163,000
	Between 16.80 and 22.10	4,138.5	120,000	4,139.1	123,000
	Greater than 22.10	4,129.3	80,000	4,130.1	83,000
March 1	Less than 22.10	4,151.8	200,000	4,152.2	203,000
	Between 22.10 and 26.10	4,144.1	150,000	4,144.6	153,000
	Greater than 26.10	4,134.2	100,000	4,134.9	103,000
	If forecasted runoff plus existing storage on April 1 is:				
April-October	Acre/feet	Elevation	Acre/feet	Elevation	Acre/feet
April 1	Greater than 350,000	No diversion to Lahontan through October.			
	Between 250,000 and 350,000	4,154.3	220,000	4,154.7	223,000
	Less than 250,000	4,159.8	270,000	4,160.1	273,000
May 1	Between 250,000 and 350,000	4,151.8	200,000	4,152.2	203,000
	Less than 250,000	4,162.4	300,000	4,162.6	303,000
June 1	Between 250,000 and 350,000	4,144.1	150,000	4,144.6	153,000
	Less than 250,000	4,157.7	250,000	4,158.1	253,000
July 1	Between 250,000 and 350,000	4,134.2	100,000	4,134.9	103,000
	Less than 250,000	4,145.8	160,000	4,146.3	163,000
August 1	Between 250,000 and 350,000	4,129.3	80,000	4,130.1	83,000
	Less than 250,000	4,131.8	90,000	4,132.6	93,000
September 1	Less than 350,000	4,119.5	50,000	4,120.8	53,000
October 1	Less than 350,000	4,115.4	40,000	4,116.8	43,000

[1] Truckee Canal diversion to Lahontan Reservoir should be started only when storage recedes below lower limit.

Section B—Storage Credit at Stampede

As a means of minimizing the diversions of Truckee River water for use on the Carson Division of the Truckee-Carson Irrigation District or for storage in Lahontan Reservoir and at the same time ensuring that the district will receive exactly the same total amount of water for its beneficial use as otherwise, the following modifications shall be applied to the criteria in section A (Truckee Diversion Criteria):

(1) The storage levels in Lahontan Reservoir specified as limits for starting and stopping diversions of water for storage in Lahontan or use on the Carson Division shall be converted to acre-feet and applied to the sum of water in storage at Lahontan Reservoir and water in Stampede Reservoir credited to the Truckee-Carson Irrigation District using the most up-to-date area-capacity curve for each reservoir.

(2) The combined storage facilities on the upper Truckee River will be operated in a manner consistent with the applicable decrees and so as to maintain the Floristan Rates with the objective of maximizing the accumulation of storage in Stampede Reservoir.

(3) Whenever there is uncommitted water in Stampede Reservoir, the Truckee-Carson Irrigation District shall forego the diversion of water into the Truckee Canal for storage in Lahontan Reservoir or for use on the Carson Division and shall accept credit in Stampede Reservoir for the amount of water it otherwise would have diverted.

(4) The sum of the amount of water stored in Lahontan Reservoir plus the amount of water stored in Stampede Reservoir and credited to the Truckee-Carson Irrigation District shall not be allowed to exceed the storage capacity of Lahontan (317,300 acre-feet), and this limit shall be preserved, if necessary, by the reduction of credit in Stampede Reservoir. When the amount of water credited to the Truckee-Carson Irrigation District is so reduced, the amount of that reduction shall be credited for the purpose of maintaining the minimum rates of flow below Derby Dam provided in section B(6) of these Operating Criteria and Procedures.

(5) Whenever the water surface elevation of Lahontan Reservoir is at or below elevation 4,129.28 feet (80,000 acre-feet) above mean sea level during the irrigation season, water will be released from Stampeded Reservoir to be diverted into and through the Truckee Canal for agricultural use by the Truckee-Carson Divisions. The total amount of the release shall be limited to the lesser of the amount credited to the Truckee-Carson Irrigation District of the amount needed to supplement the 80,000 acre-feet of water in Lahontan Reservoir to meet the remaining seasonal agricultural requirements of the Truckee-Carson Irrigation District.

(6) Insofar as possible consistent with existing decrees and with maintaining the Floristan Rates and with Operating Criteria and Procedures Section B(1) through B(5), Stampede Reservoir (as well as the other storage facilities on the upper Truckee River) shall be operated with the objective of maintaining optimum rates of flow for fish, wildlife, and recreational purposes in the Truckee River below Derby Dam as determined by the Bureau of Reclamation in consultation with the Fish and Wildlife Service and the Pyramid Lake Paiute Tribe of Indians.

(7) At the conclusion of the water year, October 31, 1980, the Secretary of the Interior, in consultation with the Pyramid Lake Paiute Tribe of Indians and the Fish and Wildlife Service with respect to the requirements of the Pyramid Lake fishery, will determine: (a) the portion of the remaining storage in Stampede Lake allocated for releases to Pyramide Lake, and (b) the portion of the remaining storage in Stampede Reservoir to be allocated to the district as additional carryover storage credit for the 1981 water year.

(8) Nothing in sections B(1) through B(7) of these Operating Criteria and Procedures shall in any way infringe on or interfere with the flood control function of Stampede Reservoir.

Section C

As a means of ensuring that the amount of water diverted is limited to that prescribed for beneficial agricultural use, the Truckee-Carson Irrigation District shall:

(1) Deliver water only to lands for which the district has in advance established to the satisfaction of the Secretary, or his designee, that a current valid water right exists.

(2) Establish a single water operations center which will coordinate all orders for delivery of water to individual turnouts, and which then will dispatch flows in the distribution systems to meet the water orders with minimum spill from the distribution system.

(3) Permit only authorized district employees to open and close individual turnouts and operate the distribution system facilities.

(4) Establish and operate sufficient stations for the measurement of all surface waters flowing out of the Truckee, North Carson, and South Carson Divisions.

(5) Initiate immediately a program for improving the measurement of the amount of water delivered to individual turnouts. The program shall include the installation of measuring devices on at least 10 percent of the total turnouts in 1973; the program shall concentrate first on the combinations of large users and currently poor measurements; and the intalled devices must be approved by the Geological Survey and the Bureau of Reclamation.

(6) Submit to the Project Office of the Bureau of Reclamation a monthly report by the 15th of the following month for

each of the three divisions, showing the total water delivery in acre-feet and the maximum, minimum, and mean daily outflow in cubic feet per second. Reports showing the amount of water in acre-feet delivered to each farm each month during the water year shall be made at least twice during the calendar year. These reports shall be circulated to the tribe and the members of the Truckee-Carson Operating Criteria and Procedures Committee.

(7) Establish a system for charging water users for the quantity of water delivered to their turnouts. The system shall be designed: (a) To provide a reasonable financial incentive for economical and efficient use of water; and (b) to produce revenue against the district's operation and maintenance expenses and to assist the discharge of its debt to the United States.

Section D

(1) Article 32 of the December 18, 1926, contract between the United States and the district will be invoked by the Secretary for substantial violations of these Operating Criteria and Procedures, and the Secretary reserves all other rights and options to enforce these criteria.

(2) If the Secretary determines that waste has occurred through negligence or inattention, after written notice the amount of such waste shall be deducted from the district's allowable maximum total diversion.

(3) The district shall not deliver water to users who do not comply with all of the terms and provisions of these Operating Criteria and Procedures. Such deliveries shall not resume without the prior approval of the Secretary or his designee.

(4) The Secretary shall not approve any applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C. 389 unless he finds that the district is in compliance with all of the terms and provisions of these Operating Criteria and Procedures, and that the applicants for such transfers are in compliance with these Operating Criteria and Procedures and with the applicable decrees. Transfers of water rights shall be restricted to the extent that there shall be no enlarged consumptive use of water within the lands of the Newlands Project.

(5) All of the water delivery operations of the Truckee-Carson Irrigation District shall be monitored closely by the Bureau of Reclamation. Any and all violations of the terms and provisions of these Operating Criteria and Procedures shall be reported immediately by the district to the Project Office of the Bureau of Reclamation.

Dated: October 17, 1979.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 79-32816 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL COMMUNICATION AGENCY

U.S. Advisory Commission on Public Diplomacy (Formerly, U.S. Advisory Commission on International Communication, Cultural and Educational Affairs)

"Federal Register" Citation of Previous Announcement: Vol. 44, #201, October 16, 1979. Addition to the agenda—The Advisory Commission will also meet with Michael Glass, General Counsel, to discuss availability of Agency products.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulation Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 79-32815 Filed 10-23-79; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-69]

Certain Air Tight Cast-Iron Stoves; Addition of One Respondent

On October 15, 1979, the United States International Trade Commission ordered the addition of the You Well Co., Ltd. of Taipei, Taiwan as a respondent in the above-captioned case. A copy of the Commission's order and opinion is available at the Office of the Secretary, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436.

Issued: October 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32021 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-40]

Leather Wearing Apparel; Time and Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin in New York, N.Y., on Tuesday, November 6, 1979, will commence at 10 a.m., e.s.t., at the U.S. Mission to the United Nations, 799 U.N. Plaza, New York, N.Y. Interested parties are requested to use the entrance to the U.S. Mission at 45th Street and U.N. Plaza. Requests for appearances should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, November 1, 1979.

A prehearing conference in connection with this investigation will be held in Washington, D.C. at 10 a.m., e.s.t., on Friday, November 2, 1979, in room 117, U.S. International Trade Commission Building, 701 E Street, NW.

Notice of the investigation and hearing was published in the Federal Register of August 9, 1979 (44 FR 46955).

Issued: October 19, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32822 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-406-5]

Anhydrous Ammonia From the U.S.S.R.; Report to the President

October 11, 1979.

To the President:

In accordance with section 406(a)(3) of the Trade Act of 1974, the United States International Trade Commission herein reports the results of an investigation relating to anhydrous ammonia (ammonia) from the U.S.S.R. The investigation (No. TA-406-5) was undertaken to determine with respect to imports of ammonia provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States (TSUS), which are the product of the U.S.S.R. whether market disruption exists with respect to an article produced by a domestic industry.

The Commission instituted the investigation, under the authority of section 406(a) of the Trade Act, on July 18, 1979, following the receipt of a petition under section 406 of the Trade Act for relief from ammonia imported from the U.S.S.R. filed on behalf of 12 U.S. producers and 1 U.S. distributor of ammonia. The Commission held a public hearing on this matter in Washington, D.C. on August 29-31, 1979. Notice of the institution of the investigation and of the public hearing was published in the Federal Register of July 25, 1979 (44 FR 43536).

The information in this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from

briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of the briefs submitted by interested parties in connection with this investigation are attached.[1]

Determination, Findings and Recommendations of the Commission

Determination

On the basis of the investigation, the Commission (Vice Chairman Alberger and Commissioner Stern dissenting) determines, with respect to imports of anhydrous ammonia the product of the U.S.S.R., provided for in items 417.22 and 480.65 of the TSUS, that market disruption exists with respect to an article produced by a domestic industry.

Findings and Recommendations

Chairman Parker and Commissioners Bedell and Moore find and recommend that, in order to remedy such market disruption, it is necessary to impose a quota of 3 years duration on U.S. imports of anhydrous ammonia the product of the U.S.S.R., provided for in items 417.22 and 480.65 of the TSUS, as specified below.

The quotas for the 3-year period beginning with calendar year 1980 would be as follows—

Year	Quantity of imports to be allowed entry (short tons)
1st year (1980)	1,000,000
2nd year (1981)	1,100,000
3rd year (1982)	1,300,000

Vice Chairman Alberger and Commissioner Stern recommend that there be no remedy in this investigation.

By order of the Commission.

Issued: October 11, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32828 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[Investigation No. 337-TA-61]

Certain Compact Cyclotrons With a Preseptum; Opportunity for Public Comment on Proposed Consent Order Agreement

Notice is hereby given that the presiding officer in the above-captioned investigation has certified to the Commission for appropriate action a joint motion to terminate the investigation signed by all the parties to the investigation along with a consent order agreement signed by the major parties in interest. The investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The motion was docketed as Motion 61-3. Provision is made for the filing of such motions and agreements in § 210.51(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.51(a)).

On December 22, 1978, the Commission issued a Notice of Investigation to determine whether there is an unfair method of competition or unfair act violating section 337 in the unauthorized importation of certain compact cyclotrons with a pre-septum or components of said cyclotrons into the United States, or in their sale, by reason of the alleged coverage of such compact cyclotrons with a pre-septum by the claims of U.S. Letters Patent 3,725,709, (the " '709 patent") the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant, The Cyclotron Corporation, manufactures cyclotrons in the United States under the '709 patent. Instrument AB Scanditronix, the principal respondent, is a Swedish corporation which manufactures cyclotrons. The second respondent, Nucletronix, Inc., a New York corporation affiliated with Scanditronix, is the sales agent for Scanditronix in the United States. The third respondent, Medi-Physics, Inc., is a Delaware corporation which purchased an MC-40 cyclotron from Scanditronix in 1977. Nucletronix was not involved in the sale to Medi-Physics.

On June 19, 1979, all the parties filed a joint motion to terminate this investigation. Attached to the joint motion is an agreement signed only by the complainant and Instrument AB Scanditronix. The agreement, non-confidential portions of which are summarized below, incorporates a proposed consent order, which is set out in full below.

Under the agreement, Scanditronix will stop importing "old cyclotrons" into the United States. An "old cyclotron" is a cyclotron like the one imported into the United States by Scanditronix and sold to Medi-Physics, Inc., which was the subject of this investigation. Scanditronix has changed the design of its cyclotron, and will import only the newly designed cyclotrons ("new cyclotrons") into the United States in the future. Complainant and Scanditronix agree that the new cyclotron does not infringe the '709 patent. Neither party to the agreement makes any admission as to the issues of validity, enforceability, or infringement of the '709 patent by the old cyclotron, or any result injury to the domestic industry. The parties agree that the importation of the new cyclotron does not constitute an unfair act under section 337. A non-infringing extraction system will be installed in the cyclotron already purchased by Medi-Physics. The parties also agree that the MC-40 cyclotron sold to Medi-Physics was imported into the United States prior to the issuance of the Notice of Investigation in this case.

The agreement indicates that if Scanditronix desires to import the old cyclotron, the complainant will grant a non-exclusive license to Scanditronix to import under the '709 patent for a designated license fee, but Scanditronix has no intention of importing the old cyclotron.

Although the agreement was not signed by Medi-Physics or Nucletronix, the joint motion was signed by all the parties. Medi-Physics has stated that it has no present intention of importing any cyclotrons in the future. Nucletronix is sales agent for Scanditronix, and would not import cyclotrons unless Scanditronix did.

The agreement incorporates a proposed consent order. This consent order contains a provision whereby Scanditronix agrees not to import or cause to be imported "old" cyclotrons into the United States. The parties have waived any challenge to the validity of this order, but the order would continue in effect only until April 3, 1990, or until a court of competent jurisdiction finds that the old cyclotron does not infringe the '709 patent or that the '709 patent is invalid or not enforceable.

The agreement provides that respondent instrument AB Scanditronix and complainant The Cyclotron Corporation waive (1) further procedural requirements and therefore waive the requirement that the Commission make a determination under 19 U.S.C. 337(c), (2) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, and (3) any other challenge or contest to the validity of the consent order. The agreement also provides that violation of the order may result in proceedings before the Commission to determine what, if any, sanction pursuant to 19 U.S.C. 1337 should be applied.

A copy of the proposed consent order is set forth below. Any interested member of the public is invited to submit written comments regarding this matter. Such comments should be

addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and should be received not later than November 23, 1979.

No public hearing before the Commission regarding this motion and agreement is contemplated at this time. The Commission will give consideration to requests for such a hearing if such requests are received not later than 10 days after publication of this notice in the Federal Register.

Notice of institution of the investigation was published in the Federal Register of December 28, 1978 (43 FR 60674).

By order of the Commission.

Issued: October 16, 1979.

Proposed Consent Order; The Parties

1. Complainant The Cyclotron Corporation (hereinafter "TCC") is a California corporation having principal offices at 950 Gilman Street, Berkeley, California.

2. Respondent Instrument AB Scanditronix (hereinafter "Scanditronix") is a corporation of Sweden having a principal place of business at Eskadervagen 12–16, 183 Taby in Sweden.

3. Respondent Nucletronix, Inc. (hereinafter "Nucletronix") is a corporation of New York, having a principal place of business at Birch Road, Middleton, Massachusetts.

4. Respondent Medi-Physics, Inc. (hereinafter "MPI") is a corporation of Delaware having a principal place of business at Emeryville, California.

5. Wilhelm A. Zeitler, Esquire is the investigative attorney for the International Trade Commission appointed in the Notice of Investigation issued December 22, 1978.

The Issues

6. This investigation was initiated on December 22, 1978, in response to a Complaint filed by TCC. The Complaint alleged that the Respondents Scanditronix, Nucletronix and MPI were importing cyclotrons that incorporated a structure that was covered by TCC's U.S. Letters Patent 3,725,709 and that the importation of a cyclotron covered by this patent was in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). For purposes of this Consent Order, that cyclotron is designated as an "old cyclotron" and is depicted in Scanditronix drawing C30–4019 (Exhibit I to a copy of an agreement between TCC and Scanditronix to which this Consent Order is attached as Exhibit IV and which is submitted subject to the Protective Order dated February 5, 1979).

7. Respondents Scanditronix and Nucletronix currently have no orders which require the importation of any "old cyclotrons" into the United States.

8. Respondent MPI currently has no order pending with Respondents Nucletronix or Scanditronix or anyone else that would require the importation of an "old cyclotron" into the United States.

9. Respondent Scanditronix has developed a "new cyclotron" having a construction which has been examined by Complainant TCC; the structure is depicted in Exhibit II to the foregoing agreement to which a copy of this Consent Order is attached as Exhibit IV and which is submitted subject to the Protective Order of February 5, 1979.

10. TCC agrees that the "new cyclotrons" do not infringe any of the claims of U.S. Letters Patent 3,725,709 and that the importation of "new cyclotrons" would not constitute an unfair act under the provisions of section 337.

11. Respondents Scanditronix and Nucletronix now intend to import only "new cyclotrons" in the future.

12. For the purpose of this Consent Order and the enforcement hereof, Scanditronix and TCC, having appeared voluntarily and submitted to the personal jurisdiction of the Commission by agreeing to this Consent Order, admit that the Commission has jurisdiction over the subject matter included in the December 22, 1978, Notice of Investigation. This Consent Order is for settlement purposes only and does not constitute a finding by the Commission or an admission by Scanditronix or TCC that section 337 or any other statute or regulation, has or has not been violated.

13. The parties waive (1) further procedural requirments, including the requirement that the Commission make a determination under section 337(c) of the Tariff Act of 1930, (2) judicial review of this Consent Order, (3) the requirement that the Commission's decision contain a statment of findings of fact and conclusions of law, and (4) any other challenge or contest to the validity of this Consent Order.

14. Any violation of this Consent Order may result in proceedings before the Commission to determine what, if any, sanction should be applied to such violation, including an order of exclusion from entry pursuant to section 337(d).

15. The parties agree that, if this Consent Order is accepted by the Commission, the Commission may, without further notice to the parties, issue its decision containing this Consent Order and make public any information which is not subject to the protective order of January 5, 1979.

16. Respondent Scanditronix agrees, until the expiration of U.S. Letters Patent 3,725,709 on April 3, 1990, or until "old cyclotrons" or extraction systems for them are licensed under said patent or until a court of competent jurisdiction finds that "old cyclotrons" do not infringe the claims of said patent or that said patent is invalid or not enforceable, not to import or cause to be imported "old cyclotrons" into the United States.

By Order of the Commission.

Issued: October 16, 1979.

To: Wilhelm A. Zeitler, Commission Investigative Attorney, U.S. International Trade Commission, Washington, D.C. 20436.

Order to File Statement

You are hereby ordered to file with the Commission during the period for public comment on the proposed consent order in the above-captioned investigation a statement why the proposed consent order is in the public interest under 5 U.S.C. 554(c).

By order of the Commission.

Issued: October 16, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32829 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 13, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the Warner and Swasey Company, 11000 Cedar Avenue, Cleveland, Ohio 44106, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain turning machines and components thereof, or in their sale, because such turning machines are allegedly covered by claims 1, 2, 3, 8, 10, 14, 18, 19, 20, and 22 of U.S. Letters Patent No. RE 29,612 and the components thereof allegedly contribute to and induce infringement of said claims.

The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests permanent exclusion from entry into the United States of the imports in question after a full investigation.

Having considered the complaint, the Commission, on October 9, 1979, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section, in the unlawful importation of certain turning machines and components thereof into the United States, or in their sale, because such turning machines are allegedly covered by claims 1, 2, 3, 8, 10, 14, 18, 19, 20, and 22 of U.S. Letters Patent No. RE 29,612 and the components thereof allegedly contribute to and induce infringement of said claims, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: The Warner and Swasey Company, 11000 Cedar Avenue, Cleveland, Ohio 44106.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of certain turning machines and components thereof into the United States, or in their sale, and are parties upon which the complaint shall be served:

Yamazaki Machinery Works, Ltd., 1 Norifune, Oguchi-Cho, Niwa Gun, Aichi-Pref, Japan.
Yamazaki Machinery Corporation, 8025 Production Drive, Florence, Kentucky 41041.

(c) Robert M. M. Seto, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: October 16, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32808 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-211]

Sodium Acetate From Canada; Investigation and Hearing

Having received advice from the Department of the Treasury on October 1, 1979, that sodium acetate from Canada is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on October 12, 1979, instituted investigation No. AA1921-211 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of the Treasury Department's determination, "sodium acetate" means sodium acetate classified under item 426.86 of the Tariff Schedules of the United States.

Hearing. A public hearing in connection with the investigation will be held on Tuesday, November 27, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. Requests to appear at the public hearing should be filed with the Secretary to the Commission, in writing, not later than noon, Wednesday, November 21, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statments should be submitted. Requests for confidential treatment should be directed to the attention of the Secretary. Any business information which a submitter wishes the Commission to treat as confidential should be clearly marked "Confidential Business Data." Submitters seeking confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Should a request for confidential treatment be denied, the submission will be returned to the submitting party.

All written submissions, except for confidential business data, will be made available for inspection by interested persons. To assure that such statements are given due consideration by the Commission, such statements should be received not later than the close of business, Friday, November 23, 1979.

Conduct of the investigation under the Trade Agreements Act of 1979. Under the Antidumping Act, 1921, the Commission is required to notify the Treasury Department of its determination in this investigation not later than January 2, 1980 (19 CFR 201.14(a)). The Commission has determined, however, to make its determination in this investigation not later than the close of business, December 21, 1979, for the reason that if the investigation were not concluded until January 2, 1980, then under section 102 of the Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 144, July 26, 1979), the Commission would be required to terminate this investigation and initiate an investigation under subtitle B of title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979. The investigation would have to be completed within 75 days after January 1, 1980. (The Commission is aware that under section 107 of the Trade Agreements Act, if the provisions of section 2(a) of that statute are not fulfilled before January 1, 1980, then the provisions of title VII would not take effect. However, this possibility, if it occurs, will not substantially change the reasons for completing this investigation on or before December 21, 1979). It would be inconsistent with the objective of expeditious proceedings in the Antidumping Act, 1921, and place unnecessary burdens upon the parties, to continue this investigation under the new law under the circumstances of this case. The Commission is not hereby making a determination of how to treat with any other cases affected by section 102 of the Trade Agreements Act.

By order of the Commission.

Issued: October 15, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32807 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL ALCOHOL FUELS COMMISSION

Open Meeting

October 19, 1979.

Name: National Alcohol Fuels Commission.
Date: November 10, 1979.
Time: 9:00 a.m.—5:00 p.m.
Place: Salina Area Vocational Technical School, 2562 Scanlan Avenue, Salina, Kansas 67401.
Type of Meeting: Open.
Contact Person: Dr. Edward J. Bentz, Jr. Executive Director (202) 254-7453.

Submission of Written Statements: No later than November 5, 1979 to Dr. Edward J. Bentz, Jr. Executive Director, National Alcohol Fuels Commission, 2000 M St., N.W., Suite 3000 Washington, D.C. 20036 (Interim Address).

Purpose of Commission: The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (PL 95-599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass (including municipal and industrial waste, sewage sludge and oceanic and terrestrial crops) and coal to contribute to meeting the nation's energy needs. Based on such study it shall recommend those policies and their attendant costs and benefits most likely to minimize our dependence on petroleum.

Purpose of Hearing: Soliciting information on current and emerging developments relating to alcohol fuels in Kansas and surrounding areas.

Tentative Agenda: 9:00 a.m. November 10—Business Meeting; 9:30 a.m. November 10—Opening Hearing.

Dated: October 18, 1979.

Edward J. Bentz Jr.,

Executive Director.

[FR Doc. 79-32777 Filed 10-23-79; 8:45 am]

BILLING CODE 6820-AN-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Waste Management; Meeting

The October 31, 1979 meeting of the ACRS Subcommittee on Waste Management, announced October 16, 1979 (44 FR 59685) will be closed to public attendance.

As noted in cited Federal Register notice, the Subcommittee will be considering portions of the budget and program of the Office of Nuclear Regulatory Research and of Divisions within that Office. Since the NRC budget proposals are now part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular No. A-10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of its review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close this meeting to prevent frustration of this aspect of the ACRS' statutory responsibilities, in accordance with Exemption 9(B) to the Government in the Sunshine Act (552b(c)(9)(B)).

Dated: Ocotber 18, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 79-32682 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station (the facility), located in Lincoln County, Maine. In accordance with the licensee's application for amendment dated September 18, 1979, the amendment would revise the provisions in the Technical Specifications to permit the expansion of the facility's spent fuel storage capacity from 953 to 1545 spent fuel assemblies through a modified spent fuel pin storage concept involving the disassembly of spent fuel assemblies and reassembly into consolidated fuel bundles designed to provide a more compact fuel pin array within the existing spent fuel racks. Accordingly, the amendment would not involve an increase in storage locations.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By November 23, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or

representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (In Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); date petition was mailed); (Maine Yankee); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a) (i)-(v) and § 2.714(d).

For further details with respect to this action, see the application for amendment dated September 18, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

Dated at Bethesda, Maryland, this 16th day of October 1979.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-32688 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM 71-7]

Nondestructive Testing Management Association; Denial of Petition for Rulemaking

By letter dated May 10, 1978, Mr. Walter P. Peeples, Jr. on behalf of the Non Destructive Testing Management Association, seven undesignated radiographic camera manufacturers and six undesignated source manufacturers, filed with the Nuclear Regulatory Commission a petition for rulemaking (PRM 71-7).

The Petition

The petitioner requested the Commission to: (1) remove Appendix E—Quality Assurance Criteria for Shipping Packages for Radioactive Material—from 10 CFR Part 71, and (2) delay, "the effective date of implementation of Part 71 Appendix E until a proper hearing can be conducted and possibly total removal of the requirement."

Basis for Request

As the basis for the request, the petitioner stated: "... the rule was forced on the industry and not discussed nor did the Commission attempt to notify two-thirds of the manufacturers in this specific area of its attempt to create an almost insurmountable and expensive paperwork program." The petitioner further noted that the lack of uniformity in quality assurance (QA) requirements between Agreement State licensees and NRC licensees is prejudicial and effects an unfair competitive position for manufacturers in Agreement States.

Request for Comments on Petition

A notice of filing of the petition, Docket No. PRM 71-7, was published in the Federal Register on June 14, 1978 (43 FR 25749). Interested persons were invited to submit written comments or suggestions concerning the petition by August 14, 1978. Thirty-nine comments were submitted, including one from the Air Transport Association of America attaching separate comment letters from six airline companies, and including one from Gulf Nuclear Incorporated as a protest under which the description of their quality assurance program was being filed.

Of the thirty-nine comments, thirty-two either indicated support for the petitioners request for removal of appendix E or separately asked for its removal; twenty-eight thought that there was a lack of justification for Appendix E or that the requirements in Appendix E duplicated other requirements; twenty-seven cited large costs and expensive paperwork with these QA requirements; and fifteen believed the requirements had been forced on the industry without consultation.

Six of the commenters were well-logging licensees who normally ship type A quantities of radioactive material and, thus, are not subject to the QA requirements of 10 CFR Part 71. One of these persons suggested that, "... this requirement could, on occasion, delay the transportation, handling and manufacture of such sources to final end users ...". The Commission is not aware of any delays that could occur unless they were due to safety-related aspects of the transportation and, as such, the QA program would be functioning as intended.

The rest of the commenters (33) were involved in industrial radiography. Responses to most of the comments are given in the discussion of grounds for denial below.

NRC Rulemaking Action

Appendix E, "Quality Assurance Criteria for Shipping Packages for Radioactive Material," was part of revised quality assurance (QA) requirements for 10 CFR Part 71 that were published in the Federal Register as proposed regulations on December 28, 1973 (38 FR 35490). At that time, comments were received from ten persons who manufacture or use shipping packages and from one State regulatory agency. As a result of these comments, a number of specific provisions in the proposed regulations were deleted. No broad objections to the Appendix E criteria were raised.

The QA requirements, including Appendix E, were published in the Federal Register on August 4, 1977 (42 FR 39364) to be effective October 18, 1977 but allowing almost 11 months (until July 1, 1978) before QA program descriptions had to be filed with NRC. This Federal Register Notice again invited public comments. Two draft regulatory guides were sent to users of NRC-approved package designs in May 1978 which provided specific guidance on development of QA programs for packagings.

In response to several requests, including the petition, the Commission extended the date by which licensees had to file descriptions of their QA programs from July 1, 1978 to January 1, 1979.

Discussion of Grounds for Denial

1. The QA requirements were published in the Federal Register as a proposed rule and as an effective rule with both inviting public comments, and the Commission did attempt to notify affected persons.

As indicated above, the proposed rule was published in the Federal Register in 1973, ten persons submitted comments, and the rule was revised in response to those comments. At that time, noticing a proposed rule in the Federal Register was considered adequate notification of affected persons, although, in this case, the Commission also issued a public annoucement. More recently the NRC has adopted a policy that in addition to the Federal Register notice, proposed rules are to be distributed directly to

affected licensees and other known interested persons.

The effective rule was published in the Federal Register in August 1977, and no public comments were received at that time. The effective rule was discussed in a public meeting in April 1978 (43 FR 12718, March 27, 1978, "Advance Notice of Proposed Rulemaking on Design of Radiographic Exposure Devices"). Specific guidance on the content of the description of the QA program* submitted to NRC to satisfy the provisions in the rule were distributed to users of NRC approved packages, including some Agreement State licensees, in May 1978. In addition, a paper that described the QA regulations of 1977 in detail was presented in May 1978 at the Fifth International Symposum on Packaging and Transportation of Radioactive Materials.

2. The Commission has determined that application of an effective QA program is important to safety in the packaging and transportation of fissile material and type B and large quantities of other radioactive materials.

The purpose of the revised QA requirements issued in 1977 was to upgrade existing requirements of QA in packaging and transportation to assure a continued high degree of safety in view of the ever expanding operational and shipping activities involving radioactive materials, to improve the assure of compliance with the regulations in those activities and to make the QA requirements more explicit and more nearly uniform for licensees. These requirements apply to persons who are subject to 10 CFR Part 71; thus they apply to shippers of fissile material, type B and large quantities of other radioactive material, and generally do not apply to shippers of type A quantities (i.e., smaller quantities) of radioactive material. The categories of type A, type B and large quantities of radioactive material, as defined in 10 CFR Part 71, provide distinctions in the significance to health and safety for the wide range of quantities of radioactive material in transportation. Quantities of radioactive material in transport up to type A quantity limits present a limited potential hazard but greater than type A quantities may present significant potential hazards.

Inspection surveys show a sizable percentage of packages in transport are not in full compliance with DOT requirements. Errors in packaging, faults in packaging designs, and some items of noncompliance have contributed to the radiation exposure in a few of the incidents that have occurred in transport. An effective QA program will identify and allow correction to be made of such conditions where they affect safety.

3. The Commission has considered costs, both to industry and to the Commission staff, of implementing these QA requirements. Also, consideration of more than 300 descriptions of QA programs already submitted to NRC to satisfy the requirements by a variety of licensees, including industrial radiographers, indicates that the paperwork is not overly expensive or insurmountable.

QA programs, based on criteria similar to Appendix E, have been required for shippers of fissil material, high level waste, and plutonium packages since 1972 and, therefore, no additional costs were encountered by these licensees when the QA regulations were promulgated in 1977. Shippers of type A quantities of radioactive material are usually exempt from the requirements of 10 CFR Part 71 amd, therefore, encounter no costs due to the QA requirements. Type A quantities include small quantities of radioactive material for medical uses, for calibration of instruments, and for other purposes. The QA requirements apply to fissile and type B or greater quantities of other radioactive material. This covers a large range of quantities of radioactive material. In recognition of the varying complexity of QA programs for different types of activities, the Commission encourages the use of a graded approach in establishing QA programs; i.e., the applicable criteria of Appendix E should be applied to an extent consistent with their importance to safety. This factor was overlooked initially by some affected persons who estimated high program costs due to the QA requirements.

Athough many radiography shipments involve type B quantities of radioactive material, they are limited quantities, much smaller than many other shipments, and they are always in special form (encapsulated solid material form). Therefore, the QA programs required for industrial radiography are correspondingly less complex than those required for many other packaging and transportation activities; for example, those required for irradiated fuel, high level waste, plutonium, or the larger type B quantities of normal form materials. A two-page description of the QA program for industrial radiographers has been shown to be acceptable to the NRC, in most cases, and the specific provisions of the program are limited in number. Many industrial organizations already have established specific procedures with respect to quality-related controls for their packaging and transportation activities and, in these cases, the Part 71 QA program requires only a little, if any, increase in effort for recordkeeping and audit procedures. The Commission has found no evidence of large costs or expensive paperwork for the QA programs that are required for industrial radiographers.

In any case, following the "graded approach" discussed above, the required QA program for fissile materials or type B or large quantities of other radioactive materials are dependent on the complexity of the package *and* the health and safety significance of the quantity, type and form of radioactive material shipped in the packaging.

4. The petitioner also noted that there was a lack of uniformity in QA requirements between Agreement State licensees and NRC licensees. The reciprocity provisions of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States under Section 274," permit State licensees to conduct the same activity in non-Agreement States pursuant to a general license granted by the NRC. The QA requirements of Part 71 apply directly to NRC licensees and, under the reciprocity provisions of Part 150 (§ 150.20), to Agreement State licensees when such licensees carry on licensed activities in non-Agreement States. The reciprocity provisions subject any Agreement State licensee who is operating in a non-Agreement State to a number of specified NRC regulations, one of which is Part 71.

Agreement State licensees are generally subject to DOT regulations for the shipment of radioactive materials. Under DOT rules, Agreement State licensees may use DOT specification or NRC-approved packaging, or may apply to NRC for approval of package designs for shipping fissile materials and type B and large quantities of other radioactive materials. In issuing those approvals, NRC imposes the QA program requirements of Part 71. Therefore, Agreement State licensees using one of the small number of DOT specification containers, and those who use designs approved before the QA requirements were adopted, may not have QA

*Draft Regulatory Guide 7.XX, Content of the Description of a Quality Assurance Program for the Use, Maintenance and Repair of Shipping Packages for Certain Special Form Radioactive Material, (applicable to industrial radiography sources) May 1, 1978 and Draft Regulatory Guide 7.XX, Establishment of a Quality Assurance Program for Shipping Packages for Irradicated Fuel, High Level Waste and Plutonium, May 15, 1978. Single copies are available from the Transportation Branch, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555.

programs similar to those required by Part 71. The NRC staff has met with DOT officials to discuss quality assurance requirements and the NRC is formally requesting DOT to upgrade its quality assurance requirements for radioactive material packages to apply to shippers subject to DOT rules. This will lend a greater degree of uniformity to the QA requirements, especially as they apply to Agreement State licensees.

Summary of Grounds for Denial

The Commission has given careful consideration to the petitioner's arguments in PRM 71-7 and the comments received on the petition and has decided to deny the petition on the following grounds:

1. The record shows that both the proposed rule and the effective rule were published in the Federal Register inviting public comments, and the Commission did attempt to notify affected persons.

2. Requiring that licensees have an effective QA program for packaging and transportation will improve safety.

3. The paperwork associated with the QA requirements for packaging and transportation is not overly expensive or insurmountable.

4. Although there is some nonuniformity in the QA requirements for packaging and transportation imposed on NRC and Agreement State Licensees, the differences are not large and are being eliminated by requesting DOT to upgrade its quality assurance requirements.

Further, the Commission does not find it necessary or advisably to hold a hearing on the QA requirements at this time.

Copies of the petition for rulemaking, the comments thereon, a value impact statement on the denial, and the NRC's letter of denial are available for public inspection and copying in the NRC's public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md. this 2nd day of Oct., 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-32760 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

Petition for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the September 30, 1979, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of the report, designated NRC Petitions for Rulemaking Pending Final Action as of Sepetember 30, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Requests for single copies of this report, or request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dated at Bethesda, Maryland this 18th day of October, 1979.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records Office of Administration.

[FR Doc. 79-32759 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.137, Revision 1: "Fuel-Oil Systems for Standby Diesel Generators," describes a method acceptable to the NRC staff for complying with the Commission's regulations regarding fuel-oil systems for diesel generators and the assurance of adequate fuel-oil quality. This guide endorses ANSI standard N195-1976. "Fuel Oil Systems for Standby Diesel-Generators." The guide was revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission; U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office (GPO) price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on subscription service and current GPO prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of October 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director Office of Standards Development.

[FR Doc. 79-32761 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2); Order for Modification of License

I.

Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensee) are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor used for the commercial generation of electricity.

II.

On October 16, 1979, the Commission issued a Memorandum and Order directing the licensee to operate an EPICOR-II filtration and ion exchange decontamination system to decontaminate intermediate-level radioactive waste water now held in tanks in the TMI-2 auxiliary building. The factual bases underlying this directive are set forth fully in the Memorandum and Order and will not be restated herein. Additionally, the Commission recognized that operation of EPICOR-II will add several gaseous effluent discharge paths to those previously listed in the TMI-2 operating license. The Commission further observed that its regulations in 10 CFR Part 50, Appendix A, General Design Criteria for Nuclear Power Plants (GDC 64) require that the new discharge paths be monitored. Though the Commission

deemed it not necessary as a legal matter to amend the TMI-2 operating license technical specifications to assure that monitoring will be conducted, it expressed the belief that the Commission's inspection and enforcement program would be simplified if the requirements for discharge path monitoring and those provisions set forth in paragraphs 1, 2 and 3 of its Order are spelled out in the operating license that can be readily referenced by the licensee and Commission inspectors. The Commission instructed the Director, Office of Nuclear Reactor Regulation (NRR) to promptly issue an order for modification of the TMI-2 operating license to (a) add EPICOR-II discharge paths to those presently listed in the Technical Specifications as requiring monitoring under GDC 64, and (b) include the provisions of paragraphs 1, 2 and 3 of its Order, and to provide that, within 20 days of the date of its Order, a hearing may be requested.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission Memorandum and Order of October 16, 1979, it is ordered that:

Facility Operating License No. DPR-73 for the Three Mile Island Nuclear Station, Unit 2, be amended, in the manner hereinafter provided, to include the following conditions:

(i) The technical specifications requiring monitoring under GDC 64 are hereby amended as reflected in the appendix hereto in order to add EPICOR-II discharge paths.

(ii) The licensee shall promptly begin the process of decontaminating the intermediate-level waste water from TMI-2 by operating EPICOR-II. Prior to operation, the licensee shall consult the Director of NRR for approval of the final operating procedures and design and construction details. In order to reduce the inherent risk from the contaminated water most expeditiously and prudently, the licensee should to the extent possible process all the water once through the EPICOR-II system.

(iii) The licensee shall maintain suitable tankage at TMI-1 that could be used to store waste water from TMI-2 at an appropriate state of readiness, should additional storage become necessary.

(iv) The licensee shall not ship spent resins offsite unless they have been solidified, and only then with the prior approval of the Director of NRR, provided however, that the licensee may ship non-solidified but dewatered spent resins offsite if it determines, and the Director of NRR concurs, that such shipment is required to assure continued operation of EPICOR-II or otherwise required to protect public health and safety. The licensee shall expeditiously construct a facility for solidification of the spent resins and shall use such facilities for resin solidification upon receiving the Director of NRR's concurrence with the design and operating procedures.

IV.

The licensee or any person whose interest may be affected may, on or before November 5, 1979, request a hearing on the proposed amendment pursuant to 10 C.F.R. § 2.714 to be held prior to the adoption of the formal license amendment. This amendment will become effective on the expiration of the period during which the licensee or other person may request a hearing, or in the event a hearing is requested, on the date specified in an order made following the hearing.

In the event a hearing is requested, the issues to be considered at such hearing shall be whether the actions taken under this order (a) are necessary and sufficient to protect health and safety or to minimize danger to life and property, and (b) would significantly affect the quality of the human environment.

A request for a hearing by the licensee or another person must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, by the above date. A copy of the request for a hearing should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Mr. George F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW, Washington, DC 20036, attorney for the licensee. Any questions regarding the contents of this Order should be directed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, see the Commission's Memorandum and Order, dated October 16, 1979, and the documentary references cited therein. This information is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

Appendix—Instrumentation

Radioactive Gaseous Effluent Monitoring Instrumentation

Limiting Condition for Operation: 3.3.3.10 The radioactive gaseous effluent monitoring instrumentation channels shown in Table 3.3-13 shall be Operable.

Applicability: As shown in Table 3.3-13.

Action: With less than the minimum number of radioactive gaseous effluent monitoring instrumentation channels Operable, take the Action shown in Table 3.3-13.

Surveillance Requirements: 4.3.3.10 Each radioactive gaseous effluent monitoring instrumentation channel shall be demonstrated OPERABLE by performance of the CHANNEL CHECK, SOURCE CHECK, CHANNEL CALIBRATION and CHANNEL FUNCTIONAL TEST operations at the frequencies shown in Table 4.3-13 (per occupational exposure considerations and detector sensitivity in ambient radiation areas).

Table 3.3-13.—*Radioactive Gaseous Effluent Monitoring Instrumentation*

Instrument	Minimum channels operable	Applicability	Action
10. EPICOR-II Ventilation system:			
a. Noble gas activity monitor	1	*	37
b. Iodine sampler	1	*	41
c. Particulate sampler	1	*	41
d. Flow rate monitor	1	*	36
e. Sampler flow rate monitor	1	*	36

Table Notation

* At all times.

Action 36—With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via this pathway may continue for up to 30 days provided the flow rate is estimated at least once per 4 hours.

Action 37—With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via This pathway may continue for up to 30 days provided grab samples are taken at least once per 8 hours and these samples are analyzed for gross activity within 24 hours.

Action 41—With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via the affected pathway may continue for up to 30 days provided samples are continuously collected with auxiliary sampling equipment as required in Table 4.11-2.

Table 4.13.—*Radioactive Gaseous Effluent Monitoring Instrumentation Surveillance Requirements*

Instrument	Channel check	Source	Channel calibration	Channel functional test
10. EPICOR-II Ventilation system:				
a. Noble Gas Activity Monitor	D	M	R(3)	Q(2)
b. Iodine Sampler	W	N.A.	N.A.	N.A.
c. Particulate Sampler	W	N.A.	N.A.	N.A.
d. Flow Rate Monitor	D	N.A.	SA	SA
e. Sampler Flow Rate Monitor	D	N.A.	SA	SA

Table Notation

(2) Channel Functional Test shall also demonstrate that control room alarm annunciation occurs if any of the following condition exist:

1. Instrument indicates measured levels above the alarm setpoint.
2. Circuit failure (alarm function only).
3. Instrument indicates a downside failure (alarm function only).
4. Instrument controls not set in operate mode or the switch position administratively monitored and controlled.

(3) The Initial Channel Calibration shall be performed using one or more of the reference standards certified by the National Bureau of Standards or using standards that have been obtained from suppliers that participate in measurement assurance activities with NBS. These standards shall permit calibrating the system over its intended range of energy and measurement range. For subsequent Channel Calibration sources that have been related to the initial calibration shall be used.

Appendix B—Technical Specifications

Gaseous Effluents: 2.1.2.0 The release rate of radioactive materials, other than noble gases, in gaseous effluents shall be determined to be within the limits calculated in accordance with this specification by obtaining representative samples and performing analyses in accordance with the sampling and analysis program, specified in Table 4.11-2.

Table 2.1-1.—*Radioactive Gaseous Waste Sampling and Analysis Program*

Gaseous release type	Sampling frequency	Minimum analysis frequency	Type of activity analysis	Lower limit of detection (LLD) (μCi/ml)[a]
C. Epicore II ventilation	M[e]	M	Principal Gamma Emitters[g].	1×10^{-4}
	Grab Sample		H-3	1×10^{-6}

Table Notation

a. The LLD is the smallest concentration of radioactive material in a sample that will be detected with 95% probability with 5% probability of falsely concuding that a blank observation represents a "real" signal.

For a particular measurement system (which may include radiochemical separation):

$$LLD = \frac{4.66\, s_b}{E \cdot V \cdot 2.22 \cdot Y \cdot \exp(-\lambda \Delta t)}$$

Where

LLD is the lower limit of detection as defined above (as picocurie per unit mass or volume),

s_b is the standard deviation of the background counting rate of of the counting rate of a blank sample as appropriate (as counts per minute),

E is the counting efficiency (as counts per transformation),

V is the sample size (in units of mass or volume),

2.22 is the number of transformations per minute per picocurie,

Y is the fractional radiochemical yield (when applicable),

is the radioactive decay constant for the particular radionuclide, and

Δt is the elapsed time between midpoint of sample collection and time of counting (for plant effluents, not environmental samples).

The value of s_b used in the calucalation of the LLD for a detection system shall be based on the actual observed variance of the background counting rate or of the counting rate of the blank samples (as appropriate) rather than on an unverified theoretically predicted variance. In calculating the LLD for a radionuclide determined by gamma-ray spectrometry, the background shall include the typical contributions of other radionuclides normally present in the samples. Typical values of E, V, Y, and Δt shall be used in the calculation. The background count rate is calculated from the background counts that are determined to be with ± one FWHM (Full-Width-at-Half-Maximum) energy band about the energy of the gamma ray peak used for the quantitative analysis for that radionuclide.

e. Tritium grab samples shall be taken at least once per 7 days from the ventilation exhaust from the spent fuel pool area.

g. The principal gamma emitters for which the LLD specification applies exclusively are the following radionuclides: Kr-87, Kr-88, Xe-133, Xe-133m, Xe-135; and Xe-138 for gaseous emissions and Mn-54, Fe-59, Co-58, Co-60, Zn-65, Mo-99, Cs-134, Cs-137, Ce-141 and Ce-144 for particulate emissions. This list does not mean that only these nuclides are to be detected and reported. Other peaks which are measurable and indentifiable, together with the above nuclides, shall also be identified and reported. Nuclides which are below the LLD for the analyses shall be reported as "less than" the nuclide's LLD and shall not be reported as being present at the LLD level for that nuclide. The "less than" values shall not be used in the required dose calculations.

Bases

3/4.3.3.10 Radioactive Gaseous Effluent Instrumentation

The radioactive gaseous effluent instrumentation is provided to monitor an control, as applicable, the releases of radioactive materials in gaseous effluents during actual or potential releases of gaseous effluents. The OPERABILITY and use of this instrumentation is consistent with the requirements of General Design Criterion 64 of Appendix A to 10 CFR Part 50.

2.1.2. Gaseous Effluents

This specification is provided to ensure that the dose at any time at the site boundary from gaseous effluents from all units on the site will be within the annual dose limits of 10 CFR Part 20 for unrestricted areas. The annual dose limits are the doses associated with the concentrations of 10 CFR Part 20, Appendix B, Table II, Column 1. These limits provide reasonable assurance that radioactive material discharged in gaseous effluents will not result in the exposure of an individual in an unrestricted area, either within or outside the site boundary, to annual average concentrations exceeding the limits specified in Appendix B, Table II of 10 CFR Part 20 (10 CFR Part 20.106(b)). For individuals who may at times be within the site boundary, the occupancy of the individual will be sufficiently low to compensate for any increase in the atmospheric diffusion factor above that for the site boundary. The specified release rate limits restrict, at all times, the corresponding gamma and beta dose rates above background to an individual at or beyond the site boundary to less than or equal to 500 mrem/yr to the total body or to less than or equal to 3000 mrem/yr to the sking. These release rate limits also restrict, at all times, the corresponding thyroid dose rate above background to an infant via the cow-milk-infant pathway to less than or equal to 1500 mrem/yr for the nearest cow to the plant.

[FR Doc. 79-32883 Filed 10-23-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-320]

Negative Declaration Regarding Use of Epicor-II System for Decontamination of Intermediate Level Radioactive Waste Water at Three Mile Island Nuclear Station, Unit No. 2

The U.S. Nuclear Regulatory Commission has been considering the use of an EPICOR-II ion exchange decontamination system to decontaminate the intermediate level radioactive waste water which has been held in tanks at Three Mile Island since the accident at the facility on March 28, 1979.

The Commission's Office of Nuclear Reactor Regulation (NRR) prepared an Environmental Assessment, "Use of EPICOR-II at Three Mile Island, Unit 2," NUREG-0591, which concluded that the use of this system will not significantly affect the quality of the human environment, and therefore an Environmental Impact Statement need not be prepared. This assessment was issued for public comment on August 20, 1979 (44 FR 48829). Comments were received, analyzed and presented to the Commission. Based on the Commission's review of the facts and analysis in NRR's Environmental Assessment and written and oral discussion of the comments, the Commission has determined in its Memorandum and Order, dated October 16, 1979, that the operation of EPICOR-II and the attendant solidification and handling of EPICOR-II resins will not have a significant effect on the environment. Thus, in accordance with the foregoing finding of the Commission, no Environmental Impact Statement for the proposed action will be prepared.

The Environmental Assessment (NUREG-0591) and the Commission's Memorandum and Order issued October 16, 1979, are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Three Mile Island Unit No. 2 Local Public Document Room in the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Richard Vollmer, Director, TMI-2 Support, NRR.

Dated at Bethesda, Maryland, this 18th day of October, 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-32884 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

U.S. Customs Service

Certain Valves and Parts Thereof From Italy; Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Italy has given benefits that may constitute bounties or grants on the manufacture or exportation of valves and parts thereof. A final determination will be made no later than March 17, 1980, as provided by the Trade Agreements Act of 1979, effective January 1, 1980. Interested persons are invited to comment on this action.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On July 3, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the Federal Register (44 FR 39055). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Italy upon the manufacture, production or exportation of certain valves and parts thereof constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

For purposes of this notice, "certain valves and parts thereof" means taps, cocks, valves, and similar devices, however operated, and parts thereof, used to control the flow of liquids, gases or solids, provided for in item numbers 680.2010 through 680.2080, 680.2205 through 680.2270, 680.2500, and 680.2720 through 680.2740 of the Tariff Schedules of the United States Annotated (TSUSA).

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been preliminarily determined that certain programs of the Government of Italy may provide benefits to manufacturers and/or exporters of the subject merchandise which may constitute bounties or grants within the

meaning of section 303 of the Act. These benefits may have been conferred under the following programs:

(1) Tax rebates to exporters of iron and steel products under Italian Law 639. In prior determinations, Treasury has countervailed portions of the Law 639 rebate. As set forth in the "Notice of Revised Method for Calculation of Bounty or Grant with Regard to Certain Indirect Taxes," published in the Federal Register on January 17, 1979 (44 FR 4378), Treasury does not consider the non-excessive rebate of indirect taxes on inputs which are physically incorporated into the exported product to be bounties or grants within the meaning of section 303 of the Act.

In the instant case, exporters of iron and steel valves and parts thereof receive a rebate under Law 639 of 20 lire per kilogram. Of this rebate, 5.77 lire appears to attributable to the rebate of border fees on inputs physically incorporated into the valves. It has not been established that the imported items are, in fact, incorporated into the exported valves. If this is affirmatively determined, the subsidy received under Law 639 would be reduced by 5.77 lire per kilogram.

(2) Special benefits such as tax forgiveness, cash grants, and low interest loans available to firms located in the developing region known as the Mezzogiorno. It is the policy of the Treasury to view the benefits flowing from a domestic program as bounties or grants within the meaning of section 303 of the Act if either a preponderance of the merchandise receiving benefits from the program is exported or the *ad valorem* amount of the benefit is large.

Approximately 95 percent of Italian valve manufacturers are located outside of the Mezzogiorno. In the absence of company specific data it is not possible to determine the value of the benefits received by the remaining 5 percent and the proportion of their output which is exported. Information is being sought in order to determine whether these valve manufacturers are receiving benefits which constitute bounties or grants within the meaning of section 303 of the Act.

(3) Substantial exemptions from local and national corporate taxes for firms locating in designated regions. In the absence of company specific data, it is not possible to determine whether Italian valve manufacturers are benefiting from these programs. Additional information is being sought in order to determine whether valve manufacturers are receiving benefits under these programs and whether such benefits constitute "bounties or grants" within the meaning of the Act.

The following programs were alleged to be benefiting valve manufacturers and exporters in Italy but have been preliminarily determined not to be bounties or grants bestowed upon the investigated industry:

(1) Certain cash grants, low interest loans and other fiscal incentives available to firms meeting certain provisions of Italian Law 675. Italian Law 675 has not yet come into effect. Therefore it has bestowed no bounties or grants upon manufacturers of valves. Should a countervailing duty order be issued in this case, periodic determinations will be made pursuant to the Trade Agreements Act of 1979 whether this law has become operable and whether it provides benefits constituting bounties or grants to valve manufacturers or exporters.

(2) Low interest loans for exporters through the government supported facility known as Mediocredito Centrale. Manufacturers and exporters of valves and parts thereof are not eligible for loans under this program.

(3) Subsidized export credit insurance available through Sezione Speciale per Assicurazione del Credito all' Esportazione (SACE), a government agency formerly known as Istituto Nazionale delle Assicurazione (INA). No manufacturers or exporters of valves and parts thereof have received insurance coverage from this organization for their exports to the United States.

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of valves and parts thereof from Italy made of iron or steel and may be so paid or bestowed on additional types. If the final determination in this case is not made by December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made no later than March 17, 1980.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary decision. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue N.W., Washington, D.C. 20229, in time to be received by the Commissioner's office no later than November 23, 1979. Any request to present oral views should accompany such submission and a copy of all submissions should be delivered to counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,

Acting General Counsel of the Treasury.

October 18, 1979.

[FR Doc. 79-32783 Filed 10-23-79; 8:45 am]

BILLING CODE 4810-22-M

[521464]

Receipt of an American Manufacturer's Petition Requesting the Reclassification of Laser Glass

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of laser glass requesting that imported laser glass be reclassified as optical glass. Importations of laser glass are currently classified by Customs as non-optical glass articles.

DATES: Interested parties may comment on this petition. Comments (preferably

in triplicate) must be received on or before December 24, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Classification and Value Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of laser glass. The petitioner contends that laser glass, imported in rod and disc configurations, should be classified under the provision for other optical glass in item 540.67, Tariff Schedules of the United States (TSUS). Laser glass of this kind is currently classified by Customs under the provision for glass articles not specially provided for in item 548.05, TSUS. Customs administrative rulings to this effect are based upon a decision of the United States Customs Court reported in C.D. 4269 (1971), in which the term "optical" as used in the tariff schedules was interpreted to refer to the phenomena of light and vision. Customs rulings, therefore, have precluded from classification as "optical" glass laser glass which does not aid or have application to vision.

In support of its petition, the petitioner contends that laser glass qualifies as "optical" inasmuch as it is a light-manipulating element, constituting the primary optical element of a laser apparatus. Furthermore, the petitioner notes that the Commodity Control List, administered by the Export Administration of the United States Department of Commerce, refers to laser glass rods as optical elements.

Comments

Pursuant to § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Donald W. Lewis,

Director, Office of Regulations and Rulings.

September 4, 1979.

[FR Doc. 79-32785 Filed 10-23-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 141]

Assignment of Hearings

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 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on October 31, 1979 (3 days), at Tallahassee, FL will be held in Room No. 122, Fletcher Building, 101 East Gaines Street.

MC 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on November 5, 1979 (2 days), at Albany, GA will be held in Room No. 212, Courthouse Building, 225 Pine Street.

MC 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on November 8, 1979 (2 days), at Columbus, GA will be held at the Probate Court—6th Floor, Government Center.

MC-C-10314, Frank M. Herbert, Inc., Edgemere Terminals, Inc., Pioneer Transport, Inc., And L.G. Truck Leasing, Inc.—Investigation And Revocation of Certificate, now assigned for hearing on October 30, 1979 (2 days), at Boston, MA will be held at the Judiciary Committee, Hearing Room 136, State House Annex.

MC 120364 (Sub-19F), A & B Freight Lines, Inc., now being assigned for hearing on January 23, 1980 (3 Days), at Chicago, IL in a hearing room to be designated later.

MC 85934 (Sub-97F), Michigan Transportation Company, now being assigned for hearing on January 28, 1980 (1 Day), at Chicago, IL in a hearing room to be designated later.

MC 128030 (Sub-121F), the Stout Trucking Co., Inc., now being assigned for hearing on January 29, 1980 (1 Day), at Chicago, IL in a hearing room to be designated later.

MC 145601 (Sub-1F), Morgan County Trucking, Inc., now being assigned for hearing on January 30, 1980 (3 Days), at Chicago, IL in a hearing room to be designated later.

MC 107403 (Sub-1152F), Matlack, Inc., now being assigned for hearing on January 9, 1980 (3 Days), at Houston TX in a hearing room to be designated later.

MC 124692 (Sub-257F), Sammons Trucking, a corporation, now being assigned for hearing on January 14, 1980 (2 Days), at Houston, TX in a hearing room to be designated later.

MC 145154 (Sub-2F), Young's Transportation Company, now being assigned for hearing on January 16, 1980 (3 Days), at Houston, TX in a hearing room to be designated later.

MC-C-10341, Catawese Coach Lines, Inc. Coach Lines, Inc. v. B.K.W. now being assigned for hearing on January 7, 1980 (2 Days), at Philadelphia, PA in a hearing room to be designated later.

MC 144398 (Sub-2F), Wayne Transport, Inc., now being assigned for hearing on January 17, 1980 (2 Days), at St. Paul, MN in a hearing room to be designated later.

MC 146314 (Sub-1F), G & T Trucking Company, now being assigned for hearing on January 21, 1980 (1 Week), at St. Paul, MN a hearing room to be designated later.

MC 52460 (Sub-232F), Ellex Transportation, Inc., now being assigned for hearing on January 8, 1980 (1 Day), at Dallas, Texas in a hearing room to be designated later.

MC 107064 (Sub-131F), Steele Tank Lines, Inc., now being assigned for hearing on January 16, 1980 (3 Days), at Dallas, Texas in a hearing room to be later designated.

MC 118130 (Sub-96F), South Eastern Xpress, Inc., now being assigned for hearing on January 9, 1980 (1 Day), at Dallas, Texas in a hearing room to be later designated.

MC 133095 (Sub-202F), Texas Continental Express, Inc., now being assigned for hearing on January 10, 1980 (2 Days), at Dallas, Texas in a hearing room to be later designated.

MC 142130 (Sub-4F), Cresent Industries, Inc., now being assigned for hearing on January 14, 1980 (2 Days), at Dallas, Texas in a hearing room to be later designated.

MC 124070 (Sub-34F), Chemical Haulers, Inc., now being assigned for hearing on January 22, 1980 (1 Day), at Chicago, IL in a hearing room to be later designated.

MC 145939 (Sub-1F), Atlantic Carriers, Inc., now being assigned for hearing on December 4, 1979 (1 day), at Omaha, NE in a hearing room to be designated later.

MC 138627 (Sub-49F), Smithway Motor Xpress, Inc., now being assigned for hearing on December 5, 1979 (1 day), at Omaha, NE in a hearing room to be designated later.

MC 90870 (Sub-19F), Riechmann Enterprises, Inc., now being assigned for hearing on December 6, 1979 (2 days), at Omaha, NE in a hearing room to be designated later.

MC 124211 (Sub-356F), Hilt Truck Line, Inc., now being assigned for hearing on December 10, 1979 (2 days), at Omaha, NE in a hearing room to be designated later.

MC 127042 (Sub-232F), Hagen, Inc., now assigned for continued hearing on

December 12, 1979 (3 days), at Omaha, NE in a hearing room to be designated later.

FD 29099, Petition of City of St. Louis, MO for order requiring grant of trackage rights and authorizing related changes in terminal operations, now being assigned for hearing on November 27, 1979 (4 days), at St. Louis, MO in a hearing room to be designated later.

MC 135874 (Sub-144F), LTL Perishables, Inc., now being assigned for hearing on January 15, 1980 (2 days), at St. Paul, MN in a hearing room to be designated later.

MC 108119 (Sub-124F), E. L. Murphy Trucking Company, now assigned for hearing on October 30, 1979 (1 day), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.

MC-F-13826F, H & W Motor Express Company Purchase (Portion) the Rock Island Motor Transit Co., now assigned for hearing on October 31, 1979 (3 days), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.

MC 112693 (Sub-55F), Bulk Transport Company, now assigned for hearing on November 5, 1979 (1 day), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.

MC 119741 (Sub-143F), Green Field Transport Company, Inc., now assigned for hearing on November 6, 1979 (2 days), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.

MC 146110F, Small Shipment Express of Illinois, Inc., now assigned for hearing on November 8, 1979 (2 days), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.

MC 129537 (Sub-24F), Reeves Transportation Co., now assigned for hearing on October 15, 1979 (5 days), at Montgomery, AL, is canceled.

MC 145297F, Vern Breazeale Freight Service, DBA Denver-Lander-Riverton Freight Service, now assigned for hearing on October 29, 1979 at Lander, WY, is canceled.

MC 4405 (Sub-590F), Dealers Transit, Inc., transfered to Modified Procedure.

MC 145838 (Sub-1F), Ohio Container Service, Inc., transfered to Modified Procedure.

MC 113158 (Sub-33F), Todd Transport Company, Inc., transferred to Modified Procedure.

MC 11603 (Sub-8F), Basse Truck Line, Inc., now assigned for MC 11603 (Sub-8F), Basse Truck Line, Inc., now assigned for continued Prehearing Conference on October 9, 1979 at Washington, DC, is canceled and application dismissed.

MC 124211 (Sub-262MIF), Hilt Truck Line, Inc., now assigned for hearing on January 14, 1979 (1 week), at New York, NY in a hearing room to be later designated.

MC 172 (Sub-9F), Robert E. Wade, transferred to Modified Procedure.

MC 145864F, Paragon Transportation Co., Inc., now assigned for hearing on November 1, 1979 (2 days), at Boston, MA will be held at the Judiciary Committee, Hearing Room 136, State House Annex.

MC 97457 (Sub-8F), Warner & Sons Trucking Company, now being assigned for hearing on December 10, 1979 (2 days), at Lansing, MI, location of hearing room to be later designated.

MC 135082 (Sub-76F), Roadrunner Trucking, Inc., now being assigned for hearing on January 15, 1979 (9 days), at Albuquerque, New Mexico, location of hearing room to be later designated.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32731 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-5 (Sub-68F)]

Burlington Northern, Inc., Abandonment Near Foxhome and Breckenridge, in Wilkin County, Minn.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 2, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc., of a line of railroad known as the Foxhome to Breckenridge Line extending from railroad milepost 61.45 near Foxhome, MN, to railroad milepost 73.28 near Breckenridge, MN, a distance of 11.83 miles, in Wilkin County, MN. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of final assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit II (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32734 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 18, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 8, 1979. FSA No. 43758, Southwestern Freight Bureau, Agent No. B-32, vermiculite, broken, crushed, or ground, in carloads, from Kearney and Travelers Rest, SC to stations in Southwestern Territory, in its Tariff ICC SWFB 3001-G and three other schedules, effective November 13, 1979. Grounds for relief—need for increased revenue.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32732 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-59F)]

Illinois Central Gulf Railroad Co., Abandonment Near Cayce and Columbus, in Fulton and Hickman Counties, Ky.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 2, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad known as the Union City District (portion) extending from railroad milepost 457.0 north of Cayce, KY (excluding Cayce) to milepost 470.0 south of Columbus, KY, a distance of 13.00 miles, in Fulton and Hickman Counties, KY. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32733 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-37 (Sub-9F)]

Oregon-Washington Railroad & Navigation Co.—Abandonment and Union Pacific Railroad Co.—Discontinuance of Service—Near Riparia and LaCrosse, in Whitman County, Wash.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided September 27, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the physical abandonment by the Oregon-Washington Railroad & Navigation Comnpany and discontinuance of service by the Union Pacific Railroad Company over a portion of a line railroad known as the Tekoa Branch extending from railroad milepost 17.63 near Riparia to milepost 40.86 near LaCrosse, a distance of 23.23 miles in Whitman County, WA. A certificate of public convenience and necessity permitting abandonment and dicontinuance of service was issued to the Oregon-Washington Railroad & Navigation Company and the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waved.

Upon reciept by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibits I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be files and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32735 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Supplemental Order No. 6

Decided: October 17, 1979.

On September 26, 1979, we directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (Willam M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398 (decided and served September 26, 1979; published in the Federal Register on October 1, 1979 at 44 FR 56343).

In Supplemental Order No. 2 (decided and served October 3, 1979), (44 FR 58581, Oct. 10, 1979) we directed KCT to assume the responsibilities for security and maintenance—including the making of lease payments—for all RI properties, including locomotives and freight cars, from the date of its entry upon RI properties "until it is determined that specific properties cannot be used in directed service." *See* Supplemental Order No. 2 at page 1 (44 FR 58583, first column).

On October 10, 1979, KCT filed "DRC Report No. 1," which identified a total of 3,913 RI freight cars and 88 RI locomotives as being either wrecked or in "heavy bad order" (HBO) and thus unfit for use in directed-service operations pursuant to Supplemental Order No. 2.[1] KCT also indicated that additional lists of HBO cars and locomotives would be forwarded as soon as such equipment could be identified. In accordance with Supplmental Order No. 2, KCT requested that all wrecked and HBO cars and locomotives of RI—whether owned, under lease, privately owned, or foreign—including the lading in any wrecked cars, revert to the RI Trustee as of 12:01 a.m., Thursday October 18, 1979.[2] *See* DRC Report No. 1 at page 2. After such reversion, the Trustee would assume full responsibility for security and maintenance of the rejected RI property, except that the DRC would continue to assume responsibility for lease payments on leased equipment which reverts to the Trustee, pursuant to the setoff provisions of the second paragraph of page 2 (44 FR 58582, last paragraph, 1st column) of supplemental Order No. 2. *See* DRC Report No. 1 at pages 2-3.

The RI Trustee, in a letter dated October 10, 1979, objected to the proposed reversion and petitioned the Commission for relief. Specifically, the RI Trustee objected to the proposed reversion on three grounds: (1) Indivisibility of car fleet and power values; (2) An unconstitutional taking resulting from the Trustee's lack of control over the work force and shops ordinarily used to maintain and move such equipment; and (3) jeopardy to the FRA program for repairing HBO equipment.

For the reasons stated below, we shall deny the relief requested by the Trustee and permit KCT to let the identified inoperable equipment revert to the Trustee.

Indivisibility of Assets

The Trustee's first basis for opposing reversion is the argument that RI's car fleet and locomotives constitute an "indivisible asset" which cannot be segregated for directed service purposes. We disagree.

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[1] HBO repairs require 20 man-hours of work or more. Based on recent figures available to the Commission, HBO cars averaged $6,000 each to repair.

[2] Actually, KCT requested the reversion to be effective as of 12:01 a.m. Wednesday October 17, 1979. However, this requested effective date was one day short of the effective date permitted by Supplemental Order No. 2. Under Supplemental Order No. 2, the reversion's effective date may not be less than 5 working days from the filing date of the DRC's report. Since DRC Report No. 1 was filed Wednesday October 10, 1979, and the fifth working day was not until Wednesday October 17, 1979, the reversion's effective date could not be before 12:01 a.m. Thursday October 18, 1979.

The Trustee's position is that a directed carrier under 49 U.S.C. 11125 cannot determine which of the impaired carrier's equipment is unsuitable for directed-service purposes and decline to accept responsibility for security, maintenance and the like as to such equipment. Nothing could be further from the statutory intent of 49 U.S.C. 11125.

The purpose of directed service is simply to ensure the temporary continuation of essential rail services over the lines of an impaired carrier, pending the development of long-range solutions and transportation alternatives. There is no Congressional intent that the directed carrier become the alter ego of the impaired carrier, assuming responsibility for all the impaired carrier's obligations, assets, and property. Rather, section 11125 merely instructs the Commission to "direct the handling, routing, and movement of the traffic available to the [impaired] carrier and its distribution over the railroad lines of that carrier by another carrier." *See* 49 U.S.C. 11125(a). The overriding legislative concern is continuation of rail services essential to the public interest and interstate commerce, not the provision of wholesale economic relief to the impaired carrier at taxpayer expense.

To adopt the Trustee's "indivisibility of assets" argument would frustrate the purpose and intent of the directed service statute. Under such an approach, a directed carrier would be required to assume responsibility for all the "indivisible assets" of the impaired carrier even those unnecessary to directed service. Not only would this needlessly increase the cost to the taxpayer of directed service, but it could very well interfere with the directed carrier's primary mission of providing "essential" rail services by occupying the DRC's time and resources with the burden of caring for defective, inoperable and otherwise unnecessary assets of the impaired carrier.

Moreover, even if we were to adopt the Trustee's "indivisibility of assets" approach to directed service, the Trustee has not shown why operable and inoperable cars and locomotives constitute a single indivisible asset. On the contrary, the distinction between these types of equipment is clear on its face. Certainly, it it not great task to discern which equipment functions, which equipment does not, and the relative magnitude of the needed repairs. This distinction in the nature of assets is so elementary as to refute the Trustee's allegations of indivisibility here.

Taking of Property

The Trustee's second argument against reversion is that he lacks control over the work force and shops ordinarily used to maintain and move defective RI equipment, such employees and shops now being under the control of KCT. Lacking control over such employees and facilities, the Trustee contends that it would be ruinous for the RI estate to accept responsibility for defective cars scattered throughout the RI rail system. Thus, the Trustee argues that the proposed reversion "would be a gross taking of values from the estate," in violation of the Fifth Amendment and the directed service order. *See* Trustee's letter at page 2. We cannot agree.

Far from "taking" the estate's property without due process, we are permitting certain RI property unnecessary to the provision of directed-service operations to revert to the estate. Further, the proposed reversion will not result in any undue diminution in the value of such property. Rather than causing any further deterioration in the value of the wrecked and HBO cars and locomotives, our action will simply preserve the status quo as to such equipment. Nor will the reversion impose a "ruinous" drain on the estate, since we are not requiring the Trustee to retrieve and rehabilitate the defective equipment, even though FRA funds are available for such rehabilitation. Moreover, even assuming arguendo that the reversion entailed a taking of property or diminution in value, there has been no showing that due process of law has not been afforded. Our action in authorizing the reversion has complied strictly with the letter and spirit of the directed-service statute. We thus reject the Trustee's arguments on this score.

Jeopardy to FRA Program

The Trustee's final argument against the proposed reversion is that such reversion would jeopardize "Rock Island's FRA program to rehabilitate almost 3,000 cars and locomotives." *See* Trustee's letter at page 2. Rather, the Trustee urges that KCT be required to retain control of the inoperable RI equipment and rehabilitate such equipment at its own expense, funding the rehabilitation through earnings on the directed-service lines and presumably through governmental reimbursement under 49 U.S.C. 11125(b)(5). We cannot accept this argument.

We fail to see precisely how the proposed reversion would in any way jeopardize RI's existing FRA rehabilitation program, although such action would seem to enhance the value of the estate. Nor are we requiring the Trustee to advance FRA funds for the rehabilitation of this equipment. Indeed, the Trustee—not the DRC—controls these funds and has thus far refused to release any of these funds to the DRC. Thus, the proposed reversion would pose not threat to the FRA rehabilitation program.

In addition, as noted previously, we are charged by statute to ensure the temporary continuation of essential rail services at the least governmental cost. Accordingly, we are not persuaded by the Trustee's arguments that the DRC should be required to retain and rehabilitate, at ultimate taxpayer expense, a large quantity of equipment already identified as unnecessary to the provision of directed service. The Trustee's letter-petition will accordingly be denied.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered:

(1) The RI Trustee's letter of October 10, 1979, requesting relief from the proposed reversion of equipment is denied.

(2) KCT is authorized to effectuate the reversion to the RI Trustee of the equipment identified in DRC Report No. 1, pursuant to the terms of Supplemental Order No. 2.

(3) This decision shall be effective on its service date.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham dissented in part and Vice Chairman Stafford did not participate.

Commissioner Gresham, dissenting in part: The majority approves the continuation of lease payments for equipment reverting to the Trustee. I object to the use of public funds for this purpose. This should not be considered a compensable cost of directed service under section 11125.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32728 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Supplemental Order No. 5

Decided: October 17, 1979.

On September 26, 1979, we directed the Kansas City Terminal Railway

Company (KCT), to operate over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI") because RI's cash position made continued operations impossible [44 FR 56343, Oct. 1, 1979] *See* 49 U.S.C. 11125(a)(1).

In that decision, we indicated that public hearings would be held during the initial 60-day period of directed service to "assess the transportation needs of the localities served by—and the economic potential for—the RI lines over which directed-service has initially been ordered. This assessment will, in turn, assist us in planning for the period following the expiration of this 60-day directed-service order." *See* Directed Service Order No. 1398 at pages 7 and 8 [44 FR 56344, 2nd and 3rd columns].

We issued a release on October 11, 1979 announcing dates and locations for public hearings to consider the need for directed service over RI beyond the initial 60-day period, which ends on December 3, 1979. The hearings are in 17 cities, commencing from October 22 until November 1, 1979.

The Office of Rail Public Counsel (RPC) filed a petition entitled "Motion to defer hearing dates and for other relief" on October 15, 1979. Specifically, RPC requests that: (1) The Commission defer the public hearings for a period of at least one week; (2) The record be kept open for written submissions until one week following the close of hearings; and (3) RPC attorneys be permitted to ask clarifying questions at the hearing. RPC's first request will be denied, its second modified, and its third clarified.

Hearing Postponements

RPC argues for postponement because it believes notice of 11 days in a release is too short, and may prejudice parties since they will not be able to develop complex economic data. We disagree. Parties (including RPC) were notified that public hearings would be held by our first decision on September 26, 1979, nearly four weeks prior to the commencement of hearings. Our October 11, 1979 release merely designated hearing locations, dates, and times. The release was not the first time the hearings were mentioned. Directed service is only ordered in an emergency situation. It is our duty to determine the need for continuing directed service after the initial 60-day period. The notice given before public hearings would commence was 26 days, nearly one-half of the initial 60-day period. In this emergency situation, the notice given was adequate to develop information on the transportation needs of the localities served by—and the economic potential for—the RI lines.

RPC also argues that 11 days is inadequate time for parties to prepare information to present us, leaving us with an inadequate record. Again, parties have had 26 days, not 11. Although this may be a short time, it is sufficient for enough information to be developed to provide us with a sufficiently complete record upon which to base a decision.

Another argument advanced by RPC is that we need not determine the extent of directed service during the initial 60-day period, but may modify directed service during the subsequent 180-day period. This argument ignores the realities of directed service over RI. Directed service is supported by Federal funds. *See* 49 U.S.C. 11125(b)(5). It is also, at best, a stop-gap measure until some permanent solution can be reached, not a restructuring. Additionally, RI is a major grain-carrying railroad. The initial 60-day period expires after the peak of the harvest. If, at the end of the initial 60-day period, we can conserve public funds by directing operations to provide only essential services, we will be promoting service in the interest of the public and commence. *See* 49 U.S.C. 11125(a).

RPC believes our credibility and fairness are open to question because of the "11-day notice." Again, the 26-day notice of hearings and emergency situation indicate that our action is fair under—and required by—the situation.

Finally, RPC indicates that the "11-day notice" does not permit it sufficient time to affectuate a complete outreach program (*see* RPC's motion, at page 3, footnote 1) or fulfill its statutory function effectively (*n.b.* RPC's statutory function is contained in 49 U.S.C. 10382; *see* RPC's motion at page 4, footnote 1).

RPC's outreach program and statutory duty could have been performed within the actual 26-day notice period. Furthermore, our concern in this proceeding is not simply for RPC, but for the public interest and interstate commerce. *See* 49 USC 11125(a). This entails the conservation of public funds and the retention of essential service. RPC's function is to assist this process, not hinder or delay it. *See* 49 U.S.C. 10382(a)(5).

Receipt of Written Statements After Hearing

RPC requests that we keep the record open for one week after the close of hearings to receive additional evidence in the form of written statements. We will permit anyone to file written comments for consideration in DSO No. 1398 no later than November 8, 1979.

We request that the original and 20 copies be filed. We will also limit the length of these comments to 10 pages of text and 10 pages of appendicies.

RPC Questioning of Witnesses

RPC requests that the release be modified so that its attorneys, as well as the presiding officers, may question witnesses. RPC believes this will enable them to help witnesses present clearer testimony.

Our release contemplated this role for RPC. We stated in the release, that one function of RPC would be to assure "the development of a full public interest record." We would remind RPC that cross-examination of witnesses will not be permitted, that witnesses and not RPC are testifying, and that RPC's questions should not repeat those asked by the presiding officers.

This decision will not significantly affect either the quality of the human environment or the conservation of energy.

It is ordered: 1. The commencement of the hearings announced in our October 11, 1979 release is not deferred.

2. Any person shall be permitted to file written comments with this Commission until November 8, 1979. Those comments shall comply with the requirements in this decision.

RPC shall be allowed to participate in these proceedings as specified in this decision.

4. RPC's petition is denied, except to the extent granted in this decision.

5. This decision shall be effective on the date of service.

By the Commission. Chairman O'Neal, Vice-Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham concurring, and Vice Chairman Stafford not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32730 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Important Notice

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One

copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 185

October 10, 1979.

MC 9859 (Sub-7TA), filed August 28, 1979. Applicant: KANE TRANSFER CO., 4661 Hollins Ferry Rd., Baltimore, MD 21227. Representative: James W. Lawson, 1511 K Street NW., Washington, DC 20005. *General commodities, except livestock, Classes A and B explosives, commodities in bulk, those of unusual value and those requiring special equipment* between Baltimore, MD, Washington, DC and points in their commerical zones on the one hand, and, on the other, points and places in DE, MD, and VA, East of the Chesapeake Bay and South of the Chesapeake and Delaware Canal for 180 days. Applicant intends to tack authority sought herein with authority held under docket number MC 9859. Applicant will also be interling in Baltimore, MD and Washington, DC and their commerical zones. Supporting shipper(s): Smith & Solomon Trucking Co., 8130 Norris Lane, Baltimore, MD 21222; Springmeier Shipping Co., Inc., 209 W. Camden St., Baltimore, MD 21230; Boss Linco Lines, Inc., 3200 James St., Baltimore, MD 21230. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 22509 (Sub-23TA), filed August 22, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: E. Wayne Farmer, 12th and Baltimore, P.O. Box 26010, Kansas City, MO 64196. *Paper and paper products,* from the plant site of Union Camp Corporation at or near Normal, IL to points and places in the states of MO, KS, IA and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 36448 (Sub-8TA), filed Sept. 13, 1979. Applicant: MURFREESBORO FREIGHT LINES, CO., P.O. Box 1113, Murfreesboro, TN 37130. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *Common carrier:* regular routes: *General commodities, except Class A & B explosives, commodities in bulk and those requiring special equipment,* between Louisville, KY and Memphis, TN, and points in their respective commercial zones. From Memphis over Interstate Hwy. 40 to Junction Interstate Hwy. 65, then over Interstate Hwy. 65 to Louisville and return over the same route, serving no intermediate points. NOTE: Applicant proposes to interline with other carriers at Louisville, KY and Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): "There are (11) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House 801 Broadway, Nashville, TN 37203.

MC 44538 (Sub-3TA), filed September 17, 1979. Applicant: NEW BREED MOVING CORP., 24 Lucon Drive, Deer Park, NY 11729. Representative: Piken & Piken, 95-25 Queens Boulevard, Rego Park, NY 11374. *Flight simulators and parts thereof,* between all points in the United States, including AK, excluding HI; for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Redifon Simulation International Inc., 2201 Arlington Downs Road, Arlington, TX 76011. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 48958 (Sub-197TA), filed 8/30/79. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero, same address. *Meats, Meat Products, and Meat By-Products, and articles distributed by Meat Packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Swift and Co., at or near Clovis, NM to points in the State of Texas, for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper(s): Swift and Co., 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: District Supervisor Roger L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 48958 (Sub-200TA), filed Sept. 6, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing Company, at or near Denison, IA, to points in AZ, CA, CO, NV, NM and UT, for 180 days. Supporting shipper(s): Dubuque Packing Company, P.O. Box 610, Denison, IA 51442. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 56679 (Sub-138TA), filed August 8, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Foodstuffs (except in bulk),* from the facilities of Doric Foods, Findlay, OH, to points in the US on and east of the MS River, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doric Foods Corporation, P.O. Box 986, Mount Dora, FL 32757. Send protests to: Sara K. Davis, TA, ICC, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 56679 (Sub-139TA), filed August 8, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *General commodities (with usual exceptions) in containers,* between Tampa and Ft. Lauderdale, FL, on the one hand, and, on the other, points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seatrain Lines, Inc., Port Seatrain, Weehawken, NJ 07087. Send protests to: Sara K. Davis, TA, ICC, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 56679 (Sub-140TA), filed August 27, 1979. Applicant: BROWN

TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *Such merchandise as is dealt in or used by wholesale, retail and chain grocery and food business houses; and equipment, materials, and supplies used in the conduct of such business,* from the facilities of the Kroger Co. at or near Columbus and Cincinnati, OH to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 78228 (Sub-140TA), filed July 5, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Aluminum and aluminum articles* from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, LA, KY, ME, MD, MA, MI, MN, MS, MO, NJ, NH, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 99149 (Sub-13TA), filed August 30, 1979. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 8400 New Benton Hwy., Little Rock, AR 72219. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Hot Springs Village, AR as an off-route point in connection with the carrier's otherwise authorized regular-route authority, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 6 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 106398 (Sub-960TA), filed August 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Glass and accessories,* from the facilities of Pittsburgh Corning Corporation located at Port Alleganey, PA, to points in AL, CT, DE, FL, IL, KY, OH, NC, NY, MA, ME, MD, RI, SC, TN, VA, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh Corning Corporation, 800 Presque Isle Drive, Pittsburgh, PA 15239. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd Oklahoma City, OK 73102.

MC 110988 (Sub-401TA), filed September 14, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Vegetable oil and vegetable oil products and vegetable oil shortening* between Columbus, OH on the one hand, and, on the other, points in WI, IL, IN, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Capital City Products Co., Div. of Stokely Van Camp, Inc., 525 W. First Ave., Columbus, OH 43216. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112989 (Sub-110TA), filed September 10, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. IRON AND STEEL ARTICLES from the facilities of United States Steel Corporation located at or near Orem, Utah to Washoe County, Nevada, and Kern County, California for 180 days. Supporting shipper(s): CalCut Companies, Inc., dba Nevada Tank & Casing 9000 No. Virginia Street, P.O. Box 2999, Reno, NV 89509. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon.

MC 113678 (Sub-835TA), filed September 13, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs* (except in bulk) from the facilities of Knott's Berry Farm near Buena Park, CA, to Chicago, IL, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knott's Berry Farm, 8039 Beach Blvd., Buena Park, CA 90620. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-837TA), filed August 31, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs (except in bulk),* from (1) Pueblo, CO to points in the United States (except AK, CO, HI, DE, ID, NJ, NY, OR, PA, UT and WA), and (2) from Colorado Springs, CO, to points in the United States (except AK, CO, AR, HI, IA, KS, MN, MO, MI, NE, ND, and SD), for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): La Tolteca Foods, Inc., P.O. Box 1430, Pueblo, CO 81002 and Johnson Food Company, P.O. Box 7099, Colorado Springs, CO 80933. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 114569 (Sub-343TA), filed August 23, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Printed matter* from the facilities utilized by Ingram Book Co. at or near Nashville, TN; Jessup, Westminster, Baltimore, MD; Bristol, Scranton, PA; Berryville, VA; City of Industry, Los Angeles, CA; Seattle, WA and their commercial zones to points in the U.S. (except AK and HI) restricted to traffic originating at the facilities utilized by Ingram Book Company, for 180 days. Supporting shipper(s): Ingram Book Company, 347 Reedwood Dr., Nashville, TN 37167. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114948 (Sub-22TA), filed Aug. 27, 1979. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Hopkinsville, KY 42240. Representative: Richard Gleaves, Atty., 631 Stahlman Bldg., Nashville, TN 37201. Authority sought to operate as a contract carrier, over irregular routes, to transport Milk Cartons, in truckload lots, from Sikeston, MO, to New Orleans, LA, including the commercial zones of each city, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. C. Centanni, Gold Seal Creamery, Inc., 520 S. Alexander St., New Orleans, LA 70119. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 115669 (Sub-193TA), filed September 11, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). *(1) Salt and salt products and (2) Materials and supplies used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, when shipped in mixed loads with commodities named in (1) above* from the facilities of Lake Crystal Salt Co., a subsidiary of Process Minerals, Inc., at or near Saline and Ogden, UT to Phoenix, AZ; Denver and Hudson, CO; Boise and Pocatello, ID; Ft. Dodge, IA; Fremont, Grand Island, Lincoln, McCook, Norfolk, North Platte and Omaha, NE; Rapid City, SD and Riverton, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Crystal Salt

Co., Processed Minerals Inc., P.O. Box 459, Hutchinson, KS 67501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117119 (Sub-772TA), filed August 29, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Such merchandise* as is dealt in by automotive supply stores (except commodities in bulk) from points in CA, IA, IL, IN, MI, OH, OK and TX to facilities of Henderson Wheel and Supply, Inc. at Salt Lake City, UT and Boise, ID, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Henderson Wheel and Supply, Inc., 112 West 34th Street, Boise, ID 83703. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-773TA), filed September 10, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from W. Reading and Wyomissing, PA to Omaha; NE; Kansas City, KS; St. Louis, MO; Memphis, TN; Chicago, IL; and Minneapolis, MN, and their respective commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): R. M. Palmer Company, 77 2nd Ave., W. Reading, PA 19611. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-774TA), filed September 11, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Winchester, VA to Logansport, IN, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Rich Products Corporation, 1145 Niagara St., Buffalo, NY 14213. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 119399 (Sub-106TA), filed August 30, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *(1) Animal and poultry feed and ingredients and (2) materials and supplies used in the manufacture thereof,* (1) from Rolla, MO to points in the United States (except AK and HI) and (2) from points in the United States (except AK and HI) to Rolla, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bow Wow Co., Inc., P.O. Box 938, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-107TA), filed August 22, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Malt beverages in containers,* from Omaha, NE to Springfield, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Queen City Beer Wholesalers, Inc., 666 N. Nettleton, Springfield, MO. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-108TA), filed August 27, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Return empty drums used in the transporting of petroleum products,* from points in AL, IL, IN, IA, KY, KS, MI, MN, MS, MO, NE, ND, AR, OK, OH, SD, TN, and WI, to Evans Drum Company on Highway 90 approximately 4 miles west of Dayton, TX; and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., Box 52332, Houston, TX 77052. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-109TA), filed September 6, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Livestock feeders, except plastic containers, or commodities in bulk,* from the facilities of Poli-Tron, Inc., Crawford County, KS, to points in the U.S. (except Alaska and Hawaii) and materials and supplies used or useful in manufacturing the above described commoditity from points in the U.S. to the facilities of Poli-Tron, Inc., Crawford County, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Poli-Tron, Inc., P.O. Box 581, Pittsburg, KS 66762. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119789 (Sub-626TA), filed September 4, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Refined sugar,* in packages, from Mathews, LA to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The South Coast Corporation, P.O. Box 8036, Houma, LA 70360. Send protests to: Opal M. Jones, TA, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-211TA), filed September 5, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103-East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). *Leonardite,* (except in bulk) from Brewster County, TX to points in CO, NM, AR, TN, AL, MS, GA, FL, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Land & Cattle, Ltd., P.O. Box 63, Terlingua, TX 79852. Send protests to: John F. Mensing, DS, ICC, 515 Rusk #8610, Houston, TX 77002.

MC 119988 (Sub-212TA), filed September 13, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). (1) Foodstuffs and pet foods (2) such commodities that are used in the processing, milling, packaging, manufacturing or sale of foodstuff and pet foods (except commodities in bulk, in tank vehicles) between the facilities of Carnation Company at or near Elwood, KS; St. Joseph, MO; and Garland, TX and points in the states of AR, LA, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-213TA), filed September 13, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities and commodities in bulk) from the facilities of The Clorox Company, at or near Houston, TX and destined to statewide points in AR, LA, OK and NW, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 121658 (Sub-25TA), filed September 10, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison,

P.O. Box 22628, Jackson, MS 39205. *Paper and paper products and plastic bags,* from facilities of Continental Can Co. at or near Hodge, LA to facilities of Great Plains Bag Co. at or near Jacksonsville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Forest Industries, Office Park II, Greenwich, CT 06830. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 121658 (Sub-26TA), filed August 27, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Plastic containers* from facilities of Sewell Plastics, Inc. at Jackson, MS to Eunice, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sewell Plastics, 595 Industrial Dr. Hawkins Field, Jackson, MS. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124408 (Sub-15TA), filed August 29, 1979. Applicant: THOMPSON BROS. INC., 3604 Hovland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Such commodities as are dealt in by hardware stores, drug stores, discount stores, department stores, and supermarkets (except in bulk, in tank vehicles)* from the facilities of Action Industries, Inc., at or near Cheswick, PA to points in AR, AL, AZ, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Action Industries, Inc., 460 Nixon Road, Cheswick, PA 15024. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 124679 (Sub-104TA), filed August 30, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 21st, South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Ice cream mix* in mechanically refrigerated equipment, from the facilities of McWilly's Enterprises, Inc., at Salt Lake City, UT to Las Vagas, NV and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McWilly's Enterprises, Inc., 715 East 3ith South, Salt Lake City, UT 84117. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125368 (Sub-91TA), filed September 4, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as applicant). *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the Report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)* between the facilities of Northern State Beef Co., at or near Omaha, NE, on the one hand, and, on the other, points in CA, CT, IL, IA, KS, LA, MD, MA, MN, MO, NH, NJ, NY, OK, OH, PA, TX, VA, WA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northern States Beef Inc., 3435 Gomez, Omaha, NE 68107. Send protests to: Sheila Reece, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 127579 (Sub-27TA), filed August 17, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Such merchandise as is dealt in by Retail Stores* between MD, NJ, PA, and VA, on the one hand, and, on the other, CA, FL, and TX. Restricted to traffic originating at or destined to facilities utilized by Best Products Co., Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 127848 (Sub-8TA), filed August 22, 1979. Applicant: WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, PA 16055. Representative: Jerome Solomon, Esquire, 3131 United States Steel Building, Pittsburgh, PA 15219. Gypsum in bulk, in dump vehicles, from the facilities of United States Gypsum Company in Oakfield, NY to the facilities of Penn-Dixie Cement Company at West Winfield, PA for 180 days. An underlying ETA for 90 days has been sought. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 128638 (Sub-21TA), filed Aug. 29, 1979. Applicant: CENTRAL GRAIN HAULERS, INC., Route 7, Van Meter Road, Winchester, KY 40391. Representative: Wm. L. Willis, Atty., 708 McClure Bldg., Frankfort, KY 40601. Dog and cat food, except in bulk, from St. Mary's, OH, to points in KY, MD, VA, and WV. (Transportation will be from the facilities of Country Food Division, Agway Incorporated, at St. Mary's, OH) for 180 days. An underlying seeks 90 days authority. Supporting shipper(s): Rodney K. Williams, Southern States Cooperative, Inc., P.O. Box 26234, Richmond, VA 23260. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 128878 (Sub-45TA), Filed August 24, 1979. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 3904, Shreveport, LA 71103. Representative: C. Wade Shemwell (same address as applicant). Contract, irregular routes, *Lumber, plywood and forest products* from the facilities of Crown Zellerback Corporation at Joyce, LA to points in AL, MS, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Crown Zellerback Corporation, P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 129219 (Sub-22TA), Filed September 14, 1979. Applicant: CMD TRANSPORTATION, INC., 12340 S. E. Dumolt Road, Clackamas OR 97015. Representative: Philip G. Skofstad, 1525 N. E. Weidler Street, Portland, Oregon 97232, 503-288-8441. Contract, Irregular (1) *Electric storage batteries and components of electric storage batteries;* between Los Angeles and San Jose, CA and Denver, CO, on the one hand, and, on the other, Phoenix and Tucson, AZ, Albuquerque, NM and Dallas, TX. (2) *Scrap electric storage batteries* from Phoenix and Tucson, AZ, Albuquerque, NM and Dallas, TX, to Los Angeles, CA and from Denver, CO, to Dallas, TX, for 180 days. Supporting shipper(s): ESB, INC. AUTOMOTIVE DIVISION, P.O. Box 6266, Cleveland, OH 44101. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 129908 (Sub-8TA), Filed September 7, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 S. W. 15th Street, Oklahoma City, OK 73107. Representative: Wm L. Peterson, Jr., Century Center, Suite 250, 100 W. Main, Oklahoma City, OK 73102. *Fiberglass reinforcments (rovings, woven rovings, chopped strand and mat) and equipment, materials and supplies used in the manufacturing of fiberglass reinforcements,* between facilities of CertainTeed Corporation at Wichita Falls, TX, on the one hand, and, on the other, points in AZ, CA, GA, IA, IL, IN, NY, OH, OR, TN, UT, & WA, for 180 days. Supporting shipper(s): CertainTeed Corporation, 4515 Allendale Road, Wichita Falls, TX 76310. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129908 (Sub-9TA), Filed September 7, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). *Wooden furniture, in packages,* from all points in the state of VA, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mathis Bros. Furniture, Inc., 3434 W. Reno, Oklahoma City, OK 73108. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134349 (Sub-31TA), Filed September 13, 1979. Applicant: B.L.T. CORPORATION, 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin and Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, N.Y. 10048. *Contract carrier,* irregular routes: *Such commodities as are dealt in or used by discount department stores, and equipment, materials and supplies used in the conduct of such business (except commodites in bulk and foodstuffs),* between New York, NY and Secaucus, NJ, on the one hand, and, on the other, points in MI, IL, WI and MN, under a continuing contract with Jubilee Shops, Inc., of Secaucus, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jubilee Shops, Inc., 80 Enterprise Ave., Secaucus, NJ 07094. Send protests to: Maria B. Kejss, TA, ICC, 26 Federal Plaza, New York, N.Y. 10007.

MC 134599 (Sub-174TA), filed September 6, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier:* Irregular Routes: *Such commodities as are used, manufactured and dealt in by producers of rubber and rubber products* (except commodities in bulk and those which because of size or weight require special handling or equipment), for the account of The Armstrong Rubber Company, (1) from Laurel Hill, NC and Baton Rouge, LA, to the facilities of The Armstrong Rubber Company at West Haven, CT, Madison, TN, Clinton, TN, Natchez, MS, and Hanford, CA. (2) From Baton Rouge, LA to the facilities of The Armstrong Rubber Company at Des Moines, IA. (3) From the facilities of The Armstrong Rubber Company at Madison, TN, Natchez, MS, and West Haven, CT, to points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (4) From the facilities of The Armstrong Rubber Company at West Haven, CT, to Jacksonville, FL. (5) From the facilites of The Armstrong Rubber Company at Des Moines, IA, to points in MN, WI, IL, IN, OH, TX, OK, AL, FL, GA, NC, SC, MA, and VA. (6) From the facilities of The Armstrong Rubber Company at Knoxville, TN, to points in NC, SC, GA, FL and TX. (7) From the facilities of The Armstrong Rubber Company at Hanford, CA, Des Moines, IA, and Natchez, MS to Memphis, TN. (8) From Borger, TX, to the facilities of The Armstrong Rubber Company at West Haven, CT, Natchez, MS, Madison, TN, and Hanford, CA. (9) From the facilities of The Armstrong Rubber Company at West Allis, WI, to points in IA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Armstrong Rubber Company, 500 Sargent Drive, New Haven, CT 06507. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 136408 (Sub-48TA), filed September 14, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Contract carrier; irregular routes: *Chemicals (except in bulk, in tank vehicles)* from Worcester, MA to IL, IN, IA, KS, MI, MN, MO, NE, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, John J. Powell, Transportation Manager, 800 N. Lindbergh Blvd., St Louis, MO 63166. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138329 (Sub-5TA), filed September 4, 1979. Applicant: HICKMAN BROTHERS TRUCKING, INC., Rt. 2, Box 330, Monroe, NC 28110. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Hot Mix asphalt, in bulk, in dump vehicles,* from the facilities of Blythe Industries, Inc. at or near Pineville, NC to points in York County, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blythe Industries, Inc., P.O. Box 989, Charlotte, NC 28231. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 138438 (Sub-67TA), filed August 31, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 329 Pennsylvania Ave., Hagerstown, MD 21795. *Acoustical tile, panels, noise control products, accessories, materials, equipment, and supplies used in the manufacture and distribution thereof,* between Hagerstown, MD and its commercial zone on the one hand, and, on the other, points in NY, PA, WV, IN, GA, NC, SC, FL, OH, DE, NJ, VA, CT, RI, MD, VT, ME, IL, NH, MA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acoustiflex Corp., 811 Center St., Plainfield, IL 60544. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 139809 (Sub-10TA), filed September 11, 1979. Applicant: FORBES REFRIGERATED TRANSPORT, INC., P.O. Box 7098, Wilson, NC 27893. Representative: William P. Jackson, Jr., PO Box 1240, Arlington, VA 22210. *(1) Foodstuffs (except in bulk),* from Millsboro and Seaford, DE to points in CT, MA, NJ, NY, PA and RI and *(2) materials, equipment and supplies used in the manufacture and distribution of foodstuffs (except in bulk)* from points in CT, MA, NJ, NY, PA and RI to Millsboro and Seaford, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlassic Foods, Inc., 33200 W. 14 Mile Rd., W. Bloomfield, MI 48033. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 140159 (Sub-12TA), filed August 29, 1979. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601 Representativs: Thomas M. Mulroy, Esquire, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Stone, except in bulk, from the facilities of Stone Tile, Inc., Youngstown, OH to points in PA, for 180 days. An underlying ETA has been sought for 90 days. Supporting shipper(s): Coronado Stone Company, P.O. Box 382, Duncansville, PA 16635; Stone Tile, Inc., 730 Bey Rd., Youngstown, OH 44512. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 140389 (Sub-74TA), filed September 4, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsdeen, AL 35902. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Vegetable oils and vegetable oil shortening.* From the facilities of S.C.M. Durkee at Louisville, KY, to TN, MD, NJ, MA, RI, CT, OR, UT, TX, NV, WA, DE, NH, SC, NC, CA; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.C.M. Durkee Foods Co., Inc., 900 Union Commerce Building, Cleveland, OH. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140709 (Sub-11TA), filed September 7, 1979. Applicant:

FANKHAUSER BROS., INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Liquid feed and Liquid feed ingredients, between Brainerd, KS and points in CO, IA, MO, NE, OK and TX; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Golden Glo, Inc., P.O. Box 825, Pratt, KS 67124; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 141119 (Sub-4TA), filed August 30, 1979. Applicant: MERCHANTS 5 STAR, INC., P.O. Box 541, Marietta, OH 45750. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Contract carrier:* irregular routes: *Plastic film, sheeting, and plastic plate rigid, and materials, equipment and supplies used in their installation,* from the facilities of The B. F. Goodrich Company at or near Marietta, OH to Muscatine, IA, Tuscon, Yuma, Wilcox, and Wintersburg, AZ, Tallahassee and Fort Walton Beach, FL, Newport, Pinewood and Rock Hill, SC, Gulfport, MS, Limerick, PA, Casper, WY, and Harrisburg, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The B. F. Goodrich Company, 500 S. Main St., Akron, OH 44318. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 141728 (Sub-6TA), filed August 24, 1979. Applicant: WILMINGTON CORP., 24 Industrial Way, Wilmington, MA 01887. Representative: Stanley A. Twargo, Esq., Mintz, Levin, Cohn, Glovsky and Popeo, One Center Plaza, Boston, MA 02108. *Contract carrier:* irregular route: *such commodities as are sold or used in retail stores (except commodities in bulk, commodities requiring the use of special equipment, malt beverages, frozen foods, and food stuffs)* between the facilities of Edison Brothers Stores, Inc. located at points in CA, CO, FL, GA, MA, MO, NJ, NY, NV, PA, UT and TX under a continuing contract with Edison Brothers Stores, Inc., for 180 days, An underlying ETA seeks 90 days authority. Supporting shipper(s): Edison Brothers Stores, Inc., 420 Locust St., St. Louis, MO 63102. Send protests to: John B. Thomas, 150 Causeway Street, Boston, MA 02114.

MC 141729 (Sub-2TA), filed April 13, 1979. Applicant: AUTREY BUS LINES, INC., 726 Sevier Ave, Knoxville, TN 37920. Representative: John K. Harber, P.O. Box 1270, 707 Gay St., Knoxville, TN 37920. *Common carrier:* regular routes: *Passengers and their baggage in the same vehicle, package express, and charter rights interstate,* (1) between Sevierville, TN and Newport, TN: from Sevierville over Tennessee Hwy 35 or U.S. Highway 411 to Newport, and return over same route, serving all intermediate points; (2) between Knoxville, TN and Elkmont, TN: from Knoxville over Tennessee Highway 71 or U.S. Highway 441 to Elkmont, and return over same route, serving all intermediate points; (3) between Sevierville and the Knox-Sevier County Line: from Sevierville over Tennessee Highway 35 or U.S. Highway 411 to Knox-Sevier County Line, and return over same route, serving all intermediate points; (4) between Sevierville, TN, and Junction Tennessee Highway 71 or U.S. Highway 441, with unnumbered highway: from Sevierville over Tennessee Highway 71 or U.S. Highway 441 to junction unnumbered highway known as Old Knoxville-Sevierville Highway, thence over Old Knoxville-Sevierville Highway to Shooks Gap, and return over the same route, serving all intermediate points; and (5) between Newport, TN and Greeneville, TN: from Newport over U.S. Highway 411 to Greeneville, and return over the same route, for 180 days. An underlying ETA seeks 90 days. *Common carrier:* irregular routes; *Passengers and their baggage in the same vehicle with passengers, in charter operations, in round-trip sightseeing,* beginning and ending at Knoxville, Gatlinburg, Sevierville, Pigeon Forge, Greeneville, Newport, and Chestnut Hill, TN and extending to points in the United States (except Alaska and Hawaii), through points on the International Boundry Line between the United States and Canada, located at points in the United States, for 180 days.

Note.—Applicant proposes to interline at Knoxville, TN. An underlying ETA seeks 90 days authority. There are 9 supporting shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 141759 (Sub-13TA), filed September 4, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 S. High St., Columbus, OH 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Contract carrier:* Irregular routes: *Advertising matter, magazines, periodicals, and equipment, materials and supplies used in the printing and publishing business,* from Dayton, OH to pts in AZ, CA, CO, ID, MT, NV, NM, OR, TX, WA, and WY, for 180 days. Supporting shipper(s): Dayton Press, Inc., 2219 McCall St., Dayton, OH 45401. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142508 (Sub-114TA), filed September 12, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096. Omaha, NE 68137. *Foodstuffs (except in bulk)* from the facilities of Kaukauna Dairy Products in Little Chute, WI to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaukauna Klub Products, P.O. Box 229, Kaukauna, WI 54130. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-115TA), filed September 6, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Antifreeze (except in bulk)* from the facilities of Citco at St. Louis, MO to points in NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Oil & Supply, 2209 South 24th St., Omaha, NE 68108. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 143059 (Sub-104TA), filed September 12, 1979. Applicant: MERCER TRANSPORTATION COMPANY, P.O. Box 35610, Louisville, KY 40232. Representative: Edw. G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, DC 20004, and Clayte Binion, III, 1108 Continental Life Bldg., Ft. Worth, TX 76102. *Pipe, pipe fittings and pipe accessories* (except as described in Mercer, Extension—Oilfield Commodities, 74 M.C.C. 459), between points in the US (except AK and HI), for 180 days. Supporting shipper(s): 26 supporting shippers. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 143499 (Sub-8TA), filed September 14, 1979. Applicant: DOUBLE NICKEL TRANSPORT LDT., 50 South Main St., Pearl River, NY 10965. Representative: John L. Alfano, Esq. & Roy A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, New York, N.Y. 10528. *Contract carrier,* irregular routes: *Plastic raw materials (except in bulk),* from Orangeburg, NY to Denver, CO, Richmond, VA, and points in CA; for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Mini Grip, Inc., Route 303, Orangeburg, NY. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 143688 (Sub-2TA), filed August 30, 1979. Applicant: PEARL CONTRACT CARRIERS, INC., 4001 N.W. 3rd St., Room 101A, Oklahoma City, OK 73107. Representative: C. L. Phillips, 1411 N. Classen, Room 248, Classen Terrace Bldg., Oklahoma City, OK 73106. *Contract carrier,* irregular routes: *Alcoholic beverages,* in containers, between points and places in CA, FL, IL, KY, MA, MI, MN, NY, SD, WA, and Oklahoma City, OK, for 180 days. Supporting shipper(s): Central Liquor Company, 4001 N.W. 3rd St., Room 100, Oklahoma City, OK 73107. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 143739 (Sub-31TA), filed September 14, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same as applicant). *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk),* from points in AZ, CA, CO, IL, IN, KS, MN, OH, TX, WA, WV, and WI, to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibson's Product Company, Warehouse Manager, 5955 South Main Street, Murray, UT 84107. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 143988 (Sub-9TA), filed August 13, 1979. Applicant: JAMES W. TATE d.b.a., JAMAR TRUCKING, 2995 Sandbrook, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38317. *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles which require special handling because of size or weight), from the facilities of the Memphis Defense Depot, at Memphis, TN to Fort Hood, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): USALSA, Room 422 Nassif Building, 5611 Columbia Pike, Falls Church, VA 22041. Send protests to: Floyd A. Johnson, Interstate Commerce Commission, 100 North Main Street, Suite 2006, Memphis, TN 38103.

MC 144688 (Sub-34TA), filed August 6, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE. *Household cleaning products, water purifying compounds and dry acids (except in bulk),* from the facilities of Purex Corp, at or near Atlanta, GA, to points in the states of AL, FL, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 144688 (Sub-35TA), filed August 7, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Pl., Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Scrap plastics,* from points in AL and FL (except Birmingham, AL and Miami, FL) to the facilities of ABC Polymers, Inc., at or near Atlanta, GA. Supporting shipper(s): ABC Polymers, Inc., 2561 Ponte Vedra Blvd., Ponte Vedra Beach, FL 32082. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 144858 (Sub-21TA), filed September 7, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Shampoo, toilet preparations and accessories* for the foregoing items (except commodities in bulk, in tank vehicles), from facilities of Cosmair, Inc. at South Brunswick, NJ, to Chicago, IL; Detroit, MI; and points in AZ, CA, CO, NV, NM, and UT, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-22TA), filed August 23, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Foodstuffs,* (except commodities in bulk, in tank vehicles), from points in Tarrant, Dallas and Harris Counties, TX, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Uncle Ben's Foods, a division of Uncle Ben's, Inc., P.O. Box 1752, Houston, TX 77001. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-23TA), filed August 27, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Britt and Mason City, IA, on the one hand, and on the other, points in the U.S. (except NM, WY, MT, AK and HI), restricted to shipments originating at or destined to facilities used by Lauridson Foods, Inc., at Britt, IA, and Armour & Co. at Mason City, IA, for 180 days. Supporting shipper(s): Armour & Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-24TA), filed September 4, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Decorative boxes,* knocked down, from facilities of Bendix Forest Products at Stockton, CA, to Grand Rapids, MI, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Bendix Forest Products, P.O. Box 8368, Stockton, CA 95208. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144888 (Sub-15TA), filed August 28, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. Contract carrier, irregular routes for 180 days. Office equipment, supplies and plastic articles and materials used in their manufacture from St. Petersburg, FL to Parkridge, NJ and Rochester, NY with a stop off at Bardstown, KY. To from and in between points and places in Bardstown, KY, Parkridge, NJ and Rochester, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burroughs Corporation, 76 Park Avenue, Park Ridge, NJ 07656. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144989 (Sub-9TA), filed August 1, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Court, Charlotte, NC 28205. *Contract carrier:* irregular routes: *Bedspreads, carpets, carpeting, rugs and materials used in the manufacture of bedspreads, carpet, carpeting and rugs,* between the facilities of Lawtex Industries, Inc. at Calhoun and Dalton, GA and Piedmont, AL, on the one hand, and, on the other, Indianapolis, IN and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Lawtex Industries, Inc., P.O. Box 1328, Dalton, GA 30720. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 145738 (Sub-12TA), filed September 4, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettlebaum, SERBY & MITCHELL, P. C., Fifth Floor, Lenox Tower South, 3390 Peachtree Road, NE, Atlanta, GA 30326. (1) *Candles, cleaners, light bulbs, cards and shampoo,* from the facilities of Henco, Inc., at or near Selmer, TN to Las Vegas, NV; (2) *Glass,* from Connellsville, PA and Salem, NJ to the facilities of Henco, Inc. at or near Selmer, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henco, Inc., P.O. Box 547, Selmer, TN 38375. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main Building, Memphis, TN 38103.

MC 145888 (Sub-2TA), filed September 6, 1979. Applicant: GRAHAM BELL, d.b.a. B&W TRUCKING, 392 Essex Avenue, Gloucester, MA 01930. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Cheese, in vehicles equipped with mechanical refrigeration,* from Gloucester, MA to points in the New York, NY commercial zone and to Neptune, NJ. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): N. Dorman & Company, 125 Michael Drive, Syosset, NY 11791. Send protests to: John B. Thomas, 150 Causeway Street, Boston, MA 02114

MC 146949 (Sub-7TA), filed September 5, 1979. Applicant: McINVALE TRUCK LINES, INC., 5965 Hwy. 18 W., Jackson, MS 39209. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *New furniture* from the facilities of Madison Furniture Industries, Inc. at or near Canton, MS to points in AZ, CA, CO, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Madison Furniture Industries, Inc., P.O. Box 111, Canton, MS 39046. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

MC 146949 (Sub-8TA), filed September 6, 1979. Applicant: McINVALE TRUCK LINES, INC., 5965 Hwy. 18 W., Jackson, MS 39209. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Sleeping bags* from Jackson and Pelahatchie, MS to Los Angeles, CA and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Leisure Products, Inc., Flowood Dr., Flowood, MS 39208. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

MC 147199 (Sub-1TA), filed July 30, 1979. Applicant: MWM TRUCKING, INC., P.O. Box 736, 424 W. Madison St., Ottawa, IL 61350. Representative: Edward McNamara, 907 S. 4th St., Springfield, IL 62703. *Salt in bulk,* from LaSalle County, IL to points in the states of IN, MI, IA, KY, MO, and WI for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Domtar Industries, Inc.—Sifto Salt Div., 9950 W. Lawrence Ave., Shiller Park, IL 60176; Diamond Crystal Salt Co., 916 S. Riverside Ave., St. Clair, MI 48079. Send protests to: Cheryl Livington, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 147438 (Sub-1TA), filed August 28, 1979. Applicant: SULLIVAN TRUCKING CO., INC., P.O. Box 235, Warsaw, KY 41095. Representative: Herbert D. Liebman, P.O. Box 235, Frankfort, KY 40602. Authority sought to operate as a Contract Carrier, over irregular routes, transporting Foundary Facing (also known as pre-mix), and Seacoal Facing (also known as ground bituminous coal), from Cincinnati, OH, to Jefferson and Boyle Counties, KY, for the account of The Hill & Griffith Co., Cincinnati, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tom Wise, Traffic Mgr., Hill & Griffith Co., 1262 State Ave., Cincinnati, OH 45204. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 147539 (Sub-2TA), filed September 6, 1979. Applicant: SOMAVRAC, INC., 2420 Boulevard des Recollects, Centre Industriel, Three Rivers, PQ, Canada. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Sodium sulfate (salt cake), in bulk, from ports of entry on the United States-Canada Boundary Line in ME, NH and VT to points in ME and MH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canadian Industries Ltd., 45 Sheppard East, Willowdale, Ontario, Canada M2N 2C9. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 147939 (Sub-1TA), filed August 31, 1979. Applicant: CHARLOTTE VAN & STORAGE COMPANY, INC., P.O. Box 3544, Charlotte, NC 28203. Representative: Frank E. Watson, P.O. Box 3544, Charlotte, NC 28203. *New uncrated and uncartoned furniture and furnishings* from Charlotte and Statesville, NC to points in AL, CT, DE, FL, GA, KY, ME, MD, MA, MS, NH, NY, RI, TN, VT and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blackwelder Furniture Company, Hwy, 21 North, Statesville, NC 28677. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 147948 (Sub-3TA), filed September 11, 1979. Applicant: A. J. ROSS ENTERPRISES, INC., 225 Smith Street, Keasbey NJ 08832. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Structural steel from Ambridge and Pittsburgh, PA to Keasbey, NJ and New York, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Levinson Steel Co., P.O. Box 1617, Pittsburgh, PA 15230. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148179 (Sub-1TA), filed September 12, 1979. Applicant: V. S. ENTERPRISES, INC., 1717 N. Broadway, St. Louis, MO 63107. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. (1) *Glass containers* and *container accessories* from the facilities of Kerr Glass Manufacturing Corp. located at Dunkirk, IN to points in the St. Louis, MO-E. St. Louis, IL commercial zone, and (2) *empty containers* and *supplies* used in the manufacture of glass containers on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corp., P.O. Box 97, Sand Springs, OK 74063. Send protests to: P. E. Binder, TS., ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144678 (Sub-11TA), filed August 30, 1979. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 W. 110th Street, Suite 500, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Route 1: Between Atlanta, GA and Ft. Worth, TX, serving all intermediate points, and serving the off-route point of Tyler, TX. From Atlanta, GA over I-20 to Ft. Worth, TX and return over the same route; also from Atlanta, GA over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to junction U.S. Hwy 80 then over U.S. Hwy 80 to Ft. Worth, TX and return over the same route. Route 2: Between Atlanta, GA and Dallas, TX, serving all intermediate points. From Atlanta, GA over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to Tuscaloosa, AL, then over U.S. Hwy 82 to Texarkana, TX, then

over U.S. Hwy 67 to Dallas, TX and return over the same route; also, from Texarkana, TX over I-30 to Dallas, TX, and return over the same route. Route 3: Between Atlanta, GA and Mobile, AL, serving all intermediate points. From Atlanta, GA over I-85 to Montgomery, AL then over I-65 to Mobile, AL and return over the same route; also, from Atlanta, GA over U.S. Hwy 29 to Tuskegee, AL, then over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to Mobile, and return over the same route. Route 4: Between Birmingham, AL and Lake City, FL serving all intermediate points. From Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 231 to Dothan, AL, then over U.S. Hwy 84 to Bainbridge, GA, then over U.S. Hwy 27 to Tallahassee, FL, then over U.S. Hwy 90 to Lake City, FL and return over the same route; also, from Birmingham, AL over I-65 to Montgomery, AL and return over the same route. Route 5: Between Tuscaloosa, AL and New Orleans, LA, serving all intermediate points. From Tuscaloosa, AL, over U.S, Hwy 11 to New Orleans, LA, and return over the same route; also, from Tuscaloosa, AL over I-59 to junction I-10, then over I-10 to New Orleans, LA and return over the same route. Route 6: Between Lake City, FL and Dallas, TX serving all intermediate points and the off-route points of Galveston, Baytown, Texas City and Port Arthur, TX. From Lake City, FL over U.S. Hwy 90 to Houston, TX, then over U.S. Hwy 75 to Dallas and return over the same route; also from Lake City, FL over U.S. Hwy 41 to junction I-10, then over I-10 to junction I-12, the over I-12 to Baton Rouge, LA, then over I-10 to Houston, TX, then over I-45 to Dallas, TX and return over the same route. Route 7: Between Ft. Worth, TX and Denver, CO, serving all intermediate points. From Ft. Worth, TX over U.S. Hwy 287 to Amarillo, TX, then over U.S. Hwy 87 to Denver, CO, and return over the same route; also from Raton, NM over I-25 to Denver, CO, and return over the same route. Route 8: Between St. Louis, MO and New Orleans, LA serving all intermediate points. From St. Louis, MO over U.S. Hwy 61 to Memphis, TN, then over U.S. Hwy 51 to junction U.S. Hwy 61, then over U.S. Hwy 61 to New Orleans, LA and return over the same route; also, from St. Louis, MO over I-55 to junction I-10 then over I-10 to New Orleans, LA and return over the same route. Route 9: Between Kansas City, MO and New Orleans, LA, serving all intermediate points. From Kansas City, MO over U.S. Hwy 50 to Sedalia, MO, then over U.S. Hwy 65 to Natches, MS, then over U.S. Hwy 61 to New Orleans, LA and return over the same route. Supporting shipper(s): There are 2,189 shipper support appendix forms attached to this application. These can be viewed at Commission offices in Washington, DC or the field office at Kansas City. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 147009 (Sub-1TA), filed May 11, 1979. Applicant: DEAN HUGHS, P.O. Box 98, New Berlin, IL 62670. Representative: Douglas G. Brown, INB Center-Suite 555, Springfield, IL 62701. *Common, Irregular: Paper and paper products* from Terre Haute, IN to points within the following IL counties: Adams, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cumberland, DeWitt, Douglas, Effingham, Fayette, Ford, Fulton, Green, Hancock, Jasper, Jersey, Knox, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McLean, Mernard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, St. Clair, Sangamon, Schuyler, Scott, Shelby, Tazewell, Warren, Woodford for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weston Paper & Manufacturing Co., P.O. Box 539, Terre Haute, IN 47808. Send protests to: D/S Charles D. Little, Room 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

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October 11, 1979.

MC 200 (Sub-397TA), filed August 17, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, 903 Grand Avenue, Kansas City, MO 64106. *Mineral wool, fiber glass products, insulation materials, and insulated air ducts,* from the facilities of Knauf Fiber Class at Shelbyville, IN to points in the states of CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, and WV. Restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knauf Fiber Glass, Elizabeth St., Shelbyville, IN 46176. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-398TA), filed August 21, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis 903 Grand Avenue, Kansas City, MO 64106. *Plastic film or sheeting and wrapping paper,* service Edinburg, IN as an intermediate point in connection with applicant's regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rexham Corpn., P.O. Box 188, Edinburg, IN 46124. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-400TA), filed September 14, 1979. Applicant: RISS INTERNATIONAL, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Machined brake drums and assembly, wheel hubs, and brake drums,* serving Longview, TX and Siloam Springs, AR as off-route points in connection with applicant's regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webb Division Marmon Industries, Inc., 510 Indianapolis Avenue, Lebanon, IN 46052. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-401TA), filed September 14, 1979. Applicant: RISS INTERNATIONAL, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Glass bottles and containers,* between Indianapolis, IN and Millsboro, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glass Containers Corp., 1301 South Keystone Avenue, Indianapolis, IN 46203. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 4941 (Sub-69TA), filed September 13, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Bakery goods, foodstuffs and nuts* from the facilities of Nabisco, Inc. at or near Richmond, VA to points in CT, ME, MA, NH, RI, and VT. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 15511 (Sub-29TA), filed July 13, 1979. Applicant: CARSTENSEN FREIGHT LINES, INC., Highway 30 West, Clinton, IA 52732. Representative: Paul J. Maton, Suite 1620, 10 S. LaSalle St. Chicago, IL 60603. Common—Regular Routes: *General commodities (except household goods, class A or B explosives, commodities in bulk, articles of unusual value, and commodities requiring special equipment* between Davenport, IA, and

Muscatine, IA, over U.S. Highway 61, serving all intermediate points; between Muscatine, IA, and the junction of U.S Highway 30, over IA Highway 38, serving all intermediate points; and between Rock Island, IL, and Muscatine, IA, over IL Highway 92, serving all intermediate points, for 180 days. Applicant presently is authorized to serve points in Rock Island County, IL. Applicant intends to tack with authority presently held in MC-15511 and interline at Davenport, IA, and its commercial zone; Cedar Rapids, IA; and the Chicago commercial zone. Supporting shipper(s): There are 12 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 48221 (Sub-26TA), filed August 9, 1979. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Malt beverages and advertising material and premiums* from (1) Minneapolis, St. Paul, MN; and LaCrosse, WI to Omaha, NE and Council Bluffs, IA and from (2) St. Paul, MN; LaCrosse and Milwaukee, WI to Beatrice, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Joe & Jerry's Distributing Co., 1501 So. Main, Council Bluffs, IA 51501; (2) Stanek Distributing Company, Inc., 301 S. 8th St., Omaha, NE 68102; (3) Martz Distributing, Inc., 801 Dorsey, Beatrice, NE 68310. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 52460 (Sub-259TA), filed September 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th Street, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Meat, meat products and meat by-products,* from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS, to points in AL, AR, LA, MS, MO, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 77061 (Sub-22TA), filed August 24, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road, Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Roofing Materials,* from Contra Costa and Santa Clara Counties, CA to Douglas, Lane, Penton, Marion and Linn Counties, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zellerback Paper Company, 345 Lincoln Street, Eugene, OR 97401. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 82101 (Sub-19TA), filed August 22, 1979. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. Representative: John P. Tynan, P.O. Box 777, 201 Juno Street, Jupiter, FL 33458. *Contract carrier:* irregular routes: *Kitchen or bathroom cabinets, cabinet doors, mouldings, boards, panels and brass, bronze or copper hardwear* from Nashua, NH to points in Berlin, Madison, South Windsor, CT, Lewistown, Newport, Old Town, Winthrop, ME, Sparrows Point, White Plains, MD, Boston, Braintree, Chicopee, Dennis, Lawrence, Methuen, Southwick, MA, Lansing, MI, Auburn, NE, Lakewood, Paterson, West Orange, NJ, Depew, De Witt, Niagara Falls, Oriskany, NY, Cleves, Empire, Loveland, Massillon, North Lima, Painesville, Pataskala, Springdale, OH, Carbondale, Luzerne, Mars, PA and Providence, RI for 180 days for the account of Triangle Pacific Corp. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triangle Pacific Corp., 25 Crown Street, Nashua, NH 03060. Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 105120 (Sub-21TA), filed September 10, 1979. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Building, Memphis, TN 38103. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Items used or dealt in by manufacturers of organs,* between Sikeston, MO, on the one hand, and, on the other, Franklin Park and Chicago, IL, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Sikeston Woodworking Co., #10 Industrial Dr., Sikeston, MO 63801. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 106400 (Sub-117TA), filed August 28, 1979. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8510, Sugar Creek, MO 64054. Representative: Harold D. Holwick, P.O. Box 8510, Sugar Creek, MO 64054. *Liquid chemicals, in bulk, in tank vehicles,* from Kansas City, KS-Kansas City, MO commercial zone to Galveston and Houston, TX and the states of FL, NJ, NY, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reichhold Chemicals, Inc., 3150 Fiberglass Road, Kansas City, KS 66015. Send protests to: Vernon V. Coble, DDS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 108651 (Sub-26TA), filed August 27, 1979. Applicant: ROY B. MOORE, INC., Wilcox Drive, P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Such commodities as are manufactured and/or distributed by the Eastman Kodak Company* between the facilities of Eastman Kodak in Rochester NY, and the facilities of Eastman Kodak Company at Chamblee, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastman Kodak Company, 2400 Mount Read Blvd., Rochester, NY 14650. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111401 (Sub-589TA), filed August 20, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Liquefied petroleum gas,* in bulk, in tank vehicles, from Warren Petroleum Company facilities, (1) Terry County plant at Terry County, TX; (2) Wright Plant at Dawson County, TX; and (3) Glass Plant at Martin County, TX, to Warren Petroleum Company's Saunders Plant, 22 miles northwest of Lovington, in Lea County, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Warren Petroleum Company, P.O. Box 1589, Tulsa OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112851 (Sub-7TA), filed June 26, 1979. Applicant: GEORGE B. REYNOLDS d.b.a. REYNOLDS TRUCKING CO., RR 1, Crawsfordsville, IN 47933. Representative: Logan Clay Products, Brazil IN 47834. *Clay products* from Brazil, IN to all points in the states of IL, MI, and KY for 180 days. Supporting shipper(s): The Logan Clay Products Co., P.O. Box 196, Brazil, IN 47834. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 113271 (Sub-64TA), filed August 23, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Sulfuric acid, in bulk,* from points in Shoshone County, ID to the facilities of Western Nuclear, Inc. located at or near Wellpinit, WA, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Phelps Dodge Corporation, 300 Park Avenue, New York, NY 10022. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 113651 (Sub-312TA), filed July 17, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), from Oklahoma City, OK to Elizabeth, NJ, for 180 days. Supporting shipper: Cornett Packing Company, P.O. Box 26947, Oklahoma City, OK 73126. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 113651 (Sub-314TA), filed July 16, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). *Frozen foodstuffs,* from Milton, PA to points in MI, WI, MN, IA, MO, KS and NE, for 180 days. Supporting shipper: American Home Foods Division, American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 114290 (Sub-90TA), filed September 12, 1979. Applicant: EXLEY EXPRESS, INC., 2610 S E Eighth, Portland, OR 97202. Representative: Nick I. Goyak, One S. W. Columbia, Suite 555, Portland, OR 97258. *Bakery products, except frozen bakery products* from Portland, OR to Tucson, and Phoenix, AZ, for 180 days. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 115841 (Sub-735TA), filed August 16, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Paint, Varnish, solvents, paint brushes, rollers, pans, and advertising material related to the above,* from Chicago and Wheeling, IL to Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Enterprise Paint Co., 1191 S. Wheeling Rd., Wheeling, IL 60090. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, Nashville, TN 37203.

MC 115841 (Sub-736TA), filed September 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Chemicals, toilet preparations, personal care items, liquid soap, cleaning compounds, buffing and polishing compounds, floor varnish, mop heads and mop handles, scrubbing and buffing pads, plastic bags, plastic articles, and foodstuffs,* from Chicago, IL and its commerical zone to Atlanta, GA; Sparks, NV; Dallas and Houston, TX; Raleigh, Greensboro, Charlotte and Henderson, NC; and Lakeland, Orlando, Miami and Tampa, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alberto Culver, 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 118130 (Sub-115TA), filed September 4, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Meats, meat products, meat byproducts and articles distributed by meat packing houses* as described in Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766. From the facilities of Swift & Company at Cactus, Texas to points in FL, GA, NC, SC and TN, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Opal Jones, TCS, Rm. 9A27 Federal Bldg., ICC, 819 Taylor St., Fort Worth, TX 76102.

MC 119641 (Sub-174TA), filed August 20, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Glass,* from the plantsite and storage facilities of LOF Glass, Inc. at or near Laurinburg, NC to points in IL, IN, IA, MO, MN, ND, SD, KS, NE and WI, for 180 days. Supporting shipper: Libby-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 119700 (Sub-64TA), filed August 17, 1979. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Plastic pipe and fittings,* from the plantsite of Robinstech, Inc. at Rolla, MO, to points in the States of AR, IL, IN, IA, KY, MI, MN, MS, LA, OH, OK, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robintech, Inc., P.O. Box 1235, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, Mo 64106.

MC 123061 (Sub-131TA), filed August 20, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026 Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 East South Temple #501, Salt Lake City, Ut 84102. *Salt and salt products* from the facilities of Morton Salt at Newark, CA to American Falls, Blackfoot, Burley, Caldwell, Idaho Falls, Nampa and Twin Falls, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Salt Division of Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: L. D. Felfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124841 (Sub-9TA), filed June 21, 1979. Applicant: D. D. JACOBS, INC., 903 Irene, Walla Walla, WA 99362. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *Frozen fruits, berries and vegetables,* between Milton-Freewater, OR and Walla Walla, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. F. Frozen Foods, Inc., P.O. Box F, Milton-Freewater, OR 97862. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 125951 (Sub-51TA), filed August 8, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). *Malt beverages* from St. Louis, MO; Peoria, IL; and Milwaukee, WI to the facilities of Doll Distributing at or near Council Bluffs, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doll Distributing, Inc., 3022 Second Avenue, Council Bluffs, IA 51501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 127840 (Sub-134TA), filed September 11, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL. *Tallow,* in bulk, in tank vehicles, from Pueblo, CO to Points in AR, AZ, CA, IA,

ID, KS, LA, MN, MO, MT, NE, ND, NM, NV, OK, SD, TX, UT, WA, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alpha Beta, P.O. Box 916, 303 Santa Fe Drive, Pueblo, CO 81002. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127910 (Sub-2TA), filed August 16, 1979. Applicant: C. B. W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62095. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Contract carrier:* irregular routes: *Petroleum products and lubricating oils,* in bulk (except petrochemicals) from the facilities of Mobil Oil Corp. at or near St. Louis, MO to points in MS, for the account of Mobil Oil Corporation, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522, Campbell Centre, Dallas, TX 75206. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129301 (Sub-13TA), filed August 6, 1979. Applicant: ENGLISH AND SONS CORPORATION, 412 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, 468 Kentucky Avenue, RD 5, Williamstown, NJ 08094. Contact, Irregular. (1) *Foodstuffs, canned, preserved or prepared, beverages, non-alcoholic.* (2) *Display racks,* (1) from points in DE, PA and NJ to Jessup, Elkridge, Columbia, Landover and Silver Spring, MD (2) from Cherry Hill, NJ to points in MD and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Giant Food Inc., P.O. Box 1804, Washington, DC 20013. Send protests to: Robert E. Johnson, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 129480 (Sub-44TA), filed September 13, 1979. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550-71st Avenue S.E., Calgary, AB, Canada T2H 0S6. Representative: Richard S. Mandelson, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Ground clay, in bags,* from Christmas Valley, OR to the International Boundary line between the U.S. and Canada located at ports of entry in WA, ID and MT, for 180 days. Any underlying ETA seeks 90 days authority. Supporting shipper(s): Oil-Dri West, 520 North Michigan Ave., Chicago, IL 60611. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 129631 (Sub-70TA), filed August 22, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson (same address as applicant). *Sand and dolomite* from Platte County, WY to Salt Lake County, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intermountain Spec. Construction, 4646 Riverside, Salt Lake City, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 129841 (Sub-2TA), filed August 29, 1979. Applicant: WHITFIELD BUS LINES, INC., 400 South Compress, Las Cruces, NM 88001. Representative: Robert E. Crews (same address as applicant). *Contract carrier:* irregular routes: *Detained aliens and guards and their baggage in the same vehicle,* between points in KS, NE, and WY, under a continuing contract with U.S Department of Justice, Immigration and Naturalization Service, for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant proposes to Tack the authority sought here with authority held in MC 129841 Sub 1. Supporting shipper(s): U.S. Department of Justice, Immigration and Naturalization Service, 1787 Federal Office Building, Denver, CO 80202. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 129951 (Sub-5TA), filed September 19, 1979. Applicant: HARLEY I. KEETER, JR., 6379 Valmont Drive, Boulder, CO 80301. Representative: Harley I. Keeter, Jr., (same address as applicant). Ore and ore concentrates from Boulder, County, CO to East Helena, MT, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Hendricks Mining Company, Inc., 3000 North 63rd, Boulder, CO 80301. Send protests to: Roger Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 134300 (Sub-40TA), filed September 13, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Records and tapes, sound recording,* from the facilities used by K-Tel International, Inc., at Ronkonkoma, NY, to the facilities used by K-Tel International, Inc., at Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Tel International, Inc., National Director of Transportation, 11311 K-Tel Drive, Minnetonka, MN 55343. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 134300 (Sub-41TA), filed September 13, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Plastic and iron pipe fittings and tubing; also adhesive cement,* from the facilities of U-Brand Corporation at or near Shelby, OH, to points in IL and MN for 180 days. Supporting shipper(s): U-Brand Corporation, Traffic Manager, 816 Clark Street, Ashland, OH 44805. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 135070 (Sub-106TA), filed August 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th, P.O. Box 82816, Lincoln, NE 68501. *Weed killing compounds and materials and supplies used in the manufacture and distribution thereof* from Ennis and Liberty, TX to Minot, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly and Company, P.O. Box 618, Indianapolis, IN 46206. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-107TA), filed September 10, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE. *Return empty drums used in the transportation of petroleum products* from CA and CO, to Houston, TX and Evans Drum Company, approximately 4 miles west of Dayton, TX on Highway 90 for 180 days. Underlying ETA seeks 90 days filed. Supporting shipper(s): Texaco Inc., P.O. Box 52332, Houston, TX 77052. Send protests to: Martha A. Powell, I.C.C., Rm. 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 135410 (Sub-90TA), filed August 27, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Toilet preparations,* from the plantsite of Peterson Puritan in Danville and Momence, IL to the plantsite of John H. Breck at Ft. Madison, IA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 135811 (Sub-15TA), filed July 18, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier,*

irregular routes; *welders, welding products and parts, materials, equipment, and supplies used in connection therewith; alloys, chemical compounds, gaseous compounds; and materials and supplies used in the manufacture of welding products,* (1) Between La Porte, TX and Stockertown, PA, on the one hand, and, on the other, points in the United States, under contract with PPG Industries, Inc. of Pittsburgh, PA; (2) Between Holland, MI and Huntington, WV, on the one hand, and, on the other, points in the United States, under contract with BSAF Wyandotte Corporation of Holland, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BASF Wyandotte Corporation, 491 Columbia Avenue, Holland, MI 49423. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 136161 (Sub-22TA), filed August 13, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry W. Welbers, P.O. Box 163, Spring Valley, IL 61362. *Chemicals and chemical compounds, and materials and supplies used in the manufacture and packaging thereof* (other than bulk), between the facilities of B. F. Goodrich Chemical Division at/Near Henry, IL and points in MN, IA, MO, WI, KY, TN, IN, OH, WV, and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. F. Goodrich Chemical Division, P.O. Box 15, Henry, IL 61537. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136161 (Sub-23TA), filed September 4, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry Welbers (same address as applicant). *Agricultural chemicals and materials and supplies used in the manufacture and packaging thereof (other than bulk),* between the facilities of American Cyanamid Co. at or near Atlanta, Mendota, and Rockford, IL and points in IN, MI, OH, KY, TN, WV, WI, IA, MO, & MN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Send protests to: Cheryl Livingston, TA ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 136161 (Sub-24TA), filed 9/7/79. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry W. Welbers, P.O. Box 163, Spring Valley, IL 61362. *Canned Goods* between the facilities of SCM Corporation at or near Brooklyn, NY and points in IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durkee Foods, division of SCM Corporation, 1001 8th Avenue, Bethlehem, PA 18018. Send protests to: Annie Booker, TA, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 136220 (Sub-86TA), filed September 5, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Ferroalloys,* (in bulk, in dump vehicles), from the Port of Catoosa, OK, to Pueblo and Minnequa, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Autlan Metals International Co., 4710 Bellaire Blvd., Bellaire, TX 77401. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138000 (Sub-54TA), filed September 4, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave, P.O. Box 1417, Hagerstown, MD 21740. *Automobile parts, and materials, supplies (except in bulk) equipment and related articles used in the manufacture and production of motor vehicles* from Indianapolis, IN, and its commercial zone to Detroit, MI and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corp., Logistics Operations, 30007 Van Dyke, Warren, MI 48090. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138741 (Sub-88TA), filed August 14, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Roofing and building materials,* from the facilities of GAF Corporation at/near Kansas City, MO to points and places in KS, NE and OK for 180 days. Supporting shipper(s): GAF Corporation, 1361 Alps Rd., Wayne, NJ 07470. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-89TA), filed August 27, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Metal and metal articles,* from the facilities of S–G Metals Industries in Kansas City, KS to points in TN and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S–G Metals Industries, Inc., 2nd & Riverview, Kansas City, KS 66110. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 138741 (Sub-90TA), filed August 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Iron and steel articles,* from the facilities of Norfolk Iron and Metal Co. at or near Norfolk, NE to points and places in AR, KS, KY, MO OK, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norfolk Iron & Metal Co., Inc., 300 Braasch Ave., Box 1129, Norfolk, NE 68701. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 138741 (Sub-91TA), filed August 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Iron and steel articles,* from the facilities of Nucor Steel at or near Norfolk, NE to points and places in AR, KS, KY, MO, OK, and TN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Nucor Steel, P.O. Box 309, Norfolk, NE 68701. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 139340 (Sub-7TA), filed August 31, 1979. Applicant: YELVINGTON TRANSPORT, INC., 600 Big Tree Road, Daytona Beach, FL 32015. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *Contract carrier,* irregular routes, transporting clay and clay products and jointing materials and attendant equipment, materials and supplies (except in bulk) used in the installation thereof, including compounds which are manufactured and distributed by the manufacturers of clay products, from the facilities of Dickey Company at or near Bradenton, FL to Bessemer, AL and from the facilities of Dickey Company at Bessemer, AL to points in FL on return, for 180 days. Under a continuing contract or contracts with Dickey Company. Supporting shipper(s): Dickey Company, P.O. Box 6, Pittsburgh, KS 66762. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139401 (Sub-2TA), filed September 11, 1979. Applicant: EARL W. NORRIS, 3654 Gertrude Street, Omaha, NE 68147. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE

68106. *Iron and steel* from the facilities of Jones & Laughlin Steel Company at or near Hennepin, IL to the facilities of Nebraska Engineering Company at Omaha, NE for 180 days. Supporting shipper(s): Nebraska Engineering Company, 9364 North 45th St., Omaha, NE 68112. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141131 (Sub-3TA), filed September 13, 1979. Applicant: THE BIRGE COMPANY, INC., 421 East 16th Street, Paterson NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract, irregular. *Artists materials and supplies,* between Brunswick, ME; Cranbury, NJ; and New York, NY. Under a continuing contract or contracts with M. Grumbacher, Inc., of New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. Grumbacher, Inc., Englehart Drive, Cranbury, NJ 08512. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 142181 (Sub-10TA), filed August 15, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37217. *Contract carrier:* irregular routes; *Unfrozen foodstuffs,* from Atlanta, GA to points in AL, FL, NC, and SC and from Rochester, NY to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RAGU' FOODS, INC., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Glenda Kuss, TA, ICC, 801 Broadway, Suite A-422, U.S Courthouse, Nashville, TN 37203.

MC 142181 (Sub-11TA), filed August 15, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. *Contract Carrier:* irregular routes; (1) *Such commodities as are sold or dealt in by a manufacturer of metal products* and (2) *equipment materials, and supplies used in the conduct of such business,* between Nashville, TN, on the one hand, and points in AL, AR, FL, GA, IL, IN, KA, KY, LA, MS, MO, NE, OH, OK, SC, TN, TX, and VA, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cincinnati Sheet Metal and Roofing Co., 130 Nester St., Nashville, TN 37210. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 142601 (Sub-5TA), filed July 9, 1979. Applicant: CECO TRANSPORT, INC., 5601 W. 26th St., Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 S. LaSalle, St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Glass containers and closures for glass containers,* from the facilities of the Ball Corporation, in Lake and Cook Counties, IL to points in AR, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ball corporation, 345 S. High St., Muncie, IN 47302. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 143061 (Sub-5TA), filed August 17, 1979. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St. NE., Atlanta, GA 30303. *Contract carrier:* Irregular routes; *Such commodities as are dealt in or used by a manufacturer of electrical products (except commodities which because of size or weight require special equipment and commodities in bulk) for the account of General Electric Co.* between Mebane, NC, on the one hand, and on the other, points in the U.S. in and west of LA, AR, MO, IA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, I-85 Buckhorn Rd., Exit, Mebane, NC 27302. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143540 (Sub-19TA), filed September 4, 1979. Applicant: MARINE TRANSPORT COMPANY, 330 Shipyard Blvd., Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier:* Irregular routes; *Soybean flour, in marine containers* from Minneapolis, MN to Wilmington, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Sheila Reece, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143890 (Sub-2TA), filed September 11, 1979. Applicant: C. H. EURE TRUCKING, INC., Rt. 1, Box 363, Hobbsville, NC 27946. Representative: C. H. Eure (same address as above). *Lumber and fencing materials* (1) from Hertford, Bertie, Gates, Chowan, Perquimans, Pasquotank, Camden and Currituck Counties, NC to points in VA, MD, DE, and NJ and (2) from points in NJ, DE, MD and VA to points in NC and VA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with MC-143890. Supporting shipper(s): Gates Custom Milling, P.O. Box 409, Suffolk, VA 23434, MacMillan Bloedel Building Materials, 6540 Powers Ferry Rd., Suite 200, Atlanta, GA 30339. J. W. Jones Lumber Co., Inc., Rt. 3, Box 410, Elizabeth City, NC. Rodney-Foreman Company, Suite 11 Habit Bldg., Elizabeth City, NC. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 144030 (Sub-6TA), filed July 10, 1979. Applicant: DRUE CHRISMAN, INC., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN 46025. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Non-alcoholic beverages,* in containers, and *materials, supplies and equipment* (except commodities in bulk) used in the manufacture, production and distribution of beverages, between Sunman, IN, on the one hand, and, on the other, points in IL, KY, MI, OH and PA, for 180 days. Supporting shipper(s): Domont Beverages, Inc., 1 Indiana Square, Suite 3155, Indianapolis, IN 46204. Send protest to : Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144030 (Sub-7TA), filed July 13, 1979. Applicant: DRUE CHRISMAN , INC., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN 47025. Representative: Robert W. Loser II, 1101 Chamber of Commerce Building, Indianapolis, IN 46204. *Barrel staves and heading,* from points in AR, IL, IN, MO, OH, PA, TN, and WV to Louisville, KY for 180 days. Supporting shipper(s): Louisville Cooperage Company, P.O. Box 8275, Louisville, KY 40208. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144281 (Sub-2TA), filed September 17, 1979. Applicant: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 27, Chester Depot, VT 05144. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Contract carrier, irregular routes: *Building materials (except brick, refractory products, and materials, equipment and supplies used in the installation thereof, and except commodities in bulk),* between ports of entry on the International Boundary Line between the United States and Canada located in ME, NH, VT and NY on the one hand, and, on the other, points in ME, NH, NY, VT, MA, CT, RI, PA, and NJ, for 180 days. Supporting shipper(s): IKO Industries, Ltd., 71 Orenda Road, Brampton, Ontario,

Canada L6W 1V7. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 144630 (Sub-31TA), filed July 26, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. *Automobile parts and materials, equipment and related articles used in the manufacture, production and assembly and transportation of motor vehicles, off-highway vehicles and component parts thereof,* between Anderson, IN, Monroe, LA, Jackson and Clinton, MS, on the one hand, and, on the other, points in IN, IL, MI, OH and KY, for 180 days. Supporting shipper: Guide Division General Motors Corporation, 2915 Pendleton Ave., Anderson, IN 46011. Send protests to: B. J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144630 (Sub-32TA), filed July 30, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. Contract Carrier: Irregular route: (1) *Electric furnaces, air compressors, heat pumps, and electrical components* from Dallas, TX to Seattle, WA and (2) *Space heaters, outlet boxes, and electrical components* from Orting, WA to Dallas, TX for 180 days. Restriction: Restricted to service to be performed under a contract or continuing contract with Square D Company. Supporting shipper: Square D Company, 7575 Empire Drive, Florence, KY 41042. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 144630 (Sub-34TA), filed September 20, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, Suite 945, 9000 Keyston Crossing, Indianapolis, IN 46240. *Brake drums, wheels, and rough castings* (1) Between the facilities of Webb Division, Marmon Industries at Lebanon, IN and Siloam Springs, AR on the one hand, and on the other, Clearfield, UT, Chattanooga, TN, East Jordan, MI, and Springfield, MO; (2) Between the facilities of Webb Division, Marmon Industries at Siloam Springs, AR, and Lebanon, IN; (3) Between East Jordan, MI, and Springfield, MO; (4) From Longview, TX to Siloam Springs, AR; and (5) Between Siloam Springs, AR, and Rockford, IL; (6) From Chattanooga, TN to Springfield, MO for 180 days. Supporting shipper: Webb Division, Marmon Industries, 510 Indianapolis Ave., Lebanon, IN 46052. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144630 (Sub-35TA), filed August 30, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Paper and paper products, equipment, materials and supplies used in the manufacture and distribution thereof,* (1) from Philadelphia, PA and points in the Commercial Zone of Philadelphia, PA to points in IL, IN and OH, (2) from Columbus, OH to points in IL, IN and KY, (3) from Jacksonville, FL to points in AL, GA and LA, (4) from Mobile, AL to points in IL, IN, OH and LA, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144981 (Sub-2TA), filed September 7, 1979. Applicant: ARNOLD HOSELTON, d.b.a. JOHN DAY-PORTLAND AUTO FREIGHT, P.O. Box 5, John Day, Oregon 97845. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, Oregon 97210. *Lumber,* from the facilities of Edward Hines Lumber Co. at Seneca, Hines, and John Day, OR, to Kamas, Salt Lake City, Ogden and Provo, UT, and to Lafayette and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edward Hines Lumber Co., P.O. Box 280, John Day, Oregon 97845. Send protests to: R. V. Dubay, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 145170 (Sub-12TA), filed September 13, 1979. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed houses, soy products, paste flour products, dairy based products and* (2) *materials, ingredients and equipment and supplies used in development, manufacture, distribution and sale of items in (1) above,* except commodities in bulk, between the facilities used by Ralston-Purina Company, at or near Oklahoma City, OK, and points in AR, LA, MS, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 145341 (Sub-6TA), filed August 16, 1979. Applicant: NORTH CENTRAL DISTRIBUTING CO., 2001 North University Drive, Fargo, ND 58102. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Lumber, lumber mill products, millwork and wood products,* from the facilities of Quality Wood Treating Company, Inc., located at or near Prairie du Chien and Janesville, WI to points in IA, MN, NE, ND, and SD, restricted to the transportation of traffic originating at the named origins and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quality Wood Treating Co., Inc., 1520 South Sixteenth Street, P.O. Box 367, Prairie du Chien, WI 53821. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145360 (Sub-6TA), filed September 12, 1979. Applicant: THOM'S TRANSPORT COMPANY, INC., Box 405, Blackshear, GA 31516. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Wood residuals, dry, restricted against tank vehicles,* from Blackshear, Dudley and Fitzgerald, GA to point in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145481 (Sub-11TA), filed August 22, 1979. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Los Angeles, CA on the one hand, and, on the other, points in and east of MN, NE, KS, OK and TX for 180 days. RESTRICTION: Restricted to traffic which is at the time moving on bills of lading of a non-profit shipper association. Supporting shipper: MSA-LAMDA, Inc., 4430 East Sheila Street, Los Angeles, CA 90023. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 145760 (Sub-9TA), filed September 13, 1979. Applicant: JOHNSON TRANSPORTATION CO., 1327 Hwy. 13 N., Columbia, MS 39439. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Plastic pipe with accessories and fittings used in the installation thereof from Geneva County, AL,* to points in AR, LA, MS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Samson Plastic Conduit & Pipe Corporation, P.O. Box 325, Samson, AL 36477. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 W. Capital St., Jackson, MS 39201.

MC 145950 (Sub-48TA), filed August 16, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Route 6, Waco, TX 76706. Representative: E. Stephen Heisley, 666 Eleventh St., NW, Washington, DC 20001. *Meats, meat products, meat by-products, dairy products, and articles distributed by packinghouses,* as described in Sections A, B, and C of Appendix I to the report in Description of M.C.C. 61 MCC 209 and 766 (except hides and commodities in bulk) from the facilities of Swift & Co., located at or near Cactus and Fort Worth, TX to points in MA, NJ, DE, TN, VA, NC, SC, GA, AL, IN, and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-49TA), filed August 16, 1979. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Steve Heisley, 805 McLachlen Bank Bldg., 666 Eleventh N.W., Washington, DC 20001. *Chain saws, materials, parts and supplies used in their manufacture* from the facilities of McCulloch Corporation, at or near Lake Havasu City, AZ and Los Angeles, CA to Boise, ID; Columbus, OH; Southfield, MI; Elmhurst, IL; St. Louis, MO; Kansas City, MO; St. Paul, MN; Plover, WI; Laurence, PA; Hamburg, NY; Charleston, WV; Larchmont, NY; Hatfield, PA; Lorton, VA; Reading, MA; Jacksonville, FL; Shelly, NC; Decatur, GA; Marshall, TX; Baton Rouge, LA; Memphis, TN; Birmingham, AL; Seattle, WA, and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCulloch Corporation, 6151 W. 98th St., Los Angeles, CA 90009. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146071 (Sub-18TA), filed August 27, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Fresh and boxed meat* from facilities of MBPXL Corp., at or near Plainview, TX to points in MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MBPXL Corp., 2901 N. Mead, Wichita, KS 67201. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146071 (Sub-19TA), filed August 8, 1979. Applicant: DEETZ TRUCKING INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Cheese and butter* from facilities of Swift & Co. at Green Bay, WI and facilities of Level Valley at West Bend, WI to points in IA, NE & KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Co., 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146360 (Sub-14TA), filed September 12, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., P.O. Box 816, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Calcium carbonate (crushed limestone) in bags,* from ports of entry on the international boundary line between the U.S. and Canada located in ID and WA; from the facilities of Chemical Distributors at or near Seattle, WA and Portland, OR to points in ID, OR and WA, for 180 days. Supporting shipper(s): Chemical Distributors, P.O. Box 10763, Portland, OR 97210. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146670 (Sub-2TA), filed April 30, 1979. Applicant: McCLOUD, INC., 2151 N. 900 W. (P.O. Box 16027), Salt Lake City, UT 84116. Representative: Paul D. McCloud (same address as applicant). Contract carrier, irregular routes, *Household and commercial appliances and parts* for same, from Newton, IA and its commercial zone to Salt Lake City, UT, Los Angeles and San Diego, CA, and to Phoenix, AZ and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mountain States Laundry Equipment Co., 2151 No. 900 W. (P.O. Box 16027), Salt Lake City, UT 84116; Coin & Professional Equipment Co., Inc., 4111 N. 18th Pl., Phoenix, AZ 85016; The Maytag Company, 403 W. 4th St. N. Newton, IA 50208; Stanton Sales Corporation, 4801 West 147th Street, Hawthorne, CA 90250. Send protests to: L. D. Helfer, DS, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 147131 (Sub-2TA), filed August 20, 1979. Applicant: KENNAMER BROS. INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Meats, meat products, meat by products, and articles* distributed by meat packinghouse (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificate,* 61 MCC 209 and 766. From the facilities of Wilson Foods Corporation, or facilities used by or shipped from Wilson Foods Corporation located at Albert Lea, MN; and Cherokee and Cedar Rapids, IA; to points in AL, GA, and TN. Note: Applicant requests authority to interline with other carriers at Birmingham, AL, Atlanta, GA, Memphis and Nashville, TN, and other points from whence carriers are available, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 147261 (Sub-1TA), filed August 14, 1979. Applicant: GRAINLINER, INC., Box 174, Iuka, KS 67066. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Potash, ammonium nitrate, urea, 18–46–0 (DAP), Mixed Fertilizer and crushed rock, Potash:* From Lea Co. and Eddy Co., NM to points in OK, KS, AR, MO & LA; *Ammonium Nitrate:* From Pryor, OK and 10 miles thereof, Military, KS and 10 miles thereof, and Beaumont, TX, to points in OK, KS, AR, MO & LA. *Urea:* From Port of Catoosa, OK, Tulsa, OK and Plainview, TX to points in OK, KS, MO, AR & LA. *18–46–0 (DAP) Fertilizer:* From Port of Catoosa, OK, Tulsa, OK, Houston, TX and Planview, TX to points in OK, KS, AR, MO & LA; *Mixed Fertilizer:* From Kerns, TX to points in OK, KS, AR, MO & LA; *Crushed rock:* From points in OK to points in KS, for 180 days, common, irregular. Supporting shippers: Bunnett/Smallwood & Co., 6809 Poppy Rd., Little Rock, AR 72209 and Penalosa Cooperative Exchange Penalos, KS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 147501 (Sub-1TA), filed July 31, 1979. Applicant: WILLIAM BENSON, JR., d.b.a. BENSON TRUCKING, Rural Delivery No. 1, Punxsutawney, PA 15767. Representative: J. Kipp Lukehart,

Professional Bldg., Punxsutawney, PA 15767. *Contract; irregular; coal* from the Village of Markton, Oliver Twp, Jefferson County, PA to Ft. Belvior, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champion Coal Co., Inc., Suite 210, 105 W. Mahoning St., Punxsutawney, PA 15767. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147671 (Sub-1TA), filed July 9, 1979. Applicant: RICHARD T. KASSUHN, d.b.a. R & R TRUCKING, 2211 East 72nd St., Tacoma, WA 98404. Representative: Hugh D. Neyman (same as above). *Contract carrier:* irregular routes: *Lumber, lumber products and traffic signs,* from points in WA to OR CA, ID, MT, CO, NV, AZ, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brady International Hardwoods Co., 1244 Alexander Ave., Tacoma, WA 98421; Coastcraft Inc., 1002 East "F" St., Tacoma, WA 98421; Exchange Lumber Co., P.O. Box 2565 T.A., Spokane, WA 99220; Traffic Control Signs Co., 6709 S. Adams, Tacoma, WA 98409; Woodlam, Inc., 1476 Thorne Rd., Tacoma, WA 98421. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147961 (Sub-1TA), filed August 7, 1979. Applicant: WESTERN ALFALFA TRANSPORTATION SYSTEMS, INC., P.O. Box 69, Shawnee Mission, KS 66201. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Alfalfa products* between points in KS, CO, MO and NE; also from points in KS, CO, MO and NE on the one hand to points in the Continental United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Alfalfa Corporation, P.O. Box 69, Shawnee Mission, KS 66201. Send protests to: Vernon V. Coble, DS, ICC 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 147970 (Sub-1TA), filed August 28, 1979. Applicant: AAW DUMP TRUCKS, LTD., 2818 Palomino Dr., Columbus, GA 31907. Representative: C. E. Walker, P.O. Box 1085, No. 8 11th St., Columbis, GA 31902. *Sand, gravel, crushed stone, rock asphalt, lime, and road building materials, in bulk in dump trucks,* between Troup and Muscogee counties, GA, on the one hand, and on the other, Russell and Lee counties, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brady Williamson Contractors, Inc., 520 Andrews Rd., Columbus, GA 31907. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 147941 (Sub-1TA), filed August 16, 1979. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). *Contract carrier: irregular route: tanks, iron or steel, not heavier than 14 gauge, and accessories used in the installation thereof,* from the facilities of W. H. Stewart, at or near Oklahoma City, OK, to points in AZ, NM, MT, CA, ID, NV, OR, WA, & UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. H. STEWART Company, 500 E. Sheridan, Oklahoma City, OK 73104. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd Street Oklahoma City, 73102.

MC 148001 (Sub-1TA), filed August 20, 1979. Applicant: M. G. BROADDUS, III, Route 1, Box 113 H, Bowling Green, VA 22427. Representative: Calvin, F. Major, 200 W. Grace St., Richmond, VA 23220. Contract—irregular (1) *Kiln dried lumber and bedframes (2) lumber for use in the manufacture of picture frames and moldings.* (1) from the plantsite of C. C. Beck & Sons near Fredericksburg, VA to the states of CT, MA, NY, OH, WV, NJ, MD, PA, MI, DE, NC, SC, GA and KY and (2) from above mentioned states to plant site of Foreign and Domestic Woods, Inc., near Bowling Green, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. C. Beck & Son, Fredericksburg, VA 22401. Foreign & Domestic Woods, Inc., Bowling Green, VA 22427. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 148030 (Sub-1TA), filed August 27, 1979. Applicant: RAYMOND LUMBER AND SUPPLY COMPANY, INC., P.O. Box 325, Raymond, MS 39154. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Contract carrier:* irregular routes: (1) *Kitchen cabinets, picture and mirror frames and mouldings* from North Carrollton, MS to points in AL, AR, FL, GA, KS, KY, LA, MO, NC, OK, SC, TN and TX and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), in the reverse direction, for the account of Carrollton Manufacturing Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carrollton Manufacturing Co., Inc., P.O. Box 7, North Carrollton, MS 38947. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 148041 (Sub-1TA), filed August 28, 1979. Applicant: MYRON ANDREWS DBA A&A SERVICES, 2314 No. Beach St., Fort Worth, TX 76111. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier,* irregular routes: (1) *Plastic parts,* and (2) *raw plastic materials* (1) from Fort Worth, TX to Reserve, LA, and (2) from Lake Charles, LA to Fort Worth, TX, for the account of Denton Plastics, Inc., Fort Worth, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denton Plastics, Inc., 2721 Ludelle, Fort Worth, TX 76105. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148141 (Sub-1TA), filed August 27, 1979. Applicant: H. GOODMAN & SONS, INC., 969 Newark Turnpike, Kearney, NJ 07032. Representative: Thomas F. Kilroy, Suite 406 Executive Bldg., 6901 Old Keene Mill Road, Springfield, VA 22150. *Contract carrier,* irregular routes for 180 days. *Copper crystals,* in containers, from Esperanza and/or Seirrita Mine Site at or near Sahuarita, AZ to Carrollton, GA. Supporting shipper(s): Duval Sales Corporation, Pennzoil Place, P.O. Box 2967, Houston, TX 77001. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148171 (Sub-1TA), filed August 31, 1979. Applicant: Daniel Prater, d.b.a. D & C TRANSIT, 11050 Erie Road, Parma, MI 49269. Representatives: Daniel Prater, 11050 Erie Road, Parma, MI 49269. *Contract carrier:* Irregular routes: *Passengers: ConRail employees and their personal baggage* will be transported. No special or charter operations are proposed; between Jackson, MI and Elkhart, IN. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Rail Corporation, 501 E. Michigan Avenue, Jackson, MI. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing MI 48933.

MC 148181 (Sub-TA), filed September 4, 1979. Applicant: SALEM TRUCKING CO., Rd. No. 1, Franklin, ME 04634. Representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, PA 19102. Contract: Irregular: *Lumber and lumber products* (1) from Ellsworth, ME, and ports of entry on the International border between the U.S. and Canada in NJ, VT, NH; and ME to points in DE, MD, NJ, PA, WV and District of Columbia; (2) from ports of entry on the International border between the U.S. and Canada in NY, VT, NH and ME to

Ellsworth, ME. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salem Forest Products Ltd., P.O. Box 34, Abington, PA 19001. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm., 303, Portland, ME 04101.

MC 148210 (Sub-TA), filed September 11, 1979. Applicant: MINERAL TRANSPORT, P.O. Box 566, Tonopah, Nevada 89049. Representative: Reese Taylor, Jr., 402 North Division Street, Carson City, Nevada 89701. *Ore and ore concentrates in dump truck equipment,* between mine sites, mills, and rail heads located in Eureka, Nye, Mineral, and Elko Counties, NV; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Petro Chem, P.O. Box 23, Crescent Valley, NV 89821; Chromalloy American-Mining & Milling Division, P.O. Box 1003, Elko, NV 89801; Lander Barite, Inc., P.O. Box 157, Battle Mountain, NV 89020. Send protests to: W. J. Huetig, DS, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 148241 (Sub-TA), filed August 21, 1979. Applicant: W. D. HODGE, d.b.a. INDEPENDENT TRANSFER, Rt. 1, Box 183, Sumter, SC 29150. Representative: John C. Land, III, P.O. Box G, Manning SC 29102 *Electric and diesel powered motors and equipment,* between Sumter, SC, on the one hand, and, on the other, points in the United States except HI and AK, for 180 days. Supporting shipper(s): Sumter Electric & Rewinding Co., Inc., P.O. Box 308, Sumter, SC 29150; Allsbrook Elec. & Equipment Co., Rt. 4, Box 2442, Sumter, SC 29150. Send protests to: E. E. Strotheid, D/S ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 148310 (Sub-1TA), filed September 18, 1979. Applicant: CACTUS TRANSPORT, INC., P.O. Box 2059, Wickenburg Industrial Airpark, Wickenburg, AZ 85358. Representative: Keenan O. Holte (same address as applicant). Contract, Irregular Routes, *Asphalt products, granulated rubber and other ingredients, mixtures thereof, in connection with construction and maintenance of streets, roads, highways, airports, parking lots, etc., as directed by Sahuaro Petroleum & Asphalt Co. Restricted to service provided on a continuing contract with Sahuaro Petroleum & Asphalt Co.,* between all points in the United States (including AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sahuaro Petroleum & Asphalt Co., P.O. Box 6536, Phoenix, AZ 85005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Sahuaro Petroleum & Asphalt Co., P.O. Box 6536, Phoenix, AZ 85005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 148311 (Sub-1TA), filed September 14, 1979. Applicant: DELIVERY SERVICES, INC., 2044 S. Don Carlos, Mesa, AZ 85202. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Such merchandise, equipment and supplies as are sold, used or distributed by manufacturer of cosmetics,* having a prior or subsequent movement in intrastate commerce, between points in AZ, restricted to transportation for Avon Products, Inc., only for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 2949 E. Foothill Blvd., Pasedena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Avon Products, Inc., 2949 E. Foothill Blvd., Pasedena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32729 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, November 2, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2074-79 Filed 10-22-79; 10:07 am]

BILLING CODE 6351-01-M

2

October 19, 1979.

FEDERAL ENERGY REGULATORY COMMISSION:

TIME AND DATE: 9:00 a.m., October 22, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. CP78-391, Great Plains Gasification Associates, successor to ANR Gasification Properties Company and PGC Coal Gasification Company. Docket No. CP75-278, Columbia Gas Transmission Corporation. Docket No. CP77-556, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Transcontinental Gas Pipe Line Corporation. Docket No. CP75-283, Great Lakes Gas Transmission Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8500.

[S-2072-79 Filed 10-19-79; 4:45 pm]

BILLING CODE 6450-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 25, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Limited Facility—Mercer Federal Savings & Loan Association, Harrodsburg, Kentucky.
Regulation on Amendments Relating to Supervisory Authority.
Regulation on Amendments Concerning Outside Borrowing.
Applications for Bank Membership and Insurance of Accounts—Treasure-Land Savings & Loan Association, Ontario, Oregon.

Note.—Announcement is being made at the earliers practicable time.

No. 283, October 22, 1979.

[S-2077-79 Filed 10-22-79; 2:55 pm]

BILLING CODE 6720-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 17, 1979, 44 FR 60001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., October 22, 1979.

CHANGE IN THE MEETING: Addition of the following items to the open session:

5. ICC Assertion of Exclusive Jurisdiction Over Motor/Water Rates in Puerto Rico Trade.
6. Agreement No. 10346—Space charter agreement between Sea-Land Service and Hanjin Container Line.

[S-2073-79 Filed 10-22-79; 10:07 am]

BILLING CODE 6730-01-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 19 and 22, 1979 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Friday, October 19; 2:00 p.m.

1. The "Briefing on 10 CFR Part 21, Analysis of Comment Letters" was cancelled.

Friday, October 19; 3:00 p.m.

1. Affirmation of Philippine Order (approximately 5 minutes, public meeting) additional item.

Monday, October 22; 10:30 a.m.

The Discussion of Hearing Board Report in Clearance Rule Proceeding was cancelled.

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioners Gilinsky and Bradford not present) on October 19, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation of Philippine Order, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202-634-1410.

Roger M. Tweed,
Office of the Secretary.
October 19, 1979.

[S-2076-79 Filed 10-22-79; 2:55 pm]

BILLING CODE 7590-01-M

6

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, October 18, 1979, at 10:00 a.m.

PLACE: Room 828, 320 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at beginning of the meeting.

CHANGES IN THE MEETING: On October 17, 1979, the Commission determined that the date and time for the above meeting be changed to Tuesday, October 23, 1979, at 10:00 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-2075-79 Filed 10-22-79; 11:47 am]

BILLING CODE 4410-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 29, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, November 1, 1979, at 10:00 a.m. A closed meeting will be held on Thursday, November 1, 1979, immediately following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, November 1, 1979, at 10:00 a.m., will be:

1. Consideration of whether to grant an application of Boston Hambro Corp., which intends to register as an investment adviser under the Investment Advisers Act of 1940, to permit a performance fee arrangement. For further information, please contact H. R. Hallock, Jr., at (202) 272–3030 or Suzanne Brannan at (202) 272–3039.
2. Consideration of whether to grant an application of Oppenheimer Management Corporation ("Applicant") for an order, pursuant to Section 26(a)(2)(C) of the Investment Company Act of 1940, prescribing as reasonable fees to be paid to an affiliate of Applicant for services to certain unit investment trusts sponsored by Applicant. For further information, please contact H. R. Hallock, Jr., at (202) 272–3030.
3. Consideration of whether to grant an application of Hartford Variable Annuity Life Insurance Company and Hartford Equity Sales Company, Inc. pursuant to Section 9(c) of the Investment Company Act of 1940 for permanent exemption from the provisions of Section 9(a) of the Act. For further information, please contact Gary Sundick at (202) 272–2344.

The subject matter of the closed meeting scheduled for Thursday, November 1, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Regulatory matter regarding financial institution.
Litigation matters.
Subpoena enforcement actions.
Freedom of Information Act appeal.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Chapter X proceeding.
Order compelling testimony.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting times. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272–2091.

October 22, 1979.

[S–2078–79 Filed 10–22–79; 3:17 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
October 24, 1979

Part II

Department of Defense

Corps of Engineers

Water Resources Policies and Authorities; Establishment of Wetlands

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 232

[ER 1165-2-27]

Water Resources Policies and Authorities; Establishment of Wetlands

AGENCY: U.S. Army Corps of Engineers.

ACTION: Proposed rule.

SUMMARY: This proposed regulation provides policies to guide the establishment of wetland areas as part of water resources development projects. The proposed policies will apply to all Civil Works programs of the U.S. Army Corps of Engineers except regulatory. This regulation is consistent with the substantive planning requirements of the U.S. Water Resources Council (WRC) Principles and Standards.

DATE: Comments on the proposed policies are due on or before December 31, 1979.

ADDRESS: Comments should be addressed to HQDA(DAEN-CWR-P), WASH DC 20314.

FOR FURTHER INFORMATION CONTACT: Robert L. Fulton, Office of Policy, Director of Civil Works, HQDA(DAEN-CWR-P), WASH DC 20314 (202) 272-0120.

SUPPLEMENTARY INFORMATION: Section 150 of the Water Resources Development Act of 1976 established a policy to plan and establish wetland areas as part of an authorized water resources project under the jurisdiction of the Secretary of the Army. The wetlands may be established under certain conditions in connection with the dredging required for such a water resources project. To be eligible, the environmental, economic and social benefits of the wetland area must justify the increased costs above the cost required for alternative methods of disposing of dredged material for the project. The increased costs, which will be borne by the United States Government, shall not exceed $400,000. In addition there must be reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man made cause.

Dated: October 18, 1979.

Forrest T. Gay III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

It is proposed to add Part 232 to Title 33 to read as follows:

PART 232—WATER RESOURCES POLICIES AND AUTHORITIES; ESTABLISHMENT OF WETLANDS

Sec.
232.1 Purpose.
232.2 Applicability.
232.3 References.
232.4 Legislative provisions.
232.5 General.
232.6 Procedures.
232.7 Funding.
232.8 Limitations in countinuing authority programs.
232.9 Mitigation.

Authority: Section 150, Water Resources Development Act of 1976.

§ 232.1 Purpose.

This regulation provides guidance for the establishment of wetland areas in connection with dredging required as part of water resources development projects.

§ 232.2 Applicability.

This regulation is applicable to all field operating agencies having Civil Works responsibilities.

§ 232.3 References.

(a) Section 150, Water Resources Development Act of 1976 (Pub. L. 94-587).

(b) "Principles and Standards for Planning Water and Related Land Resources," September 1973, United States Water Resources Council.

(c) ER 200-2-2.

(d) ER 1105-2-200.

(e) EM 1110-2-5000.

(f) Dredged Material Research Information Exchange Bulletin, Vol. D-77-1, January 1977.

§ 232.4 Legislative provisions.

(a) Section 150 of Pub. L. 94-587 authorizes the Chief of Engineers to plan and establish wetland areas as part of water resources development projects. Establishment of any wetland area in connection with the dredging required for such water resources development projects may be undertaken where the Chief of Engineers finds that:

(1) Environmental, economic and social benefits of the wetland area justify the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project.

(2) The increased cost of such wetland area will not exceed $400,000. Appraisal of "increased costs" will consist of all separable costs associated with the wetland area, including but not limited to, the costs required for necessary interests in lands, designing the site, preparing and planting the site, maintenance of the wetland area until established and stabilized, and dredging and transporting the dredged material to the wetland area, in comparison with the costs that would be required for the most feasible alternative plan for disposal.

(3) There is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) The benefits of establishing these wetland areas are deemed to be a least equal to the increased cost of establishing such areas. Increased costs will be financial but will not be included in the economic analysis for developing the benefit—cost ratio.

(c) The additional costs (including costs for additional lands) of establishing these wetland areas shall be borne by the United States. Normally, the wetland areas will be established on lands already in public ownership or subject to navigational servitude.

(d) Section 150(b) instructs the Corps to include in the planning process, where appropriate, consideration of the establishment of wetland areas in water resource development reports submitted to Congress. Consequently, in Survey, Legislative Phase I General Design Memorandum (GDM), and Special and Continuing Authority Studies involving dredging, creation of wetlands will be addressed throughout the planning process in accordance with Principles and Standards (P&S) and ER 1105-2-200. If during Stage 3 of planning, the district engineer judges the environmental, economic, and social benefits of creating wetlands from dredged material as part of a proposed water resources development plan outweighs the costs, then the dollar benefits of the wetland can be considered equal to the increased cost (up to but not exceeding $400,000). All of these increased costs will be borne by the Federal government. Wetlands whose increased costs exceed $400,000 must be justified in accordance with ER 1105-2-200 and non-Federal sponsors must provide for their share of the costs that exceed $400,000 and any necessary lands including retaining dikes, bulkheads and embankments. Survey Reports, Legislative Phase I GDM, and Detailed Project Reports (DPR) shall reflect the consideration given to wetlands establishment.

§ 232.5 General.

(a) Established wetlands must be primarily the result of dredged material placement.

(b) For any given project, the Federal cost of establishing wetlands under Section 150 authority is limited to $400,000 during project construction and

$400,000 per maintenance dredging cycle. In the case of comprehensive systems of projects in a basin or on a river, the $400,000 limitation shall apply to the individual projects or segments of the system where such projects or segments have been assigned separate CWIS numbers and have been issued separate work allowances during their construction or maintenance except when the CWIS number is used by more than one district. In this case the cost limitation shall apply to that portion of the project within each district.

(c) The Environmental Effects Laboratory (Waterways Experiment Station) has reviewed the entire Dredged Material Research Program (DMRP) to identify all completed or active studies that are relevant to this authorization. Considerable data are currently available, but many of them are not in final or synthesized form. Reference (f) in § 232.3, presents a key to existing and expected DMRP information along with a logic diagram or decision matrix that should be applied to any given project.

§ 232.6 Procedures.

The widespread interest in the development of wetlands and implementation of Section 150 requires that the Chief of Engineers be aware of activities in this area. For this reason the following procedures will be implemented:

(a) Division engineers will advise The Water Resources Support Center, WRSC–D, Ft. Belvoir, VA 22060, of the initiation of any Operation and Maintenance (O&M) and environmental studies relative to the establishement of wetlands in connection with completed portions of any authorized water resources projects.

(b) Upon completion of the O&M and environmental studies on completed projects, district engineers shall forward a letter report to division engineers which specifically addresses the requirements of § 232.4(a) (1), (2), and (3) and shows the proposed plan of improvement. An environmental assessment together with a finding of no significant impact, an environmental impact statement (EIS) or an EIS supplement, as determined by the district engineer, will also accompany the letter report. The National Environmental Policy Act (NEPA) process shall be completed before the proposed plan is approved. Approval for the establishment of wetlands under the authority of Section 150 on completed projects shall be made by division engineers. Two copies of approved reports should be forwarded to The Water Resources Support Center, Ft. Belvoir, VA 22060, for information. Reports unfavorable to establishment of a wetland should also be submitted, so that OCE can be aware of the problems being encountered by field operating units.

(c) For projects under design or construction (Construction General Funds), reports should be included in the General Design Memorandum or a supplemental GDM together with the necessary EIS documents as discussed in ER 200–2–2.

(d) No special reporting procedures are required for Survey, Legislative Phase I GDM, and Special Continuing Authority Studies. OCE monitoring will be handled through intensive management and standard report procedures.

§ 232.7 Funding.

(a) Costs incurred in the O&M studies and establishment of wetlands on completed water resources projects will be charged against Operation and Maintenance, General accounts, and funding will be obtained through normal budgeting procedures.

(b) Costs incurred on projects under design or construction will be charged to Construction, General accounts, and must be accomplished within existing monetary authority limitations.

(c) Costs incurred in considering wetlands as part of Survey, Special and Legislative Phase I GDM Studies should be part of the General Investigation study budget.

(d) Costs to be incurred in considering wetlands as part of Continuing Authority Studies should be included in preliminary cost estimates.

§ 232.8 Limitations in continuing authority programs.

Consideration and construction of wetlands in Continuing Authority Programs must be accomplished within existing authority cost limitations.

§ 232.9 Mitigation.

The Section 150 criteria and limitations are not applicable to proposals to mitigate project impacts on fish and wildlife.

[FR Doc. 79-32419 Filed 10-23-79; 8:45 am]
BILLING CODE 3710-92-M

Federal Register

Wednesday
October 24, 1979

Part III

Department of the Interior

Office of Surface Mining

Backfilling and Grading To Achieve Approximate Original Contour; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

30 CFR Part 716

Backfilling and Grading To Achieve Approximate Original Contour; Proposed Rulemaking

AGENCY: Office of Surface Mining, United States Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining is seeking comments on these proposed rules which provide for interim program variances from the requirement to return mined land in steep slope areas to the approximate original contour. The variances are now available only in the permanent program.

DATES: Comments must be received by 5 p.m., November 23, 1979. A public hearing will be held at 9:30 a.m., November 16, 1979.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044. Alternatively, comments may be hand delivered to: Office of Surface Mining, Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 where all comments will be available.

The public hearing will be held at the Department of the Interior, Room 8070, 18th and C Streets, N.W., Washington, D.C. 20240.

Persons wishing to testify at the public hearing on the proposed rule should contact Alan Palisoul, Enforcement Specialist, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, 202-343-8061.

FOR FURTHER INFORMATION CONTACT: Alan Palisoul, 202-343-8061.

SUPPLEMENTARY INFORMATION: These regulations are proposed to amend OSM's initial program regulations published at 42 FR 62639 *et seq.* (December 13, 1977). The proposal would add as section to the initial program regulations which would implement § 515(e) of the Act by providing for a limited variance on steep slopes from the requirements of § 515(d)(2) of the Act to return land mined on steep slopes to approximately original contour.

Section 515(e) was not implemented in the interim program regulations because of OSM's interpretation of the subsection. The subsection starts:

> Each State program may and each Federal program shall include a procedure. . .

The phrase "Federal program" is defined in section 701(5) and the phrase "State program" is defined in section 701(25) of the Act to refer only to permanent regulatory programs. OSM at first believed that the use of those defined phrases established Congressional intent that section 515(e) not apply in the interim program.

Further analysis leads OSM to believe it should re-examine this conclusion. Congress clearly intended to phase in the applicability of the environmental performance standards. It is unlikely that Congress intended to require compliance with standards that are more rigorous during the interim program than during the permanent program. Moreover, the primary author of section 515(e) was Senator Jennings Randolph (D-W.Va.). He said he derived the amendment from analogous provision in West Virginia's surface mining statute. 23 *Cong. Rec.* 58101-8103 (May 20, 1977). It is unlikely Senator Randolph intended that West Virginia's State law provision be rendered inapplicable during the interim program.

Congress used other words in the Act in ways inconsistent with their defined meaning. The word "permit" is defined in section 701(15) of the Act as a permit issued pursuant to a State program or a Federal program.

This definition on its face does not include permits issued during the interim program by a State. Yet section 502(a), (b), and (c) use the term "permit" with reference to permits issued by a State during the interim program. This example is especially instructive because it shows Congress sometimes intended words to be applicable in the interim program that on their face are applicable only during the permanent program. For these reasons, OSM has tentatively concluded that Congressional intent was not definitely established by the use of the phrases "State program" and "Federal program" and is more forcefully demonstrated by the central theme of the Act that the interim program be no more stringent than the permanent program.

OSM has tentatively concluded that the use of the phrases "State program" and "Federal program" in section 515(e) may have been unwitting and does not necessarily indicate an intent to limit that subsection to the permanent program. This conclusion is bolstered by the facts that section 515(e) originated as an amendment on the Senate floor and therefore did not receive the careful Congressional and staff scrutiny of Committee consideration. There is nothing in the floor debate or conference committee report that shows an awareness of the possible result of the use of these defined phrases.

OSM solicits comment on this central interpretive issue with citation to legislative history or other useful authority, if possible.

The proposed regulations are based on section 515(e) of the Act which provides as follows:

> (e)(1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection, provided that the watershed control of the area is improved; and further provided complete backfilling with spoil material shall be required to cover completely the highwall which material will maintain stability following mining and reclamation.
>
> (2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection 515(d)(2) of this section may be granted for the surface mining of coal where the owner of the surface knowingly requests in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities) in accord with the further provisions of (3) and (4) of this subsection.
>
> (3)(A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;
>
> (B) is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and
>
> (C) after approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved.
>
> (4) In granting a variance pursuant to this subsection the regulatory authority shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned post-mining land use, insure stability of the spoil retained on the bench, meet all other requirements of this Act, and all spoil placement off the mine bench must comply with subsection 515(b)(22).
>
> (5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.
>
> (6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

This subsection states several constraints on the variance which must be kept in mind when the reader analyzes and comments on the proposed regulations. Several points deserve special attention.

First, the subsection makes watershed improvement a condition of any variance. How that is to be implemented is one of the important issues of the proposed regulations and is discussed in more detail below.

Second, the subsection makes the backfilling of all highwalls a condition of any variance. This will limit the usefulness of the variance in very steep slopes. This issue is also discussed in more detail below.

Third, the subsection limits the variance

so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities * * *.

OSM presently interprets that language to be functionally the same as the requirement in section 515(c) of the Act that allows a variance for mountaintop mining when certain post-mining land use is proposed. The precise relationship between the granting of the variance and the degree of likelihood of the land use actually occurring is an important issue. In addition, the list of land uses justifying the variance does not include agriculture. This issue is discussed in more detail below.

In addition, OSM draws attention to the proposed § 716.2(e)(3)(iv)(A). This section as drafted establishes the condition of the area prior to mining as the reference point when determining watershed control improvement. Another alternative would be to use as the reference point the conditions of the area if it were minded and restored to the approximate original contour. OSM invites comments on this latter approach, specifically as to whether it more accurately represents the intent of Congress and whether the use of this hypothetical benchmark would be feasible. OSM solicits comments on its proposed regulation and on the principal alternative. Of course, it also seeks other alternatives and comments.

Section 515(e)(2) states that the owner of the surface must knowingly request that the variance be granted so that the land is suitable for industrial, commercial, residential, or public use. It makes no reference to agricultural use (compare section 515(c)(3)). In addition, the legislative history seems to indicate clearly an intent to exclude this type of use. OSM seeks comments on this issue also. Section 716.2(e)(3)(i) requires that the regulatory authority find that the proposed use is likely to occur. OSM realizes that as a practical matter, it is impossible for an agency to predict with certainty that something will happen. However, it is OSM's present opinion that before a variance may be granted the Act requires that the postmining land use be appropriate and the conditions exist, including the operator's or another's commitment, to insure that the land use will actually occur. Thus, the proposed regulations are an attempt to provide a standard to insure that the land-use will occur while at the same time allowing for change that may sometimes occur even given good intentions. OSM requests comments on the proper phrasing of this test. Finally, proposed § 716.2(e)(4)(i) would require that the highwall be completely backfilled with spoil to achieve a static safety factor of at least 1.3. This two-pronged requirement is drawn from section 515(e)(1) of the Act which OSM reads to say that even where a variance is granted, complete backfilling and achieving stability are mandatory. OSM realizes that this may make the variance of little use in certain instances. OSM seeks comments and suggestions on alternatives available under section 515(e), if any exist.

The variance which is being proposed differs from the variance provision in the permanent program (30 CFR 785.16 and 826.15) somewhat. OSM will be considering amending the permanent program regulations to conform to any adopted regulations.

Proposed regulation § 716.2(e)(2)(ii) uses the phrase "Allow the land to be used for * * *" where the permanent program regulations, § 785.16(b)(2), uses "Makes the land * * * suitable for * * *". This is not intended to present a different meaning. It is believed that this is a better way to state the agency's meaning.

Proposed regulation § 716.2(e)(3) uses the phrase "* * * on the basis of a showing by the permittee, * * *" while the permanent program regulation § 785.16(c) uses "* * * on the basis of a complete application, * * *". This also is merely a clarification that the burden is on the applicant when applying for the variance.

Proposed regulation § 716.2(e)(3)(i) adds the phrase "* * * and that the proposed use is likely to occur." This does not appear in the permanent program regulations. This, again, is believed to be a clearer way of stating the meaning intended by the permanent program regulations, specifically § 785.16(c) (1), (2), and (3). In addition, this specific issue is addressed above in this preamble.

Proposed regulation § 716.2(e)(5) states that the regulatory authority shall review each variance "* * * not more than three years from the date of issuance * * *", while the permanent program regulation § 785.16(e)(1), (2), and (3) require evaluation "within the sixth month preceding the third year * * *", "Before each permit renewal", and "Not later than the middle of each permit term." OSM does not intend to change the requirements which will apply in the permanent program. Since the permanent program will be in effect before any of these evaluation times could possibly arise, OSM believes it would be useless surplusage and therefore proposes to merely state the general statutory requirement.

For reference to the preamble for the permanent program regulations, see Federal Register, Volume 44, No. 50, March 13, 1979, pages 15083–15084. In addition, the Preamble to the draft permanent regulatory program in the Federal Register Volume 43, No. 181, September 18, 1978, pages 41713–41715 is instructive.

For all comments on these and other provisions and issues, OSM requests that commenters include citations to the act and the legislative history wherever possible.

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

Section 501(a) of the Surface Mining and Reclamation Act of 1977 exempts this action from the Environmental Impact Statement requirement of the National Environmental Policy Act.

Regulation Drafters. The proposed modifications to the interim regulations have been drafted principally by Richard M. Hall, Assistant Director, Inspection and Enforcement.

Dated: October 15, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Accordingly, it is proposed to amend § 716.2 of 30 CFR by adding a new paragraph (e) to read as follows:

§ 716.2 Steep-slope mining.

* * * * *

(e) Variances from approximate original contour restoration requirements.

(1) This Section applies to non-mountaintop removal steep slope surface coal mining and reclamation operations where the operation is not to be reclaimed to achieve the approximate original contour.

(2) The objective of this subsection is to allow for a variance from

approximate original contour restoration requirements on steep slopes for surface mines to—

(i) Improve watershed control of lands within the permit area and on adjacent lands; and

(ii) Allow the land to be used for an industrial, commercial, residential, or public use, including recreational facilities.

(3) The regulatory authority may grant a variance from the requirement for restoration of the affected lands to their approximate original contour only if it first finds, in writing, on the basis of a showing by the permittee, that all of the following requirements are met:

(i) The permittee has demonstrated that the purpose of the variance is to make the lands to be affected within the permit area suitable for an industrial, commercial, residential, or public use postmining land use and that the proposed industrial, commercial, residential, or public use is likely to occur.

(ii) The proposed use, after consultation with the appropriate land-use planning agencies, if any, constitutes an equal or better economic or public use.

(iii) The permittee has demonstrated compliance with the requirements for acceptable alternative postmining industrial, commercial, residential or public land uses of 30 CFR 715.13.

(iv) The permittee has demonstrated that the watershed of lands within the proposed permit area and adjacent areas will be improved by the operations. The watershed will be deemed improved if—

(A) There will be a reduction in the amount of total suspended solids or other pollutants discharged to ground or surface waters from the permit area as compared to such discharges prior to mining, so as to improve public or private uses or the ecology of such waters; or, there will be reduced flood hazards or more even flow within the watershed containing the permit area due to reduction of the peak flow discharges from precipitation events or thaws. If only flow or pollutant load is improved, the other must not deteriorate.

(B) The total volume of flows from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water, and

(C) The approprate State environmental agency approves the plan.

(v) The permittee has demonstrated that the owner of the surface of the lands within the permit area has knowingly requested, in writing, as a part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operation and shall show an understanding that the variance could not be granted without the surface owner's request.

(vi) The proposal is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(vii) All other requirements of the Act and these regulations will be met by the proposed operations.

(4) Every permittee who obtains a variance under this subsection shall:

(i) Backfill completely the highwall with spoil material, in a manner which results in a static factor of safety of at least 1.3 using standard geotechnical analyses.

(ii) Improve the watershed control of the area within which the mining occurs by reducing the peak flow from precipation or thaw or reducing the total suspended solids or other pollutants in the surface water discharge during precipitation or thaw, while maintaining the variable not reduced at the pre-mining level.

The total volume of flow during every season of the year shall not vary in a way that adversely affects the ecology of any surface or ground water.

(iii) Disturb land above the highwall only to the extent that the regulatory authority deems approrpriate and approves as necessary to facilitate compliance with the provisions of this section, if the regulatory authority finds that the disturbance is necessary to—

(A) Blend the solid highwall and the backfilled material;

(B) Control surface runoff; or

(C) Provide access to the area above the highwall.

(iv) Place off the mine bench no more than the amount of spoil necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and Parts 710 through 725 of this Chapter. All spoil not retained on the bench shall be placed in accordance with 30 CFR 715.15.

(5) The regulatory authority shall review every variance granted pursuant to this section not more than three years from the date of issuance of the permit to ensure that the proposed alternative post-mining use is proceeding in accordance with the terms of the approved plan.

[FR Doc. 79-32813 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-05-M

Wednesday
October 24, 1979

Part IV

Department of Energy

Office of Conservation and Solar Energy

Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions; Technical and Editorial Corrections

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Parts 450 and 455

Grant Programs for Schools and Hospitals, and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Final rule; technical and editorial corrections.

SUMMARY: In the April 2, 1979 edition of the Federal Register (44 FR 19340) the Department of Energy published a final rulemaking covering preliminary energy audits and energy audits. This was followed by the April 17, 1979 edition of the Federal Register (44 FR 22940), in which the Department of Energy published the final rulemaking for technical assistance and energy conservation measures grants. There were a number of errors in these final rules. The corrections are set forth below, and shall be effective October 24, 1975.

FOR FURTHER INFORMATION CONTACT: Ronald Milner, Institutional Buildings Grants Programs Division, Office of Conservation and Solar Energy, Department of Energy, Room 2H-043, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2325.

Issued in Washington, D.C., October 19, 1979.

Maxine Savitz,

Acting Assistant Secretary, Conservation and Solar Energy.

§ 450.21 [Amended]

1. Paragraph (b)(5) of 10 CFR 450.21 is revised to read as follows:

* * * * *

(b) * * *

(5) For the purposes of paragraph (b)(4) of this section, the conversion factors set forth in paragraph (a)(11) of § 450.42 shall be used.

§ 450.43 [Amended]

2. Paragraph (c) of 10 CFR 450.43 is revised to read as follows:

* * * * *

(c) Based on information gathered under paragraphs (a) and (b) of § 450.42, and paragraphs (a) (1) and (3) of this section, an energy audit shall indicate the need, if any, for the acquistion and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit based on consideration of one or more of the following—

* * * * *

§ 455.15 [Amended]

3. Paragraph (b)(2) of 10 CFR 455.15 is revised to read as follows:

* * * * *

(b) * * *

(2) A description of materials to be developed and adopted, or an identification of existing materials to be used, to meet the requirements for conducting preliminary energy audits and energy audits set forth in Subpart E of 10 CFR Part 450, including provision of data concerning heating degree days, cooling degree days, insolation, and wind speed for regions within the State;

* * * * *

§ 455.16 [Amended]

4. Paragraph (e) of 10 CFR 455.16 is revised to read as follows:

* * * * *

(e) At least 75 percent of the financial assistance provided under this part shall be used in conducting energy audits of buildings, including costs of personnel attending training sessions conducted by the State preparatory to performing energy audits.

§ 455.17 [Amended]

5. Paragraph (b)(2)(A) of 10 CFR 455.17 is revised as follows:

(b) * * *

(2) * * *

(A) An estimate of the savings anticipated from energy conservation operation and maintenance procedure changes identified; and

* * * * *

§ 455.60 [Amended]

6. Paragraph (a) of 10 CFR 455.60 is revised as follows:

(a) Each eligible applicant desiring to receive financial assistance shall file an application in accordance with the provisions of this subpart and the approved State Plan of the State in which such building is located. The application, which may be amended in accordance with applicable State procedures at any time prior to the State's final determination thereon, shall be filed with the State energy agency designated in the State Plan.

* * * * *

§ 455.82 [Amended]

7. Paragraph (f) of CFR 455.82 is revised as follows:

(f) Applicant expenditures for a technical assistance program for one or more energy conservation measures commenced after November 8, 1978 for a building may be wholly or partically classified in the discretion of the Secretary as matching non-federal funds for the purposes of matching grants awarded for energy conservation measures.

§ 455.90 [Amended]

7. Paragraph (f) of 10 CFR 455.90 is revised as follows:

(f) The procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or types of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, in accordance with § 455.71;

* * * * *

[FR Doc. 79-32811 Filed 10-23-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

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

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

54307 9-19-79 / Milk in Southwestern Idaho-Eastern Oregon marketing area; recommended decision; comments by 10-31-79

50847 8-30-79 / Rate proceedings; rules of practice applicable; comments by 10-29-79

Animal and Plant Health Inspection Service—

56351 8-28-79 / Importation of animals from Mexico; comments by 10-29-79

Office of the Secretary—

56943 10-3-79 / Section 22 Import Quotas; comments by 11-2-79

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

55920 9-28-79 / Proposed Addition to Procurement List, comments by 10-31-79

CIVIL AERONAUTICS BOARD

50607 8-29-79 / Removal of limitations on cargo charters; comments by 10-29-79

COMMERCE DEPARTMENT

Maritime Administration—

52002 9-6-79 / Operating-differential subsidy for dry bulk cargo vessels; comments by 10-29-79

National Oceanic and Atmospheric Administration—

57140 10-4-79 / Atlantic bluefin tuna regulations; intent to prepare environmental impact statement; comments by 11-2-79

CONSUMER PRODUCT SAFETY COMMISSION

51223 8-31-79 / Acetaminophen preparations; exemptions from child-resistant packaging requirements; comments by 10-30-79

ENERGY DEPARTMENT

50801 8-29-79 / Inquiry to identify any Federal regulations which might prevent or impede development of renewable energy resources; comments by 10-29-79

Economic Regulatory Administration—

57103 10-4-79 / Canadian Allocation Program; comments by 11-2-79

ENVIRONMENTAL PROTECTION AGENCY

51225 8-31-79 / Asphalt concrete; review of standards; comments by 10-29-79

55602 9-27-79 / California; air quality planning; attainment status designations; comments by 10-29-79

56967 10-3-79 / Draft application forms for national pollutant discharge elimination system permits; comments by 10-29-79

57429 10-5-79 / Pesticide Use Restrictions; extension of comments period through 10-31-79

[Originally published at 44 FR 45218, August 1, 1979 and corrected at 44 FR 46303, August 7, 1979]

56721 10-2-79 / Proposed delayed compliance order for Virginia Electric & Power Co.'s Portsmouth Generating Station; comments by 11-1-79

59247 10-15-79 / Proposed revision to Ohio's Implementation Plan; comments by 10-30-79

56955 10-3-79 / Review and award of research grants and cooperative agreements; comments by 11-2-79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

50541 8-28-79 / Interim regulations for processing appealable actions, alleging prohibited discrimination, pending on or before 1-10-79; comments by 10-29-79

FEDERAL COMMUNICATIONS COMMISSION
55610 9-27-79 / Certification on expired ship station license to be considered as valid attachment to renewed station license for short period of time; comments by 10-29-79
50876 8-30-79 / Designating frequencies for slow growth, land mobile radio systems of utilities and public safety agencies; comments by 11-1-79
39550 7-6-79 / Inquiry concerning 9 kHz channel spacings for AM broadcasting; reply comments by 11-1-79
50866 8-30-79 / MTS and WATS market structure; comments by 10-31-79
54734 9-21-79 / One-way radio paging in the special emergency radio service; reply comments extended to 10-31-79
[Originally published at 44 FR 49704, August 24, 1979]

FEDERAL ELECTION COMMISSION
55594 9-27-79 / Presidential Election Campaign Fund and Presidential Primary Matching Fund; comments by 10-29-79

FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL
44740 7-30-79 / Processing of cases; comments by 10-31-79

FEDERAL TRADE COMMISSION
50353 8-28-79 / Montgomery Ward and Co., Inc.; consent agreement with analysis; comments by 10-29-78

GENERAL SERVICES ADMINISTRATION
50838 8-30-79 / Listening-in and recording of telephone conversations; comments by 10-29-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
50360 8-28-79 / Listing of color additives subject to certification; D&C Orange No. 4; comments by 10-29-79
58919 10-12-79 / New drug regulations; comments by 10-31-79
50458-50537 8-28-79 / Physical medical devices; general and individual classification rules; comments by 10-29-79 (83 documents)

INTERIOR DEPARTMENT
Fish and Wildlife Service—
51144 8-30-79 / Critical habitat for the Virginia Big-eared Bat; comments by 11-1-79
44916 7-31-79 / Endangered and treatened wildlife and plants; review of the status of jatropha costaricensis; comments by 10-29-79
Land Management Bureau—
56622 10-1-79 / Cooperative relation; advisory committees; comments by 10-31-79
National Park Service—
56934 10-3-79 / Sale and distribution of printed matter; comments by 11-2-79
Surface Mining Reclamation and Enforcement Office—
56272 9-28-79 / Surface coal mining and reclamation operations permanent regulatory program; comments by 10-29-79

INTERNATIONAL BROADCASTING BOARD
55910 9-28-79 / Security information provisions; comments by 10-29-79

INTERSTATE COMMERCE COMMISSION
53092 9-12-79 / Intercity motor common carrier passenger; modification of regulations; comments by 10-29-79

JUSTICE DEPARTMENT
Immigration and Naturalization Service—
50604 8-29-79 / Proposed requirements that nonimmigrant professional nurses pass screening examination; comments by 10-29-79

LABOR DEPARTMENT
Office of the Assistant Secretary for Labor-Management Relations—
50558 8-29-79 / Labor organizations in the Federal sector; standards of conduct; comments by 10-29-79
Pension and Welfare Benefit Programs—
50363 8-28-79 / Fiduciary responsibility; definition of plan assets and establishment of trust; comments by 10-29-79
50367 8-28-79 / Fiduciary responsibility; statutory exemption for certain acquisitions, sales, or leases of property; comments by 10-29-79

MERIT SYSTEMS PROTECTION BOARD
50540 8-28-79 / Interim regulations for processing appealable actions, alleging prohibited discrimination, pending before 1-11-79; comments by 10-29-79
49956 8-24-79 / Prohibited personnel practices and activities; investigation procedures; comments by 10-30-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
50858 8-30-79 / Space Transportation system; procurement of spinning solid upper stages; comments by 10-29-79

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION
58528 10-10-79 / Facilitate successful relocation of businesses and residents within the area; comments by 10-31-79

PERSONNEL MANAGEMENT OFFICE
55147 9-25-79 / Post employment conflict of interest; comments by 10-30-79

SECURITIES AND EXCHANGE COMMISSION
52820 9-10-79 / Statistical disclosure by bank holding companies; comments by 10-30-79

STATE DEPARTMENT
Agency for International Development—
56378 10-1-79 / Pesticide and other environmental procedures; comments by 11-1-79

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration—
53187 9-13-79 / Transportation of liquids by pipelines; Value spacing on pipelines carrying high volatile liquids; comments by 10-30-79

TREASURY DEPARTMENT
Internal Revenue Service—
50361 8-28-79 / Bingo games; income tax treatment of proceeds; comments by 10-29-79
51235 8-31-79 / Transitional rules for acts of self-dealing involving private foundations; comments by 10-30-79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
59260 10-15-79 / Agency Organization and Personnel Committee, Washington, D.C. (open), 11-2-79
58933 10-12-79 / Committee on Judicial Review, Washington, D.C. (open), 10-31-79

AGRICULTURE DEPARTMENT
Forest Service—
55615 9-27-79 / Modoc National Forest Grazing Advisory Board, Adin, Calif. (open), 10-30-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION
57540 10-5-79 / Federal-State Partnership Panel (State Programs Section) Wash., D.C. (open), 10-31 and 11-1-79
National Endowment for the Arts—
56996 10-3-79 / Music Panel, Washington, D.C. (partially open), 10-30 through 11-1-79

CIVIL RIGHTS COMMISSION
58772 10-11-79 / Alabama Advisory Committee, Montgomery, Ala. (open), 10-31-79
54530 9-20-79 / Colorado Advisory Committee, Denver, Colo. (open), 11-3-79
58772 10-11-79 / Nebraska Advisory Committee, Scotsbluff, Nebr. (open), 10-30-79
58772 10-11-79 / Wisconsin Advisory Committee, Madison, Wis. (open), 10-30-79

COMMERCE DEPARTMENT

Census Bureau—

56976 10-3-79 / Census Advisory Committee, of the American Marketing Association, Suitland, Md. (open), 10-30-79

58772 10-11-79 / Census Advisory Committee, on Housing for the 1980 Census, Suitland, Md. (open), 11-1-79

National Oceanic and Atmospheric Administration—

57140 10-4-79 / Atlantic bluefin tuna regulations; intent to prepare environmental impact statement, Washington, D.C. (open), 10-31-79

59261 10-15-79 / Scientific and Statistical Committee, Kenner, Louisiana (open), 11-1-79

DEFENSE DEPARTMENT

Air Force Department—

54084 9-18-79 / Scientific Advisory Board, Washington, D.C. (closed), 10-29 and 10-30-79

Army Department—

58873 10-11-79 / Army Medical Research and Development Advisory Panel, Ad Hoc Study Group on Special Infectious Disease Problems, Ft. Detrick, Md. (partially open), 11-1 and 11-2-79

58774 10-11-79 / Shoreline Erosion Advisory Panel, New Orleans, La. (open), 11-1 and 11-2-79

Office of the Secretary—

55413 9-26-79 / DOD Advisory Group on Electron Devices, New York, N.Y. (open), 10-30-79

49009 8-21-79 / Department of Defense Wage Committee, Washington, D.C. (closed), 10-30-79

ENERGY DEPARTMENT

53287 9-13-79 / National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources, Littleton, Colo. (open), 10-29 and 10-30-79

Economic Regulatory Administration—

58583 10-10-79 / Fuel Oil Marketing Advisory Committee, Forum on Refiner Credit Practices, Federal Plaza, N.Y. (open), 10-29-79

Energy Research Office—

59642 10-16-79 / Energy Research Advisory Board, Washington, D.C. (open), 11-1 and 11-2-79

ENVIRONMENTAL PROTECTION AGENCY

57200 10-4-79 / Energy emergencies and clean air regulations, Washington, D.C. (open), 10-29 and 10-31-79

58953 10-12-79 / Science Advisory Board Ecology Committee, Washington, D.C. (open), 10-29 and 10-30-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

54124 9-18-79 / Life Course Review Committee, Washington, D.C. (open and closed), 10-31 through 11-2

54124 9-18-79 / Psychopathology and Clinical Biology Research Review Committee, Rockville, Md. (open and closed), 10-29 through 10-31-79

Assistant Secretary for Health Office—

55067 9-24-79 / Health Care Technology Study Section, Washington, D.C. (open), 10-29 and 10-30-79

Education Office—

54360 9-19-79 / Accreditation and Institutional Eligibility Advisory Committee, Washington, D.C. (open), 10-31 and 11-1-79

Food and Drug Administration—

58967 10-12-79 / Circulatory System Devices Panel, Washington, D.C. (open), 11-2-79

56028 9-28-79 / Consumer Participation, Cincinnati, Ohio (open), 10-29-79

51335 8-31-79 / Immunoglobulin Workshop, Bethesda, Md. (open), 10-30 and 10-31-79

Health Services Administration—

53313 9-13-79 / Interagency Committee on Emergency Medical Services, Rockville, Md. (open), 10-31-79

National Institutes of Health—

57501 10-5-79 / Animal Resources Review Committee, Davis, Calif. (open), 10-30-79

52038 9-6-79 / Board of Scientific Counselors, Division of Cancer Treatment, Bethesda, Md. (open), 10-29 and 10-30-79

53108 9-12-79 / Cancer Control Grant Review Committee, Bethesda, Md. (partially open), 10-28 through 10-30-79

57501 10-5-79 / Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (open), 11-2-79

59652 10-16-79 / Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee), Chicago, Ill. (partially open), 10-31-79

53107 9-12-79 / Neurological Disorders Program, Project Review B Committee, Atlanta, Ga. (partially open), 10-31 through 11-2-79

53800 9-17-79 / Research grant study sections (partially open):

Bethesda, Chevy Chase and Silver Spring, Md., 10-29 through 11-3-79

Atlanta, Ga., 10-29 through 11-1-79

San Francisco, Calif., 10-31 through 11-2-79

53106 9-12-79 / Scientific Counselors Board, National Institute of Neurological and Communicative Disorders and Stroke, Bethesda, Md. (partially open), 11-1 and 11-2-79

50659 8-29-79 / Sickle Cell Disease Advisory Committee, San Francisco, Calif. (open), 10-31-79

55421 9-26-79 / Transplantation Biology and Immunology Committee, Bethesda, Md. (partially open), 11-2-79

Office of the Secretary—

55119 9-24-79 / Consideration of age discrimination provisions, Portland Oreg. (open), 10-30-79

Social Security Administration—

54128 9-18-79 / Social Security For Your Future, Fort Worth, Tex., 10-31-79

54128 9-18-79 / Social Security For Your Future, New York, N.Y., 10-29-79

INTERAGENCY REGULATORY LIAISON GROUP

49015 8-21-79 / Testing Standards and Guidelines Work Group, Washington, D.C. (open), 10-30-79

INTERIOR DEPARTMENT

Land Management Bureau—

57999 10-9-79 / Coal Resource Minimum Acceptable Bids, Denver, Colo. (open), 11-1-79

55230 9-25-79 / Intergovernmental Planning, Gulf of Mexico and South Atlantic Regional Technical Working Groups, New Orleans, La. (open), 10-30-79

54361 9-19-79 / Kingman Resource Area (Phoenix, Ariz. District) Advisory Board, Kingman, Ariz. (open), 11-1-79

55663 9-27-79 / Pacific States Regional Technical Working Group of the National Outer Continental Shelf Advisory Board, Los Angeles, Calif. (open), 10-30 and 10-31-79

INTERNATIONAL COMMUNICATION AGENCY

59676 10-16-79 / U.S. Advisory Commission on Public Diplomacy, Washington, D.C. (open), 11-1 and 11-2-79

LABOR DEPARTMENT

Occupational Safety and Health Administration—

59676 10-16-79 / Occupational Safety and Health National Advisory Committee, Washington, D.C. (open), 11-1 and 11-2-79

Office of the Secretary—

59011 10-12-79 / Steel Tripartite Committee, Working Group on Labor and Community Adjustment Assistance, Washington, D.C. (open), 11-1-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

58007 10-9-79 / NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Moffett Field, Calif. (open), 10-31 and 11-1-79

59021 10-12-79 / NASA Advisory Council, Space Systems and Technology Advisory Committee, Washington, D.C. (open), 11-1-79

59021 10-12-79 / NASA Advisory Council, Space Systems and Technology Advisory Committee, Hampton, Va. (open), 10-31 and 11-1-79

NATIONAL SCIENCE FOUNDATION

59021 10-12-79 / Advisory Committee for Chemistry, Washington, D.C. (open) 11-2-79

[Rescheduled at 44 FR 59301, October 15, 1979]

59022 10-12-79 / Advisory Committee for Materials Research, Subcommittee for Condensed Matter Sciences, Washington, D.C. (open), 10-30 and 10-31-79

59023 10-12-79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Washington, D.C. (closed), 11-1 through 11-3-79

59023 10-12-79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Molecular Biology, Washington, D.C. (closed), 10-29 and 10-30-79

59021 10-12-79 / Advisory Committee on Special Research Equipment (2- and 4-year Colleges), Washington, D.C. (closed), 11-1 and 11-2-79

59022 10-12-79 / Advisory Council, Washington, D.C. (open), 11-1 and 11-2-79

59022 10-12-79 / Advisory Subcommittee for Materials Research Laboratories, Washington, D.C. (open and closed), 11-1 and 11-2-79

NUCLEAR REGULATORY COMMISSION

59301 10-15-79 / Advisory Committee on Reactor Safeguards, Washington, D.C. (open), 10-30-79

59023 10-12-79 / Advisory Committee on Reactor Safeguards, Subcommittee on the La Crosse Boiling Water Reactor, Washington, D.C. (open and closed), 10-26-79

STATE DEPARTMENT

58574 10-10-79 / U.S. Organization for the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 10-31-79

Agency for International Development—

52913 9-11-79 / Research Advisory Committee, Washington, D.C. (open), 10-29 and 10-30-79

Office of the Secretary—

58015 10-9-79 / Advisory Committee to the U.S. National Section of the International Commission for the Conservation of Atlantic Tuna, Washington, D.C. (open), 10-30-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

56419 10-1-79 / Air Traffic Procedures Advisory Committee, Washington, D.C. (open), 10-30 through 11-2-79

59242 10-15-79 / Radio Technical Commission for Aeronautics Executive Committee, Arlington Va. (open), 11-2-79

National Highway Traffic Administration—

15823, 34235 3-15-79 and 6-14-79 / International Conference on automotive fuel economy research, Arlington, Va. (open), 10-31 to 11-2-79

TREASURY DEPARTMENT

Office of the Secretary—

58827 10-11-79 / Treasury Small Business Advisory Committee, Washington, D.C. (open), 10-29 and 10-30-79

VETERANS ADMINISTRATION

53602 9-14-79 / Advisory Committee on Structural Safety of Veterans Administration Facilities, Washington, D.C. (open), 10-29-79

55082 9-24-79 / Career Development Committee, Washington, D.C. (open), 10-29 and 10-30-79

59033 10-12-79 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 10-31-79

53602 9-14-79 / Wage Committee, Washington, D.C. (closed), 11-1-79

Next Week's Public Hearings:

CIVIL AERONAUTICS BOARD

55917 9-28-79 / Texas-Alberta-Alaska Case; prehearing conference, Washington, D.C. 10-30-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

58937 10-12-79 / Louisiana Coastal Resources Program, hearing on draft environmental impact statement, New Orleans, Homa, and Abbeville, La. 10-30 through 11-1-79

ENERGY DEPARTMENT

57902 10-5-79 / Enforcement of Oil Import Quota, San Francisco, Calif., 10-29-79; Dallas Tex., 10-31-79 and Chicago, Ill., 11-2-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

56027 9-28-79 / Peptides Subcommittee on the Drug Abuse Advisory Committee, Rockville, Md., 10-29-79 and 10-30-79

LABOR DEPARTMENT

Mine Safety and Health Administration—

53540 9-14-79 / Independent Contractors, Washington, D.C., 10-30-79

SOCIAL SECURITY NATIONAL COMMISSION

35324 6-19-79 / Social Security, Boston, Mass., 11-2-79

TREASURY DEPARTMENT

57902 10-5-79 / Enforcement of oil import quota, San Francisco, Calif., 10-29-79; Dallas, Tex., 10-31-79; and Chicago, Ill., 11-2-79

Internal Revenue Service—

50064 8-27-79 / Investment in U.S. property by controlled foreign corporations, Washington, D.C., 10-30-79

54315 9-19-79 / Tax treatment of certain short-term corporate obligations and certificates of deposit and similar deposit arrangements, Washington, D.C., 11-1-79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 23, 1979

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

59489 10-16-79 / USDA/FNS—Special supplemental food programs for women, infants, and children; final program (food) funding formula; effective 10-16-79

APPLICATIONS DEADLINES

59884 10-16-79 / ACTION—proposed implementation of the joint ACTION/LEAA urban crime prevention program (UCPP) for Fiscal Year 1980; apply by 4-1-80

60167 10-18-79 / HEW/HDSO—Availability of Basic Educational Skills Research Grant Program funds; apply by 12-18-79

59963 10-17-79 / HEW/OE—Strengthening developing institutions program; fiscal year 1980; noncompeting continuation projects; apply by 12-10-79

59963 10-17-79 / HEW/OE—Strengthening developing institutions program; fiscal year 1980; new projects; apply by 12-10-79

60415 10-19-79 / HEW/PHS—Dental Team Practice Grants; apply by 11-15-79

60634 10-19-79 / HEW/Sec'y—Telecommunications Demonstration Program; mail applications by 12-17-79

59884 10-16-79 / Justice-LEAA—Proposed implementation of the joint ACTION/LEAA urban crime prevention program (UCPP) for fiscal year 1980; apply by 4-1-80

MEETINGS

59961 10-17-79 / HEW/ADAMHA—Alcohol Abuse Prevention, Review Committee, Silver Spring, Md. (partially open), 11-1 and 11-2-79

59962 10-17-79 / HEW/ADAMHA—Cognition, Emotion, and Personality Research Committee, Washington, D.C. (open and closed), 11-16 and 11-17-79

59961 10-17-79 / HEW/ADAMHA—Mental Health Research Education Review Committee, Silver Spring, Md. (open and closed), 11-15 through 11-17-79

59962 10-17-79 / HEW/ADAMHA—Research Scientist Development Review Committee (open and closed), 11-19 through 11-21-79

59961 10-17-79 / HEW/ADAMHA—Treatment Development and Assessment Research Review Committee, Washington, D.C. (open and closed), 11-2-79

59961 10-17-79 / HEW/ADAMHA—Basic Sociocultural Research Review Committee, Washington, D.C. (open and closed), 11-1-79

59962 10-17-79 / HEW/ADAMHA—Mental Health Small Grant Review Committee, Washington, D.C. (partially closed), 11-29, 11-30, and 12-1-79

59652 10-16-79 / HEW/HSA—Maternal and Child Health Research Grants Review Committee, Rockville, Md. (partially open), 11-14 and 11-15-79

59652 10-16-79 / HEW/NIH—Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 11-5 and 11-6-79

59652 10-16-79 / HEW/NIH—Cause and Prevention Scientific Review Committee, Bethesda, Md. (partially open), 12-14-79

59652 10-16-79 / HEW/NIH—Clinical Cancer Program Project & Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee), Bethesda, Md. (partially open), 11-15 and 11-16-79

59652 10-16-79 / HEW/NIH—Clinical Cancer Program Project & Cancer Center Support Review Committee (Clinical Cancer Program Project Review Subcommittee), Bethesda, Md. (partially open), 12-10 and 12-11-79

59652 10-16-79 / HEW/NIH—Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee), Chicago, Ill. (partially open), 10-31-79

59970 10-17-79 / Interior/GS—Earthquake Studies Advisory Panel, La Jolla, California (open), 11-1 and 11-2-79

60177 10-18-79 / NFAH—Media Arts Panel (programing in the arts), Washington, D.C. (closed), 11-5-79

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202-523-5239.