8-21-80
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Pages 55689-56004

federal register

Thursday
August 21, 1980

Several pages of the Federal Register for Wednesday, August 20, 1980 (Vol. 45, No. 163) were incorrectly numbered. The following page numbers are corrected as indicated:

Pages 54434 through 54436 are corrected to 55434 through 55436.

Page 54438 is corrected to 55438.

Pages 54447 through 54464 are corrected to 55447 through 55464.

The page numbers listed in the Table of Contents and List of CFR Parts Affected are correct.

Highlights

55716 **Veterans** VA issues interim final regulations for a pilot program using community based treatment facilities for treatment of alcohol and drug dependence; effective 4-8-80

55714 **Electric Utilities** DOE/FERC clarifies regulations relating to limitation for percentage adders in electric rates; compliance date extended to 9-1-80

55693 **Banking** FHLBB amends regulations to implement change in savings and loan control, effective 9-15-80

55799 **Grant Programs—Community Services** CSA gives notice of income disregard when determining eligibility for CSA funded programs; effective 9-22-80

55750 **Banking** FHLBB publishes proposal regarding mutual capital certificates; comments by 10-20-80

55689 **Labor-Management** GAO amends procedures governing requests for decisions in Federal labor-management relations matters; effective 8-21-80

55727 **Grant Programs—Health** HHS/PHS implements program of financial distress grants to health professions schools to assist meeting their costs of operation; effective 8-21-80

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

55731 **Microwave** FCC publishes regulations regarding private operational-fixed microwave service; effective 9-26-80

55734 **Motor Carriers** ICC imposes a number of new requirements and standards on motor carrier rate bureaus as a condition to their continued immunity from the antitrust laws; effective 8-21-80

55692 **Banks** FRS temporarily suspends Regulation Q penalty normally imposed upon withdrawal of funds from time deposits prior to maturity; effective 8-11 and 8-14-80

55763 **Highway** DOT/FHWA proposes policy on how the type of materials used in the various pavement components of a Federal-aid project are determined; comments by 10-20-80

55968 **Grant Programs—Community Development** HUD/CPD revises Small Cities Program regulations; effective 9-15-80 (Part V of this issue)

55726 **Procurement** GSA changes policy on ordering items from GSA to reduce incidence of agencies ordering items when it is not economically justifiable; effective 8-21-80

55711 **Import** Commerce/ITA publishes interim regulations regarding effects of imported articles on the National Security; effective 8-21-80, comments by 10-20-80

55891 **Imports** Treasury announces preparation of report to Congress on possible import barriers for ethyl alcohol; comments by 9-15-80

55932, 55941 **Continental Shelf** Interior/BLM announces Gulf of Mexico oil and gas lease sale (2 documents) (Part III of this issue)

55761 **Electric Utility and Natural Gas Industries** DOE/FERC gives opportunity for reply comments by 9-26-80 regarding tax normalization for certain items reflecting timing differences in recognition of expenses or revenues for ratemaking and income tax purposes

55831 **Privacy Act Documents** Interior/Secretary

55892 **Sunshine Act Meetings**

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55924 **Part II, HHS/NIH**
55932 **Part III, Interior/BLM**
55960 **Part IV, Interior/FWS**
55968 **Part V, HUD/CPD**
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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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Procedures for Decisions on Appropriated Fund Expenditures Which Are of Mutual Concern To Agencies and Labor Organizations

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule amends GAO's procedures governing requests for decisions in Federal labor-management relations matters. The amendment is necessary because of the enactment of the Civil Service Reform Act of 1978, Pub. L. 95–454. Title VII of that Act, codified at 5 U.S.C. Chapter 71, established a statutory framework for the conduct of labor-management relations in the Federal Government and created a new agency, the Federal Labor Relations Authority, to administer the program. This rule retains existing procedures which provide labor organizations and agencies with access to GAO, but deletes references to obsolete agencies and functions, and provides guidance as to when GAO will defer to procedures established pursuant to 5 U.S.C. Chapter 71.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Maralyn G. Blatch, Attorney-Adviser, Office of General Counsel, U.S. General Accounting Office, Washington, D.C. 20548, (202–275–6404).

SUPPLEMENTARY INFORMATION: On March 24, 1980, the General Accounting Office published a proposed rule (45 FR 18940–41) which would amend existing procedures governing requests for decisions in Federal labor-management relations matters. The proposed rule retained procedures providing agencies and labor organizations with access to GAO but, in view of the passage of title VII of the Civil Service Reform Service Act of 1978, deleted references to obsolete agencies and functions and provided for deference to the jurisdiction of the Federal Labor Relations Authority where appropriate.

Many constructive comments were received, and after careful consideration of those comments, changes have been made in the proposed rule. The major points addressed in the comments, and determinations made in response thereto are discussed below.

—The comments received reflected a wide divergence of views as to GAO's role and functions in general, and our role in relation to the labor-management program established pursuant to title VII of the Civil Service Reform Act, codified at 5 U.S.C. Chapter 71. Several requested more information on this subject. GAO's jurisdiction is based upon title 31 of the United States Code, in particular 31 U.S.C. 74 and 82d. Section 74 provides that balances certified by GAO upon the settlement of public accounts shall be final and conclusive upon the Executive Branch of the Government. Section 74 also gives heads of Federal agencies and disbursing officers the right to request a decision from GAO on any question involving the expenditure of appropriated funds. Section 82d extends the same right to certifying officers.

The labor-management program established by 5 U.S.C. Chapter 71 did not amend 31 U.S.C. 74 and 82d. Accordingly, except to the extent that Congress has indicated a contrary intent, agency heads and authorized certifying or disbursing officers continue to have a statutory right to request a decision from GAO on any matter involving the expenditure of appropriated funds. However, in recognition of the intent of Congress in enacting 5 U.S.C. Chapter 71 and the role of labor organizations and collective bargaining in the civil service, this part provides special procedures which govern requests for decisions on matters which are of mutual concern to agencies and labor organizations. It extends the right to request a decision to labor organizations; provides for service on the parties and the opportunity to comment; authorizes advisory opinions to arbitrators and other neutrals; requires notice to GAO on related matters pending before the Federal Labor Relations Authority; and provides guidance as to when GAO will, as a matter of policy, defer to the procedures established pursuant to 5 U.S.C. Chapter 71.

Under § 21.1, *Purpose and scope*, the intent is to make clear that agencies and labor unions have equal access to GAO on matters of mutual concern to the agency and the union which involve the expenditure of appropriated funds. This expands the scope of the prior role which was limited to matters arising under the negotiated agreement or arising from an arbitration award or decision of an administrative body.

—As under the previous rule, § 21.2 extends the right to request a decision to labor organizations representing Federal employees. It was suggested that § 21.2 be revised to permit local labor-relations officials to request a decision from GAO. No change was considered necessary since, as presently worded, agencies and unions are free to designate officials of their choice to request a decision from GAO.

—In response to comments received, the revised § 21.3(d) has been clarified and now explicitly requires notice as to whether the matter submitted to GAO is subject to a negotiated grievance procedure. The parties are also required under § 21.3(d) to give notice if a grievance has been filed or if another procedure has been invoked to adjudicate the same or a substantially similar matter before the Federal Labor Relations Authority, any other administrative body, or any court. The decision as to whether GAO will provide a response is governed by §§ 21.7 and 21.8.

The provisions for service of a copy of the request on the parties in § 21.4 of the final rule elicited several suggestions. Some complained that the requirement for service on the parties was too burdensome for certifying and disbursing officers who are not generally required to comply with more formalized procedures and do not have a labor-relations staff to handle such matters. No change was made in this provision, however, because notice and the opportunity of the parties to present their views is essential on matters of mutual concern. Moreover, the service requirements relate only to matters of mutual concern to agencies and labor organizations which, thus far, constitutes a relatively small portion of

the cases submitted to GAO by certifying and disbursing officers.

It was also suggested that we require service of the request on the head of the agency concerned. The suggestion was not adopted because, under these procedures, the agency will at some level receive notice and be a party to proceedings before GAO. The agency is then free to establish whatever internal requirements it deems appropriate for notice or service on the agency head.

Several different and sometimes conflicting recommendations were received concerning the method for computing the date of service and the time period for submission of a written response. The only changes which have been made are to make it clear that the 20 day periods in § 21.4(c) and § 21.5(b), and the 60 day period in § 21.6 begin with the date of service. Otherwise, our experience, and that of the parties availing themselves of these procedures in the past has been very satisfactory. As presently worded, it has permitted flexibility for all concerned and has encouraged the expeditious issuance of decision. Accordingly, no other changes have been made in these provisions.

A new § 21.5 has been added to provide arbitrators and other neutral parties authorized to administer the provisions of 5 U.S.C. Chapter 71 with access to GAO's procedures. We have received requests from arbitrators and other neutral parties in the past and several commentators asked that our practice of providing assistance to such parties be explictly stated in the final rule. Under § 21.5, requests for advisory opinions may be submitted to the General Counsel of GAO and may pertain to any matter of mutual concern, including matters subject to grievance and arbitration procedures. In other words, the restrictions in § 21.7(b), Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71, do not apply to requests for advisory opinions from neutral parties.

Service of a request for an advisory opinion on the parties to the dispute or on other interested parties is discretionary with the requesting party, and any person served may submit written comments in response to the request. A copy of the advisory opinion of the General Counsel will be forwarded to the requester and all persons who have been served with a copy of the request. The provisions of § 21.9(b) relating to general distribution of the decisions of the Comptroller General do not apply to advisory opinions.

—The provisions in proposed § 21.5(a) that decisions will normally be issued within 60 days of receipt of written responses was very well received and has been retained. See the new § 21.6. The provision in the proposed § 21.5(b), relating to the Comptroller General's discretion not to issue a decision, has been moved to new § 21.8.

—Proposed § 21.6, Joint requests for decisions, has been deleted because it is essentially covered by a new § 21.7(b) concerning deference to grievance and arbitration procedures under 5 U.S.C. Chapter 71.

—Most of the comments received concerned the issues covered by the new §§ 21.7 and 21.8, that is, the areas in which GAO will defer to the procedures established by 5 U.S.C. Chapter 71, or will otherwise decline to issue a decision. The comments ranged from one extreme to the other. Some urged that we respond to all requests for decisions and others urged that we refrain from deciding all issues which could in any way relate to a matter which may be considered under 5 U.S.C. Chapter 71. Many more comments raised questions as to our intent to issue decisions in specific areas. In response to those comments, we have made several changes. The new § 21.7 gives specific guidance on deference to grievance and arbitration procedures, and the new § 21.8 covers all matters of mutual concern.

Consistent with the intent of Congress in enacting Chapter 71, § 21.7(a) of the final rule makes it clear that we will not review or comment on the merits of an arbitration award which is final and binding pursuant to 5 U.S.C. § 7122 (a) or (b). H.R. Rep. No. 95–1403, 95th Cong., 2d Sess. 56 (1978); S. Rep. No. 95–1272 and H. Rep. No. 95–1717, 95th Cong., 2d Sess. 158 (1978). However, § 21.7(a) also makes it clear that payments made pursuant to a final and binding arbitration award do not serve as precedent for payment in similar situations not covered by the award. Questions as to how to treat other employees similarly situated but not covered by the award may be submitted by anyone authorized to request a decision from GAO. If the matter concerns employees covered by the same collective bargaining agreement or is otherwise of mutual concern to agencies and labor organizations, it must be submitted pursuant to the procedures provided for in this part.

Many of those commenting requested that we consider matters which are at the grievance stage and not yet the subject of an arbitration award. As evident from subsection § 21.7(b), we have determined that since the negotiated grievance procedure is an integral part of the arbitration process, it would be inappropriate for GAO to respond to requests from either management or union to review any matter which is subject to a negotiated grievance procedure if the other party objects. The parties are expected to avail themselves of the procedures established pursuant to 5 U.S.C. Chapter 71. As stated in subsection (b), however, GAO may provide a response to requests from certifying and disbursing officers, or to requests from management or union if the other party does not object to our review. Arbitrators and other neutral parties may also request an advisory opinion on such matters pursuant to § 21.5.

Responses to certifying and disbursing officers were provided for because these individuals have statutory authority, independent of agency management, to decline payment of a voucher. Yet, they are not a party to the collective bargaining relationship and do not have direct access to the procedures established by 5 U.S.C. Chapter 71.

Consistent with requests received, responses to joint requests from management and union are provided for because submissions made by mutual agreement of the parties are not viewed as inconsistent with the grievance arbitration process, or the collective bargaining process in general. For purposes of subsection (b) requests will be considered joint where the other party has been served and has not objected to submission of the matter to GAO. This provision has been added because in many instances in the past a labor organization has requested a decision from GAO indicating that the parties decided not to grieve or arbitrate the matter, but the agency has made no submission to GAO, although served with a copy of the union's request for a decision. Though less frequent, this has also happened when the agency files the request for a decision. This new provision puts the parties on notice that, in the absence of any objection, we will assume both parties have agreed to submit the matter to GAO for a decision.

The new § 21.8 reflects our intent to refuse to issue a decision on any matter which is more properly within the jurisdiction of the Federal Labor Relations Authority. This concept had been stated in the Supplementary Information portion of the proposed rule and it was suggested that this intent be explicitly stated in the rule itself. Section 21.8 applies to joint requests, and requests from certifying and disbursing officers covered by § 21.7(b), as well as to all other matters of mutual concern. Thus, on any matter of mutual concern, the Comptroller General

retains the discretion to decline to issue a decision if the matter has been or would be more appropriately submitted to the Federal Labor Relations Authority, a court, or other administrative body, or is unduly speculative or otherwise not appropriate for decision. The determination to decline to issue a decision pursuant to § 21.8 will be made on a case-by-case basis, with due regard to the impact our action may have on the procedures established by 5 U.S.C. Chapter 71.

In response to suggestions received, we have included citations to the statutory basis for our jurisdiction and the relevant legislative history of 5 U.S.C. Chapter 71, where applicable.

Accordingly, 4 CFR Chapter I, Part 21, is amended to read as follows:

PART 21—PROCEDURES FOR DECISIONS ON APPROPRIATED FUND EXPENDITURES WHICH ARE OF MUTUAL CONCERN TO AGENCIES AND LABOR ORGANIZATIONS

Sec.

21.1 Purpose and scope.
21.2 Who may request a decision.
21.3 Contents of a request for a decision.
21.4 Service.
21.5 Request for an advisory opinion.
21.6 Time for issuance of decisions and advisory opinions.
21.7 Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71.
21.8 Discretion to decline issuance of a decision.
21.9 Distribution of decisions.

Authority: Sec. 8, 28 Stat. 207, as amended (31 U.S.C. 74); sec. 3, 55 Stat. 876 (31 U.S.C. 82d).

§ 21.1 Purpose and scope.

This part sets forth the procedures which govern requests for decisions concerning the legality of appropriated fund expenditures on matters of mutual concern to Federal agencies and labor organizations participating in the labor-management program established pursuant to 5 U.S.C. Chapter 71, and other Federal sector labor-management programs. It gives labor organizations and Federal agencies equal access to GAO on any matter of mutual concern involving the expenditure of appropriated funds, and extends the right to request an advisory opinion on such matters to arbitrators and other neutral parties. It also provides guidance as to when GAO will defer to procedures established pursuant to 5 U.S.C. Chapter 71.

§ 21.2 Who may request a decision.

Heads of Federal agencies and departments (or their designees), heads of labor organizations representing Federal employees (or their designees), and authorized certifying or disbursing officers may request a decision under this part.

§ 21.3 Contents of a request for a decision.

A request for a decision shall be in writing, dated, signed by the requester, addressed to the Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548, and contain as applicable:

(a) The name and address of the party requesting the decision;

(b) A statement of the question to be decided, a presentation of all relevant facts, and a statement of the party's argument;

(c) Copies of all pertinent records and support documents;

(d) Notice as to whether the matter is subject to a negotiated grievance procedure, and whether a grievance has been filed or any other procedure has been invoked to adjudicate the same or a substantially similar matter before the Federal Labor Relations Authority or other administrative body or court; and

(e) A power of attorney or statement of authority to represent if required by 4 CFR Part 1.

§ 21.4 Service.

(a) Any person requesting a decision under this part is responsible for promptly forwarding a copy of the request and supporting documents to all known interested parties. Service shall be made by registered or certified mail or in person. When service is by mail, the date of service shall be the date when the document served is deposited in the United States mail.

(b) A signed and dated statement of service shall be submitted along with the request and indicate the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(c) Any party served or any other person may submit a written response to the request for a decision to the Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548. Any such response should be submitted within 20 calendar days after the date of service of the request in order to ensure that it will be considered. Copies of written responses shall be promptly forwarded to all know interested parties in the manner prescribed in paragraphs (a) and (b) of this section.

§ 21.5 Request for an advisory opinion.

(a) Arbitrators and other neutral parties authorized to administer 5 U.S.C. Chapter 71 may request an advisory opinion on any matter involving the expenditure of appropriated funds which is of mutual concern to Federal agencies and labor organizations. A request for an advisory opinion shall be in writing, dated, signed by the requester, addressed to the General Counsel, U.S. General Accounting Office, Washington D.C. 20548, and contain all of the information referred to in § 21.3 (a) through (d). Consistent with § 21.8, the General Counsel retains the discretion to decline to issue an advisory opinion.

(b) Service of a request for an advisory opinion on the parties to the dispute or on other interested parties is discretionary with the requesting party. If service is made, it shall be in a manner consistent with § 21.4 (a) and (b), except that where the persons served have been previously provided with copies of records and support documents, the requester may instead serve them with a listing of the documents submitted to GAO.

(c) Any party served with a copy of a request for an advisory opinion may submit written comments on the request to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548. Copies of such comments shall be promptly served on all known interested parties. Comments should be submitted within 20 calendar days after the date of service of the request in order to ensure consideration by the General Counsel.

(d) A copy of the advisory opinion of the General Counsel will be forwarded to the requester and to all persons who have been served with a copy of the request.

§ 21.6 Time for issuance of decisions and advisory opinions.

Decisions and advisory opinions under this part will be issued as expeditiously as possible, normally within 60 calendar days after the expiration of the 20 day period for filing responses pursuant to § 21.4(c) or § 21.5(b). Where a delay is anticipated, interested parties will be notified and provided with a tentative date for issuance of the decision or advisory opinion.

§ 21.7 Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71.

(a) *Final and binding arbitration awards.* Payments made pursuant to an

arbitration award which is final and binding under 5 U.S.C. § 7122 (a) or (b) will be considered conclusive on GAO in its settlement of the accounts involved, and the Comptroller General will not review or comment on the merits of such an award. However, payments made pursuant to such an award do not constitute precedent for payment in other instances not covered by the award.

(b) *Matters subject to a grievance procedure.* The Comptroller General will not issue a decision or comment on the merits of a matter which is subject to a negotiated grievance procedure authorized by 5 U.S.C. 7121, except upon the request of an authorized certifying or disbursing officer, or the joint request of an agency and labor organization. Requests will be considered joint for purposes of this subsection when the other party has been served pursuant to § 21.4 and has not objected to submission of the matter to GAO.

(c) *Claims against the United States.* Except as provided in paragraph (a), nothing in this section restricts or limits an individual's right to have a claim against the United States adjudicated pursuant to part 31 of Title 4, Code of Federal Regulations.

§ 21.8 Discretion to decline issuance of a decision.

The Comptroller General will not issue a decision on (a) any matter which the Comptroller General finds is more properly within the jurisdiction of the Federal Labor Relations Authority or other administrative body or court of competent jurisdiction, or (b) on a matter which the Comptroller General finds is unduly speculative or otherwise not appropriate for decision.

§ 21.9 Distribution of decisions.

(a) A copy of a decision of the Comptroller General will be forwarded to the requester and to all other interested parties of record.

(b) Any person interested in receiving copies of decisions issued under this part may request to be placed on the distribution list maintained for that purpose. Requests should be directed to the Chief, Legal Information and Reference Services, U.S. General Accounting Office, Washington, D.C. 20548.

Elmer B. Staats,

Comptroller General of the United States.

[FR Doc. 80-25329 Filed 8-20-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 659, Amdt. 1; Valencia Orange Reg. 660]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 22–August 28, 1980, and increases the quantity of such oranges that may be so shipped during the period August 15–August 21, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 22, 1980, and the amendment is effective for the period August 15–August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on August 19, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 908.960 is added as follows:

§ 908.960 Valencia Orange Regulation 660.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 22, 1980, through August 28, 1980, are established as follows:

(1) District 1: 376,000 cartons;
(2) District 2: 424,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

§ 908.959 [Amended]

2. Paragraph (a) in § 908.959 Valencia Orange Regulation 659 (45 FR 54063), is hereby amended to read:

(a) * * *
(1) District 1: 400,000 cartons;
(2) District 2: 450,000 cartons;
(3) District 3: Open Movement.

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

Dated: August 20, 1980

D.S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Argricultural Marketing Service.

[FR Doc. 80-25725 Filed 8-20-80; 12:23 pm]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-0323]

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 Hurricane Allen in Texas counties of Aransas, Brooks, Cameron, Hidalgo, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy.

EFFECTIVE DATE: August 11, 1980, for the Counties of Cameron, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy; August 14, 1980, for the Counties of Aransas, Brooks, and Hidalgo.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3711).

SUPPLEMENTARY INFORMATION: On August 11, 1980, and August 14, 1980, 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 the Texas counties of Cameron, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy, and the counties of Aransas, Brooks, and Hidalgo, respectively, major disaster areas. The Board regards the President's actions as recognition by the Federal government that a disaster of major proportions has occurred. The President's designations enable 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 Hurricane Allen beginning August 10, 1980. 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 August 11, 1980, and August 14, 1980, for the designated counties, respectively, and will remain in effect until 12 midnight February 15, 1981.

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 the designated counties of Texas, which have been officially designated major disaster areas 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 areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Texas, directly affected by the severe damage and destruction occasioned by Hurricane Allen, 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)), August 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-25539 Filed 8-20-80; 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 a rate not to exceed the current ceiling rate for a savings deposit under section 217.7 and the depositor shall forfeit 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. For time deposits entered into, renewed, or extended on or after June 2, 1980, the minimum early withdrawal penalty for time deposits with an original maturity of one year or less is a forfeiture of an amount equal to three months of interest earned, or that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit. For early withdrawals from time deposits with original maturities of more than one year, the minimum penalty shall be a forfeiture of an amount equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit. For time deposits with original maturities of less than three months, the minimum early withdrawal penalty is forfeiture of an amount equal to the amount of interest that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit had the funds remained on deposit until maturity. Banks may, with the depositor's consent, calculate the early withdrawal penalty for time deposits existing prior to June 2, 1980, on the basis of the nominal simple rate of interest paid on such deposits.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 80-491]

Federal Savings and Loan Institutions; Change in Control

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board

ACTION: Final regulations.

SUMMARY: The Board has amended and adopted on a permanent basis the temporary regulations issued on February 7, 1979 to implement the Change in Savings and Loan Control Act of 1978. The amended regulations will require notice to an institution that is the subject of a proposed acquisition of control, and afford it the opportunity to present its views; the notice will also be publicly available. The Board has also amended the regulations by limiting one of the tests of presumption of control, that of acquisition of ten percent of an institution's voting stock, to institutions having assets of at least $250 million and 1200 shareholders. The Board believes that adoption of permanent regulations and the described amendments to the regulations will reduce confusion and regulatory burden on institutions, provide the public with greater access to acquisition information, and result in fairer and more comprehensive review procedures.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Wendy B. Davis, (202) 377-6465, Richard L. Little, (202) 377-6452 or James S. Fleischer, (202) 377-6417, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Effective March 10, 1979, the Change in Savings and Loan Control Act of 1978 ("Control Act"), Title VII of the Financial

Institutions Regulatory and Interest Rate Control Act of 1978, generally requires persons who intend to acquire control of a stock insured institution, including a savings and loan holding company as defined in section 408 of the National Housing Act (12 U.S.C. 1730a), to give the Federal Savings and Loan Insurance Corporation ("Corporation") prior written notice. The Control Act authorizes the Corporation to disapprove the proposed acquisition on specified grounds.

Temporary regulations were adopted by the Federal Home Loan Bank Board, as operating head of the Corporation, on February 7, 1979, (44 FR 10500, published on February 21, 1979), to implement the Control Act. These regulations revised existing change in control regulations which applied to both stock and mutual associations. The temporary regulations added a section dealing solely with stock associations and holding companies, and set forth reporting requirements related to changes in chief executive officer or director occurring after a change in control. The Board solicited public comments on the temporary regulations, and twelve were received from Federal Home Loan Banks, insured institutions, both mutual and stock, a savings and loan holding company, attorneys, and a stock brokerage firm. After consideration of the public comments and other available information, the Board has determined to adopt permanent regulations in this area, with changes from the temporary regulations as discussed below.

The Control Act requires prior written notice to the Corporation whenever a person acquires power to vote 25 percent of the stock or to direct the management or policies of an insured institution or holding company. Under the temporary regulations, a rebuttable presumption of the power to control management or policies is raised from the acquisition of the power to vote ten percent or more of any class of voting securities if the institution has any class of securities subject to the registration requirements of the Securities Exchange Act of 1934 ("1934 Act"), or if, after the acquistion, the person would hold the largest portion of the acquired class of stock. As amended, the presumption will apply only to acquisition of the power to vote 10 percent or more of any class of voting securities of an institution having at least $250 million in assets held of record by 1200 or more persons, or acquisitions resulting in the acquiring person becoming the holder of the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

The temporary regulations presume that ten percent of the shares of a very small institution meeting the minimum registration requirements of the 1934 Act, e.g. one having 500 shareholders and $1 million in assets, would likely constitute a controlling interest in such institution, and as a result a person acquiring such an interest should be required to rebut the presumption of control. However, experience has shown that ten percent ownership alone does not necessarily constitute a controlling interest in many of the institutions subject to the 1934 Act. A number of institutions which do not meet the 500 shareholder and $1 million in assets requirements are nonetheless registered under and subject to the 1934 Act due to other applicable Board requirements. Thus, the temporary regulations apply the ten percent presumption of control to many smaller institutions solely as a result of their registration under the 1934 Act. The Board has found that the power to vote ten percent of an institution's stock is more likely to constitute control of a larger institution, due to the increased number of shareholders with relatively few shares and the resultant lack of concentration of voting power in a readily identifiable group. Therefore, it is an unnecessary administrative burden to apply the ten percent presumption of control to all institutions registered under the 1934 Act.

The Board believes that the total number of shareholders in conjunction with the relative size of the institution is a far better benchmark for applying a presumption of control than is the 1934 Act criterion. Twelve hundred shareholders of record of an institution with $250 million in assets is a rational point at which to presume that 10 percent ownership may constitute control. The former figure has been drawn from the requirements for listing an institution on the American Stock Exchange, while the latter is the Board's guideline for distinguishing between local and regional associations. The ten percent presumption should apply only to those situations where a significant effect on the public market is possible, and where the presumption is likely to be supported.

The temporary regulations provide an informal opportunity for a person subject to the presumption of control to demonstrate lack of actual control over the institution or holding company for purposes of these regulations. Several commenters suggested that the institution involved should have the opportunity to comment on any attempt to rebut the presumption of control. Therefore, in the interests of fairness and of providing the Corporation with as much information as possible, the permanent regulations give the institution subject to a proposed acquisition the opportunity to respond. This response, however, must be submitted within ten days of notification to the institution of a request by the acquiring person to rebut the presumption of control. All comments should be submitted in good faith and not for purposes of delay.

Three significant changes have been made to the notice section. First, reflecting the great majority of comments received, the regulation provides for notification to the institution subject to a proposed acquisition of control in the event of a filing. The temporary regulations do not provide for such notification. The Board in adopting these regulations is not attempting to interrupt normal trading market activities. The trading of sufficient blocks of shares to acquire greater than ten percent ownership of a relatively large institution, however, usually does not constitute normal market activity. The rationale for this notice is that the institution is charged with the responsibility of informing its stockholders and the marketplace of important events which may affect its operations, and the institution must therefore be provided with the information necessary to fulfill this responsibility. It is the Board's intention to eliminate any possibility that an acquiring person could receive permission to acquire ten percent of an institution's shares before the institution is aware of the proposed acquisition. Second, the final regulations provide that any determination regarding the presumption of control or of notification of intent not to disapprove an acquisition be communicated to the institution and the acquiring party simultaneously. The third change requires that notices of intended acquisitions be made available to the public, with the exception of any portions containing confidential information.

The amended regulation also establishes a 20 day period subsequent to any initial filing under the Control Act, and before Board action takes place, during which an institution subject to a proposed acquisition of control may submit written comments to the Board. The regulation does not provide for any form of hearing, nor is it intended as an adversary procedure. Under the temporary regulations, the Board bears the entire burden of investigating a potential acquiring person; a change permitting comments

from the institution could provide information about an acquiring person not available to the Board from other sources, and is therefore expected to prove valuable in helping the Board evaluate whether a proposed acquisition should be disapproved.

A further change makes a notice of intent not to disapprove a proposed acquisition effective only as long as there is no material change in conditions from those detailed in the acquiring person's notice, and in any event for a maximum of one year. This provision is designed to forestall consummation of a transaction under circumstances materially different from those that prevailed at the time of the Corporation's decision, and to prevent the Corporation from being committed indefinitely with respect to a pending acquisition.

The amended regulations provide that the Board's Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, has delegated authority to make certain determinations in connection with the administration of the Control Act. The Board has adopted a more centralized procedure in order to ease the burden on Supervisory Agents while utilizing the significant resources of the Board, including a staff experienced in resolving these types of securities and related questions, and to avoid the potential for inconsistent rulings on substantially similar filings.

In addition, several technical changes have been made. Primarily, these consist of requirements for simultaneous filings with the Board and the appropriate Federal Home Loan Bank, and provision by the acquiring party of a notice without confidential information suitable to be made available to the public. Also, as suggested by several commenters, a definitions section has been added, for the readers' convenience, incorporating the statutory definitions to which the temporary regulation referred.

Accordingly, the Board hereby amends Part 563 of the Rules and Regulations for Insurance of Accounts, as set forth below.

Subchapter D—Insurance of Accounts

PART 563—OPERATIONS

§ 563.18-1 [Adopted]

1. Adopt temporary § 563.18-1 as a final regulation.

2. Adopt temporary § 563.18-2 as a final regulation, and amend it to read as follows:

§ 563.18-2 Changes in control of stock institutions including savings and loan holding companies.

(a) *Scope.* This section applies only to changes of control under section 407(q) of the National Housing Act, as amended (12 U.S.C. 1730(q)) ("Control Act").

(b) *Definitions.* As used in this section,

(1) "Person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein;

(2) "Control" means the power, direct or indirect, to direct the management or policies of an insured institution or to vote 25 percent or more of any class of voting securities of an insured institution;

(3) "Stock" means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto;

(4) "Insured institution" or "institution" shall include any savings and loan holding company, as that term is defined in section 408 of the National Housing Act, which has control of any insured institution.

(c) *Acquisitions requiring prior written notice.* (1) *General.* Unless a transaction is exempted under paragraph (d) of this section, 60 days' prior written notice to the Corporation is required whenever any person or persons acting in concert, through a purchase, assignment, transfer, pledge, or other disposition of voting stock, will acquire power—

(i) To direct the management or policies, or

(ii) To vote 25 percent or more of any class of voting securities of any insured institution.

(2) *Transactions presumptively requiring notice.* For purposes of this section, a person shall be presumed to acquire power to direct the management and policies of an insured institution whenever the person will acquire power to vote ten percent or more of any class of voting securities of the institution and

(i) The institution has assets of at least $250 million and has issued any class of voting securities held of record by 1200 or more persons; or

(ii) The person, after the acquisition, would hold the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

(3) *Rebuttal of presumption.* Any acquiring person may request an opportunity to rebut the presumption established in paragraph (c)(2) of this section. The Corporation will afford such person an opportunity to present views in writing or orally before its designated representatives, either at an informal conference discussion or an informal presentation of evidence. The Corporation shall notify the institution, in writing, of any request by an acquiring person to rebut the presumption of control and inform the institution of its right to submit comments within ten days from the date of such notification. The Corporation shall have ten days from the date of receipt of any comments from the institution, or 20 days from the date the views of the acquiring person are presented at an informal conference discussion or presentation of evidence, whichever period is greater, within which to determine whether such presumption has been rebutted. Notice of the decision of the Corporation shall be released simultaneously to the acquiring person and the subject institution.

(4) *Presumption to apply prospectively.* Any person who is deemed to have had the power to direct the management or policies of an insured institution continuously since March 9, 1979, solely on the basis of the presumption contained in paragraph (c)(2) of this section, must either give prior written notice as prescribed by this section or seek a determination by the Corporation that the person has had such power, before acquiring additional voting securities in the institution.

(d) *Transactions exempt from notice.* (1) *Transactions entirely exempt.* Notice is not required for—

(i) Transactions subject to section 408 of the National Housing Act (12 U.S.C. 1730a), whether or not prior Corporation approval is required by that section.

(ii) Transactions subject to approval under Part 546 of this Chapter or § 563.22 of this subchapter;

(iii) Acquisition of additional shares of any class of voting securities in an insured institution by any person who

(*a*) Has held power to vote 25 percent or more of any class of voting securities in such institution continuously since March 9, 1979, or

(*b*) Has maintained control of the institution continuously since acquisition of control in compliance with this section and the Control Act; and

(iv) Acquisition of power to vote 25 percent or more of any class of voting securities in an insured institution by virtue of receipt of any pro rata stock dividends.

(2) *Transactions exempt from prior notice.* If a person would obtain control

as a result of acquisition of voting securities in an insured institution—

(i) In satisfaction of a debt previously contracted in good faith, or

(ii) Through testate or intestate succession or bona fide gift—

the acquiring party need not provide advance notice but must advise the Corporation in writing within 30 days of the acquisition and provide such information as the Corporation may request.

(e) *Notice.* (1) *Form and contents.* In the discretion of the Corporation, a notice required under paragraph (2) of the Control Act shall not be deemed sufficient unless it is responsive to every item

(i) Listed in paragraph (6) of the Control Act, or

(ii) Specified in a form prescribed by the Corporation for such transactions.

(2) *Specified information.* As to any form of notice prescribed for acquisition under this section, the Corporation may

(i) Waive any information deemed unnecessary, or

(ii) Require additional information to the extent permitted under paragraph (6) of the Control Act.

(3) *Receipt of notice; effect.* The period for Corporation review of any proposed acquisition will begin upon receipt by the Corporation of a notice substantially complying with the provisions of paragraph (e)(1) of this section. The Corporation will send a letter of acknowledgment to an acquiring person and to the institution indicating the date of receipt of a notice deemed sufficient or specifying the reasons why a notice is insufficient.

(4) *Availability to public.* Any notice received pursuant to this section will be available for public viewing at the Public Information Office of the Federal Home Loan Bank Board, except for confidential information required by any prescribed form.

(f) *Comments by institution.* Within 20 days of the date of the Corporation's letter of acknowledgment indicating notice is sufficient, the institution may submit written comments to the Corporation.

(g) *Action by Corporation.* Prior to expiration of the 60-day review period prescribed in paragraph (c) of this section or any extension thereof under paragraph (i) of this section, but subsequent to the expiration of the 20 day period for comments by the institution prescribed in paragraph (f) of this section, the Corporation may notify the acquiring person and the institution of:

(1) Its disapproval of the proposed acquisition on any of the grounds listed in paragraph (7) of the Control Act and advising that the acquiring party may request an administrative hearing under paragraph (4) of the Control Act, or

(2) Its intent not to disapprove the proposed acquisition if consummated within one year and absent any material changes in circumstances, upon receipt of which the acquisition may take place.

(h) *Failure to disapprove.* If, upon expiration of the 60-day review period or any extension thereof, the Corporation has failed to disapprove a proposed acquisition, such acquisition may take place.

(i) *Extensions of review period.* The 60-day period may be extended by the Corporation.

(1) For up to 30 days for any reason, or

(2) (i) For any length of time necessary, in the judgment of the Corporation, for an acquiring party to submit a materially complete and accurate notice, and (ii) up to 30 days thereafter.

(j) *Filing procedures.* Any notice or other submission required or provided for in the Control Act or this section shall be filed as follows:

(1) The original and two copies, including one copy marked "Public", which contains the entire notice except for confidential information required by any prescribed form, shall be filed with the Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552; and

(2) Two copies shall be filed with

(i) The Principal Supervisory Agent, as defined in § 561.35 of this subchapter, with respect to an insured institution, or

(ii) The Supervisory Agent, as defined in § 583.3 of this chapter, with respect to a savings and loan holding company.

(k) *Authority to take action.* (1) *Sole authority in Corporation.* The Corporation alone shall exercise the authority to

(i) Disapprove any proposed acquisition, or

(ii) Issue a notice of its intent not to disapprove any proposed acquisition whenever the appropriate State savings and loan supervisory agency seasonably recommends disapproval in writing on any of the grounds specified in paragraph (7) of the Control Act.

(2) *Delegations.* The Corporation hereby delegates authority:

(i) To the Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, to—

(*a*) Require information from an acquiring party exempt from the prior notice requirements under paragraph (d)(2) of this section,

(*b*) Determine sufficiency of a notice for the purpose of beginning the review period under paragraph (e)(3) of this section,

(*c*) Waive any information or require additional information under paragraph (e)(2) of this section,

(*d*) Determine that a notice is materially complete or accurate for the purpose of resuming the review period under paragraph (i)(2) of this section,

(*e*) Act as designated representatives and decide whether a presumption of control has been rebutted under paragraph (c)(3) of this section,

(*f*) Determine the existence of control prior to the effective date of the Control Act under paragraph (c)(4) of this section,

(*g*) Extend the review period under paragraph (i) of this section,

(*h*) In the absence of a recommendation by the appropriate State savings and loan supervisory agency for disapproval, issue notices of intent not to disapprove proposed acquisitions under paragraph (g)(2) of this section, and

(*i*) Act on behalf of the Corporation with respect to the exercise of any authority not expressly reserved to the Corporation under paragraph (k)(1) of this section.

(*l*) *Supervisory cases.* Any right to notice and provision for comment prescribed by this section may be deemed inapplicable by a finding by the Corporation that a transaction otherwise subject to the provisions of this section is to be effected for the purpose of rehabilitating or resolving a supervisory case.

§ 563.18-3 [Adopted]

3. Adopt temporary § 563.18-3 as a final regulation.

(Title VII, Financial Institutions Regulatory and Interest Rate Control Act of 1978, sec. 407, 48 Stat. 1260, as amended, 12 U.S.C. 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 2 CFR, 1943-48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-25520 Filed 8-20-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 301, 303, 304, 307, 311

Establishment and Organization; Organizational Structure of Economic Development Districts

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: This rule makes a minor revision to the definition of "Economic Development Center" by deleting the phrase "not located in a redevelopment area." EDA is making this revision in order to bring the definition into conformance with the substantive requirements regarding economic development centers found at 13 CFR Part 303, Subpart B. This change is not related to the other changes made by this rule.

(2) An interim rule revising the requirements regarding the type of organization required for areas to receive designation as economic development districts and to receive assistance under EDA's grant and loan programs was published in the Federal Register on June 6, 1979, 44 FR 32359 *et seq.*, with a minor correction thereto published on June 29, 1979, 44 FR 37905–06. The rule was published as an interim rule because of certain exigencies related to making new district fundings. However, review and comment procedures of Executive Order 12044 were followed and the result thereof and other considerations underlying publication of this final rule are discussed at length below.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Victor A. Hausner, Deputy Assistant Secretary for Policy and Planning, U.S. Department of Commerce, Economic Development Administration, Washington, D.C. 20230, (202) 377–3121.

SUPPLEMENTARY INFORMATION:

I. Procedural Background

On June 6, 1979, the Economic Development Administration published interim rules affecting the "Organizational Structure of Economic Development Districts". These interim rules dealt with Title 13 of the Code of Federal Regulations, Parts 303, 304, 307, and 311. Although these rules were determined by the Agency to be "significant" under terms of Executive Order 12044, the June 6 rules were issued as interim rather than proposed rules because of certain exigencies related to making new district fundings in FY 1979. The interim rules provided for comments by August 6, 1979.

On June 29, 1979, EDA published a correction to the June 6, 1979 interim rules. An internal reference number in the paragraph on "Basic Organizational Requirements" (§ 303.4(c)(1); now § 303.4–1(c)) was corrected to make it clear that each district organization would be required to meet the District organization functions and responsibilities set forth in § 303.4a (now § 303.4–3) along with the representation and staff support requirements correctly specified in the June 6 interim rules.

Before "significant" rules can be published as final, Executive Order 12044 requires the publication in the Federal Register of a summary of the recommendations received during the review and comment period, together with a statement and justification of the Agency's disposition of such recommendations in the final regulations. Parts II, III and IV to this "Supplementary Information" set forth the background, a summary of comments received on these regulations, and EDA's decisions on the content of the final rules.

II. History of the Development of the Regulations

A. *Publication of a Regulation Requiring One-Third Non-Elected Private Citizens on Economic Development District Boards.* In a letter to the Agency, dated January 23, 1976, the Chairman of EDA's National Public Advisory Committee recommended that the rules on economic development district (EDD) board composition be revised to require that at least one-third of the district board members should be private citizens. On October 19, 1976, the substance of this recommendation was published as a final rule in the Federal Register. EDA issued regulations requiring that one-third of the EDD board be private citizens who are neither elected officials of, nor employees of, a unit of general purpose local government. This regulation took immediate effect on districts to be designated after October 1976. Existing EDDs were given until January 1, 1978 to comply.

EDA received letters from 44 organizations in response to this action. These organizations uniformly protested the procedure of initially publishing this requirement as a final rule. These respondents appealed to EDA to withdraw the rule and to provide for organizational flexibility. The Agency responses at that time were: (1) That the rule was only the codification of prior EDA practices; (2) that there were congressional intent and legislation which support the requirement of public and private representation; (3) that the rule would stay in force; and (4) that if the Agency later reexamined its regulations on this subject then the comments would be taken into account.

B. *Reexamination of Requirements for Composition of the Boards of Directors of Economic Development Districts.* In April 1977, the Agency began reexamining its requirements for economic development district board composition. The National Association for Regional Councils recommended substitute regulatory language to provide for alternative ways to achieve broad representation on economic development district boards. Staff of a U.S. Senator submitted a position paper that recommended that EDA should establish two separate categories for economic development districts. One proposed category would be designed for non-urban areas and the other for urban metropolitan areas. Greater organizational flexibility was proposed for the urban metropolitan areas.

EDA considered these proposals and began a public consultation process to develop specific proposals for revising these regulations. EDA considered different organizational approaches that might allow an organization to retain its existing structure while meeting EDA's representational requirements through an advisory committee or subcommittee.

Reexamination of this regulation and consultation with the public involved the following steps:

1. Staff studies of the intergovernmental practices under a variety of Federal assistance programs and of the Options proposed for change in EDA regulations.
2. Public issuance of the principles guiding the reexamination.
3. Public briefing on November 3, 1977 of public interest groups and minority organizations concerning the options considered by EDA and the tentative course of action proposed.
4. In a succession of actions, EDA extended the date by which existing districts would have to comply with the requirement for one-third of the board of directors to be non-elected private citizens. The original deadline of January 1, 1978, was extended to May 1, 1978, then to October 1, 1978 and finally to October 1, 1979. The June 6, 1979, interim rules removed the October 1, 1979 compliance deadline date and indicated that all previously authorized or designated districts would have one year following final rules to comply.
5. The Senate Appropriations Committee acted to increase the number of funded economic development districts through a FY 1979 budget increase. The Committee was concerned that the unfunded districts included many candidates which did not comply with the EDA district board composition requirements. In its Report of July, 1978, the Committee instructed EDA "promptly to modify the existing regulations to make eligible these types of regional agencies for participation in the program."

6. The Chairmen of EDA's House and Senate Authorizing Committees and the Chairmen and Ranking Minority Members of the respective Economic Development Subcommittees wrote the Secretary of Commerce on October 5, 1978, to request that EDA "withhold contemplated changes to eliminate entirely private sector representation in these regulations until the House and Senate authorizing committees in early 1979 examine thoroughly this difficult issue." Secretary Kreps, in acceding to their request, indicated that "The need for an early-1979 resolution of this board composition issue is * * * clear and convincing."

7. On October 13, the Assistant Secretary for Economic Development testified on this matter before a joint hearing of the Subcommittee on Economic Development and the Subcommittee on Investigations and Review of the House Committee on Public Works and Transportation. Three options were proposed: (a) To retain the regulations then in effect, (b) to allow councils of governments (COGs) dominated by elected officials to gain EDD designations by lodging primary economic development functions in a related organizational unit which meets EDA requirements, and (c) to take a performance approach, allowing an EDD to use any organizational arrangement it chose, provided that economic development responsibilities were effectively carried out and significant representation of principal economic interests, minority groups, private citizens, and local governments was achieved. Discussion of this issue by Committee Members was interpreted by the Agency as approving the further development of the second option. This was later confirmed by the House Committee on Public Works and Transportation in House Report 96-180.

During this "reexamination" phase of the development of the interim regulations the Agency received letters from 40 respondents which recommended that the flexible regulations be adopted. Three other respondents recommended that EDA should not change the regulations.

C. *Issuance of EDA recommended policy on composition of the boards of directors of economic development districts.* On January 30, 1979, EDA publicly issued its recommended policy on economic development district board composition and draft implementing regulations.

The main elements of the EDA proposal in the January 30 position paper were as follows:

"EDA proposes to continue current board composition requirements for existing economic development districts and generally for other regional organizations which want to become EDDs. For organizations that want to become EDDs, EDA proposes to change the regulation to provide for waiver of existing requirements to permit, in very limited cases, the use of one of a variety of organizational options. Waivers would be granted where a potential district is precluded by State law (or local law) from compliance with existing requirements or in other circumstances where compliance would create a special hardship. Only in rare occasions would EDA allow such waivers for existing districts. Waivers would only be granted where the district demonstrates special hardship and concurrence of the principal economic interests, minority interests and local governments that are involved in the district.

In cases where a waiver was granted, the organization seeking EDD designation would have to establish a special organizational unit (e.g., an augmented COG governing board, a subcommittee or policy advisory committee to the COG, an economic development component to a bi-cameral decisionmaking institution or another type of organization not cited by EDA) that does meet EDA requirements.

EDA scheduled briefings for the staffs of the concerned Congressional Committees and for public interest groups and minority groups following this issuance. In addition, 14 state and local government public interest groups and organizations representing minority interests were given copies of these documents and were invited to a briefing.

A small number of these organizations attended a briefing on March 2, 1979, during which general support was expressed for the EDA proposal. However, concerns were expressed that the waiver provisions should be implemented in a way that would result in a sufficient level of flexibility. One attendee recommended that EDA should not use the waiver mechanism, but rather, should allow prospective district organizations to have complete discretion to select and use one of the organization options.

The Agency also received letters in response to the January 30 documents. Nine respondents were in favor of the proposed changes, and of these, some proposed specific substitute language to improve the draft regulations. Two other respondents advised the Agency not to make the changes proposed by the draft regulations.

As part of its FY 1980 Budget review process, the Senate Committee on Environment and Public Works conducted a hearing February 22, 1979, on the subject of economic development district board composition. The Agency outlined its January 30 proposal for organizational structure of economic development districts. The Agency interpreted the discussion of the Committee members to be approval of the Agency's proposal. This was later confirmed in Senate Report 96-270.

D. *Publication of Interim Rules on the "Organizational Structure of Economic Development Districts".* On June 6, 1979, EDA published interim rules to implement the course of action that the Agency had proposed in January. Public comments on these interim rules were invited. During the formal review and comment period, fifty-two persons or organizations sent comments to EDA. Forty-two respondents recommended that the Agency withdraw the provisions for alternative organizational arrangements and return to the rules in place before June 6. Ten respondents approved the general effect of the interim rules but many of them recommended substitute language which would significantly increase the number of organizations to qualify for flexible arrangements. A summary of the comments from these respondents is given below in Section III.

E. *Summary of the Consultation on the Regulations.* Since the October 19, 1976 publication of the rule which required that one-third of district governing boards should be composed of private citizens, there have been 125 respondents who advised the Agency, in a total of 210 letters, concerning the regulations on economic development district organizational structure. Of these respondents, 46 recommended that the Agency should continue with the then-existing requirement that representatives of the principal economic interests, local governments, minorities, the unemployed-underemployed and private citizens be directly represented on the district board. On the other side of the issue, 79 respondents generally favored changes in the regulations to allow alternative organizational arrangements for involvement of representatives of these interests.

The respondents who opposed the rule change were made up largely of members of community action groups, their national and state associations and state community affairs agencies. The respondents who favored the changes were regional planning commissions, councils of governments, their national and state associations and state agencies concerned with comprehensive planning and economic development.

F. *Recent Congressional Action.* Since the issuance of the interim rules, there have been some congressional actions which influence the final rules on this

subject. Senate Bill S. 914 (passed by the Senate on August 1, 1979), adds a new statutory paragraph:

"* * * authorizing the Secretary to provide for participation in district activities by economically important elements of the district, including governments, private sector representatives, minorities and representatives of the disadvantaged and long-term unemployed. This gives firm legislative grounding to EDA regulations concerning the composition of boards of directors of economic development districts currently in the process of being amended" (Senate Report 96-270, page 51).

Senate Report 96-270 further indicates that the Committee believed that there was reasonable argument for some flexibility in the organizational structure of economic development districts and that board composition requirements should not be frozen into law. While the Committee thereby supports flexibility, it did warn that it does not wish to invite any general move by existing districts to abandon their current arrangements for board membership—except where the districts face significant hardships.

In the floor discussion of S. 914 prior to its passage by the Senate, Senator Jennings Randolph, Chairman of the Committee on Environment and Public Works, made the following statement:

"This legislation affirms, in section 403(a)(5), that all elements of the economy within economic development districts should participate in the development process. In many areas such participation is assured by including representatives of the local business community, the long-term unemployed, and socially and economically disadvantaged minorities in the membership of district governing boards. EDA has, in fact, interpreted the law to require that district boards include such representation. I do not believe this to be a necessary interpretation.

It is possible, and may even be preferable, to assure participation of local businesses and the economically disadvantaged by other means than board membership. If districts can meet this participation goal in any other way, they should be permitted to do so. I see no reason why districts taking part in this program who can meet this goal with alternative to board membership should have to comply with the cumbersome waiver procedure currently required by EDA."

On May 15, 1979, the House Committee on Public Works and Transportation reported its bill, H.R. 2063, to extend authorization for EDA. House Report 96-180, accompanying H.R. 2063, references the oversight hearings (October 13, 1978) and hearings on H.R. 2063, and approves the policy directions that EDA has proposed for the organizational structure of districts. The report noted, "Districts should be continued and the Secretary should move as quickly as possible to extend the system and designate new Districts."

III. Summary of Comments Received in Response to the Publication of Interim Rules on the "Organizational Structure of Economic Development Districts"

EDA is required to summarize the substance of these comments and publish them in the Federal Register before rules can be published in final form.

The general view expressed by persons and groups in favor of EDA's past organizational requirements was that federally required citizen participation provisions are absolutely necessary to assure adequate minority and private sector representation. A typical response by those sharing this view held that "any retreat from the current requirements would be a severe blow to the private sector groups who have worked long and hard in providing direct community input into the local COGs and EDDs."

Those in favor of EDA's interim rule provisions argued that the composition of areawide planning agency governing boards should be left to local determination as long as there is an effective advisory committee structure that provides for valid representation by minority groups and private economic interests. Many of these groups and individuals stated that locally elected officials represent all the citizenry and maintain the only true accountability to the electorate for governmental business.

Detailed Recommendations From Respondents

EDA received widely varying specific recommendations for revising the language of the interim rules on the "Organizational Structure of Economic Development Districts". Most of these recommendations focused on the provision for waiver from the basic requirement for representation directly on the district board of directors (§ 303.4(c)(1)(ii); now § 303.4-1(c)(2)) and on the provisions for organizational options where a waiver is granted (§ 303.4(c)(4); now § 303.4-2(c)). These recommendations ranged from a suggestion at one extreme for a structural/quota formula that would reduce local government representation to below a majority of the board membership to a suggestion at the other extreme that all organizational requirements should be eliminated. These recommendations arranged on a spectrum ranging from strong structural requirements to extreme local government flexibility, are listed below:

1. Recommendation to require district board composition to be made up of one-third local governments, one-third private sector and one-third minorities and other special interests.

2. Recommendation that the waiver and organizational options be withdrawn, and that representation quotas be added to the representational requirements (§ 303.4(d); now § 303.4-1(d)) variously for:

—Women
—Ethnic groups
—Handicapped persons
—Community-based organizations
—⅓ private citizens

3. Recommendation that EDA rewrite the interim regulations to provide for non-quota representation of women in EDD organizations.

4. Recommendation that EDA withdraw the interim rule of ⅓ private citizens (§ 303.4(d)(3); now § 303.4-1(d)(3)) and return to the rule that ⅓ of the governing board must be private citizens.

5. Recommendations that only one organizational option—bi-cameral decisionmaking—be permitted.

6. Recommendation that EDA require appropriate recognition of the special interests of unemployed and working women in the minority representation requirements (Part 311).

7. Recommendation that proposed districts (§ 303.4(c)(2)(i); now § 303.4-2(a)(1)) and existing districts (§ 303.4(c)(2)(ii); now § 303.4-2(a)(2)) be given the equal opportunity to obtain a waiver under both the "legal impediment" and "special hardship" waiver provisions.

8. Recommendation that EDA adopt the approach of the Environmental Protection Agency regarding the responsibilities and authorities of "advisory group" (40 CFR 25) as an adequate replacement of the organizational options under waiver provisions (§ 303.4(c)(4); now § 303.4-2(c)).

9. Recommendation that representational requirements for non-elected private citizens (§ 303.4(d)(3); now § 304.4-1(d)(3)) be withdrawn altogether.

10. Recommendation that the "waiver" be automatic if a COG's board composition is specified by any state law.

11. Recommendation that "special hardship" provisions (§ 303.4(c)(2)(i)(B) and (ii) (A); now § 303.4-2(a)(1)(ii) and (a)(2)(i)), be rewritten to make the test one of the "practicability" of converting to the EDA standard of board composition.

12. Recommendations that the waiver provisions (§ 303.4(c)(2)(i)(A); now § 303.4–2(a)(1)(i)) be amended to add, variously, one of the following to the list of legal impediments which could become the basis for a waiver.

—State Governor's Executive Order
—Interlocal agreement
—Local laws

13. Recommendation that EDA drop all requirements regarding policy board composition.

14. Recommendation that EDA withdraw the "public hearings" provisions (§ 303.4(f)(3); now § 303.4–1(f)(3)) and substitute a requirement for the district organization to specify how it involved the public in its economic development process to meet citizen participation standards.

15. Recommendation that regulations (§ 303.4(c)(2)(i)(B) and (ii)(A); now § 303.4–2(a)(1)(ii) and (a)(2)(i)) which deal with "special hardship" be written to indicate specifically what does and does not constitute a "special hardship" that would qualify for a waiver.

16. Recommendation that EDA "Civil Rights Guidelines" (Part 311) for minority group representation be incorporated in regulations.

17. Recommendation for a change in the procedures for selecting minority representatives such that minority organizations would nominate a slate of representation candidates from which county commissioners would appoint the minority representatives on EDD boards.

IV. EDA Decisions on the Content of Final Rules on the Organizational Structure of Economic Development Districts

A. The Economic Development Administration has decided to retain, in the final rules, the interim rule provisions for: (1) Waiver, under limited circumstances, of the basic organizational requirement for representation directly on the district board of directors; (2) Alternative organizational arrangements under a granted waiver; and (3) A representation formula for principal economic interests, minority groups, the unemployed and underemployed, local governments and private citizens which is applicable to both an economic development district which meets basic requirements and to the EDA component of any district with a waiver of the basic requirements.

B. The Economic Development Administration will revise the interim rule provisions of (§ 303.4(c)(2)(i)(A); now § 303.4–2(a)(1)(i)) to permit citation, in a waiver petition, of a mandatory requirement of a State governor's executive order issued pursuant to a constitutional provision or state law as a basis for demonstrating a legal constraint on an organization's ability to comply with EDA's basic organizational requirement of interim rule § 303.4(c)(1); now § 303.4–1(c).

C. The Economic Development Administration has decided not to accept and implement the following recommendations from respondents: (1) *That the interim rules should be revised to establish a quota for representation of women on the board of directors of a district organization.* EDA will, through means other than these regulations, encourage public planning organizations to include women on their boards and committees. EDA will monitor and evaluate the effect of this policy over the course of the next year. EDA will then, based on the evaluation, on its experience under these final regulations, and on consultation with interested parties, develop, if necessary, a more formal policy for ensuring appropriate levels of women representation on boards and committees of public planning organizations.

Moreover, EDA will assist public planning organizations to comply with requirements of 42 U.S.C. 3123 which prohibit discrimination on the basis of sex in all EDA programs.

(2) *That the interim rules should be revised to spell out all criteria and standards for consideration of "special hardship" justification for waiver requests.* The interim rules contain as much specificity as can be set forth at this time. If all criteria and standards could be established, then it would not be necessary to use a waiver procedure.

(3) *That the interim rules should be revised to return to the former requirement that one-third of the representation on district boards should be non-elected private citizens.* The reason for this respondent recommendation is a misapprehension that under the one-fifth private-citizen formula there would not be enough private citizens positions on the board to meet minority representation requirements that may exceed 20 percent of the board. The percentage of minority representation on the district board is not limited by the private citizen requirement. Minority representation requirements can be met from among the required one-fifth private citizens, from elected officials currently serving on the board or from other private citizens or elected officials that will be added to the district board as necessary. EDA further reaffirms its position that private citizen interests, *per se,* adequately will be represented by one-fifth of each district board or EDA component.

(4) *That the interim rules should be revised to call for performance standards rather than required public hearings in order to provide for general public participation beyond that which can be achieved through representation requirements.* EDA has determined that the public hearings requirements are necessary to protect the interests of various target groups for whose benefit the EDA programs have been created. The public participation requirements are generally consistent with the public participation requirements that are imposed by other Federal agencies which also work with economic development districts.

5. *That EDA should reincorporate its "Civil Rights Guidelines" into the EDA regulations as they were prior to May, 1979.* EDA has determined that the incorporation of the "Guidelines" by reference in Part 311 of Chapter 13, *Code of Federal Regulations* provides adequate coverage and reference to civil rights requirements.

D. The final rules will also contain some technical and clarification changes which do not affect the substance of the published interim rules.

(1) Sections 303.4 and 303.4(a) have been reorganized and renumbered so that the final rules contain three sections as follows:

- § 303.4–1 which deals with the basic requirements for district organization;
- § 303.4–2 which deals with waivers to the basic requirements; and
- § 303.4–3 which deals with district organization functions and responsibilities.

(2) Revisions have been made to sections which refer to "overall economic development programs" (OEDPs) so that consistent terminology is used throughout the text of the rules.

(3) The phrase "special body" has been replaced with the phrase "EDA component" which is defined in § 303.4–1 of the final rules.

(4) The effective date for compliance with the representation requirement for one-fifth of the district orgainzation to be "private citizens" (§ 303.4(d)(3); now § 303.4–1(d)(3)) by districts which were authorized or designated prior to the publication of the interim rules (June 6, 1979) is set forth to be no later than one year from the date this regulation is published as a final rule. This effective date conforms to the policy published in the Federal Register on September 28, 1978 (43 FR 44473).

E. EDA has determined that these regulations will not have major economic consequences under criteria

established pursuant to Executive Order 12044 and a regulatory analysis of these rules will not be prepared.

Accordingly, Parts 301, 303, 304, 307 and 311 of Chapter III of Title 13 of the Code of Federal Regulations are amended as follows:

PART 301—ESTABLISHMENT AND ORGANIZATION

1. 13 CFR 301.2 is revised by changing the definition of "Economic Development Center" to read as follows:

§ 301.2 Definitions.

* * * * *

"Economic Development Center" means any geographic area within the United States having a population of 250,000 or less which has been identified in an approved district overall economic development program as having the potential for economic growth and the ability to alleviate the economic distress of the redevelopment areas within the district.

* * * * *

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

2. 13 CFR 303.2(f) is revised and 13 CFR 303.2(g) is added to read as follows:

§ 303.2 Designation of economic development districts.

* * * * *

(f) Where a district organization has been established which meets the requirements of § 303.4–1.

(g) Where the proposed district organization requests such designation.

3. 13 CFR 303.4 and 303.4a are deleted and new §§ 303.4–1—303.4–3 are added to read as follows:

§ 303.4–1 District organizations.

(a) *Organization prerequisite to designation and funding.* The district organization is a prerequisite to initial and continued designation of an economic development district ("EDD"). In addition, it is prerequisite to the provision of planning grants.

(b) *Legal status.* Districts shall organize in one of the following ways:

(1) As nonprofit organizations incorporated under the laws of the States in which they are located;

(2) As public organizations through intergovernmental agreements for the joint exercise of local government powers; or

(3) As public organizations established under State enabling legislation for the creation of multijurisdictional areawide planning organizations.

(c) *Basic organizational requirements.* Each district organization must meet EDA requirements concerning its membership composition as set forth in § 303.4–1(d), its authorities and responsibilities for carrying out economic development functions as set forth in § 303.4–3, and the maintenance of adequate staff support to perform its economic development functions as set forth in § 303.4–1(e) in one of the two ways cited below: (1) In general, the foregoing requirements must be met by the board of directors (or other governing body of the organization) as a whole.

(2) However, a waiver may be granted under provisions of § 303.4–2 to permit a district organization to use one of a variety of organizational options (hereafter, the "EDA component") set forth in § 303.4–2(c) to meet the basic organizational requirements.

(d) *Representation requirements.* The district organization shall demonstrate that either the district organization as a whole or its EDA component meets all of the following requirements: (1) It is broadly representative of the following interests:

(i) The principal economic interests of the district, including business, industry, finance, transportation, utilities, the professions, labor, agriculture, and education. In meeting this requirement, the representatives of the principal economic interests may be private citizens, part-time elected officials, or minority representatives also selected under paragraph (d)(1)(ii) of this section.

(ii) Minority groups. Minority representatives shall be selected in accordance with *Civil Rights Guidelines* issued pursuant to 13 CFR Part 311, and may be private citizens, elected officials, or government employees.

(iii) Representatives of the unemployed and underemployed.

(2) There is at least a simple majority of its membership who are elected officials of, or employees of, a general purpose unit of local government and who have been appointed to represent such government.

(i) Where appointment of local government members is not otherwise provided for by the district organization charter or by-laws, each county and major city which joins the district shall name an elected official or an employee to represent it.

(ii) Where appropriate to their non-governmental occupations, part-time elected officials may also represent the principal economic interests.

(3) There is at least one-fifth of its membership who are private citizens who are neither elected officials of a general purpose unit of local government nor employees of such a government who have been appointed to represent that government. All districts which have been authorized or designated prior to June 6, 1979, must comply with this provision no later than one year from the date that this regulation is published as a final rule.

(i) The district organization shall demonstrate that persons fulfilling this requirement represent the interests of groups listed in paragraphs (d)(1)(i) or (d)(1)(iii) of this section. Minority representatives who meet these criteria may be counted toward the fulfillment of the private citizen requirement.

(ii) Except where these private citizens are also selected as minority representatives under paragraph (d)(1)(ii) of this section, these representatives shall be appointed by the governing bodies of the counties actively participating in the district organization or as otherwise provided in the district organizational charter and by-laws.

(e) *Staff support.* (1) The district organization or its EDA component established according to § 303.4–2 shall be assisted by a professional staff drawn from qualified persons in planning, economics, business administration, engineering and related disciplines.

(2) EDA may provide planning grants to economic development districts to employ professional staff in accordance with Subpart B of Part 307 of this chapter.

(f) *Public participation.* District organizations shall provide access for persons who are not members of the district organization or its "EDA component" to make their views known concerning ongoing and proposed district activities in accord with the following requirements:

(1) At a minumum, the district organization shall conduct meetings open to the public once a year. It shall also publish the date and the agenda of the meeting at least four weeks in advance to allow members of the public a reasonable time to prepare to participate effectively in the meetings.

(2) The district organization shall adopt a system of parliamentary procedures to assure that board members and other interested persons and groups have access to and an effective opportunity to participate in the affairs of the district.

(3) Where an "EDA component" is used, the district organization is required to hold appropriate public meetings and hearings when it considers significant economic development matters involving authorities,

responsibilities, activities, or products of the EDA component.

(4) Information should be provided sufficiently in advance of public decisions to give citizens an adequate opportunity to review and react to proposals. District organizations should seek to relate technical data and other professional material to the affected citizens so that they may understand the impact of public programs, available options and alternative decisions.

§ 303.4-2 Waiver of district organization basic representation requirements and organizational options thereunder.

(a) *Conditions for waivers to basic representational requirements.* Under the following circumstances only, EDA will grant waivers to § 303.4-1(c)(1) to permit district organizations to use an "EDA component" to meet EDA basic organizational requirements: (1) Where the subject organization is not the governing body of a designated economic development district or is not receiving a planning assistance grant under 13 CFR Part 307, Subpart B, and

(i) Where the proposed district organization is not able to meet some part of the representational requirements of § 303.4-1(d) because of mandatory requirements of an interstate compact, a State law or constitutional provision, a State governor's executive order issued pursuant to a constitutional provision or state law or a homerule charter of a participating city or county, or

(ii) Where the proposed district organization demonstrates that it would undergo special hardship if it is required to reorganize in order to comply with the requirements of § 303.4-1(c)(1); or

(2) Where the proposed district organization is an existing designated or funded economic development district which demonstrates to the satisfaction of the Assistant Secretary: (i) That it would undergo a special hardship if it is required to maintain its district status through continued compliance with § 303.4-1(c)(1), and

(ii) That it has obtained concurrence in its proposal to reconstitute the district organization under § 303.4-1(c)(2) from the principal economic interests, minority interests, and local governments involved in the district.

(b) *Consideration of requests for waivers.* EDA will consider the following points (without excluding other possibilities) in determining whether to grant a waiver under the foregoing section.

(1) Where the waiver request is based on a legal constraint under § 303.4-2(a)(1)(i), the following kinds of situations would be the basis for a waiver: (i) Where the membership composition or the membership appointment procedures of the organization are legally specified such that it cannot meet EDA board membership requirements, or

(ii) Where only local government elected officials are legally allowed to participate in the joint exercise of local government powers.

(2) Where the waiver request is based on the demonstration of special hardship under § 303.4-2(a)(1)(ii) or § 303.4-2(a)(2), the following factors would be considered: (i) The record of the organization in delivering projects related to economic development to assist distressed populations of the area,

(ii) The mechanisms proposed to provide for the involvement of the private sector and of distressed populations, including minority groups and local jurisdictions with high rates of distress, in the economic development planning process,

(iii) The age and complexity of any interlocal agreement for the joint exercise of powers,

(iv) The array of public policy issues assigned to the organization and the appropriateness for the various categories of representation required by EDA to participate in voting on the issues, and

(v) The risk of any breach of contract obligations if the organization were required to restructure its governing board in order to comply with EDA regulations.

(c) *Organizational options available under waiver provisions.* Organizations which are granted a waiver of § 303.4-1(c)(1) may employ one of the following types of organizational structure as their "EDA component" in accordance with § 303.4-1(c)(2), to meet EDA's basic organizational requirements: (1) An augmented governing board whose membership meets EDA requirements;

(2) A subcommittee of the governing board where the subcommittee membership meets EDA's requirements;

(3) A policy advisory committee to the governing board where the committee membership meets EDA requirements;

(4) A bicameral decisionmaking organization in which dual policy bodies are created (consistent with § 309.17(b)), one of which meets EDA's requirements; and

(5) Other types of arrangements which are found by the Assistant Secretary to meet EDA's requirements.

§ 303.4-3 District organization functions and responsibilities.

(a) *Basic requirement.* Economic development districts (EDDs) must arrange to carry out two classes of functions and responsibilities: Those which every EDD must carry out (paragraph (b) of this section), and those which EDDs receiving grants must carry out (paragraph (c)). Where the district organization uses an EDA component to meet EDA requirements, as provided for in § 303.4-2, the EDA component of the district organization shall be given authority to carry out certain parts of these two classes of functions and responsibilities described in paragraph (d) of this section.

(b) *Functions and responsibilities common to all EDDs.* Subject to the requirements of § 303.4-1, EDDs are responsible for seeing that the following functions are provided for on a continuing basis.

(1) *Organizational actions,* including: (i) Arranging the legal form of organization which will be used;

(ii) Arranging for the membership of the board of directors to meet § 303.4-1 requirements;

(iii) Recruiting staff to carry out the economic development functions;

(iv) Establishing a management system;

(v) Contracting for services to carry out district functions; and

(vi) Establishing and directing activities of economic development subcommittees.

(2) *Civil rights responsibilities* of 13 CFR Part 311 including: (i) Arranging for the EDD board of directors and its executive committee to comply with EDA requirements for minority representation;

(ii) Submitting reports to EDA on the EDD's compliance with civil rights requirements (e.g., nondiscrimination on the basis of race, color, national origin, sex, or handicap); and

(iii) Preparing, taking action on and reporting on an affirmative action plan for the district.

(3) *Actions to develop and maintain the required district overall economic development program (OEDP), and any subsequent supplements or revisions, including:* (i) Preparing the analytic, strategic and implementation components of the OEDP;

(ii) Identifying economic development centers and redevelopment centers and any later boundary modifications;

(iii) Adopting the OEDP by formal action of the EDD governing board;

(iv) Submitting the OEDP and any supplements or revisions for reviews by appropriate governmental bodies and interested organized groups, and attaching dissenting opinions and comments received; and

(v) Obtaining EDA approval of the OEDP.

(4) *Preparation of proposals that EDA take actions* which: (i) Establish or change the designation status of the district or its growth centers; or

(ii) Affect economic development projects available to the EDD.

(5) *Coordination and implementation* of economic development activities in the district, including: (i) Entering into coordinative arrangements under OMB Circular A-95, as set forth at 13 CFR 309.17(b)(4);

(ii) Assisting other eligible units within the district to apply for grant assistance for economic development purposes;

(iii) Carrying out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations, and as are necessary and helpful to the development and implementation of the overall economic development program;

(iv) Coordinating the development and implementation of the OEDP with other local, State, Federal and private organizations (including minority organizations); and

(v) Carrying out the annual OEDP plan for implementation.

(c) *Grants management activities.* Economic development district organizations which seek and receive EDA grant assistance must carry out grants management activities, including:

(1) Preparing application materials and accepting EDA grant offers;

(2) Arranging for the contribution of the required non-Federal matching share of the grant project costs;

(3) Receiving and managing the proceeds of the grant from EDA and of the matching share contributions;

(4) Complying with grant terms and conditions, including those pertaining to financial management and to work program requirements;

(5) Incurring expenses in carrying out the purposes of the EDA grant and charging these projects costs against grant project accounts; and

(6) Keeping records, and preparing and submitting reports on the grant project.

(d) *EDA component functions and responsibilities.* Where the EDD uses an EDA component to meet EDA requirements under § 303.4-1, the following functions and responsibilities (with the exception of subparagraph (4)(iii), which need not be exclusive to the EDA component) shall be lodged solely in the EDA component: (1) *Organizational actions.* The EDA component shall: (i) Adopt by-laws for the conduct of the functions and responsibilities assigned to the EDA component;

(ii) Establish and direct activities of economic development subcommittees;

(iii) Advise the district board of directors or the staff director, as appropriate, concerning the activities of the economic development staff which is established according to § 303.4-1(e)(1).

(2) *Civil Rights responsibilities.* The EDA component shall: (i) Assure that the required minority representatives participate in the functions and responsibilities of the EDA component; and

(ii) Work to resolve matters of civil rights compliance review and assist in implementing the district organization's ongoing affirmative action plan required under § 311.4(b) of 13 CFR Part 311.

(3) *Overall economic development program (OEDP) activities.* The EDA component shall have responsibility for: (i) Preparing and recommending adoption of the district OEDP, and of any subsequent supplements of revisions required by EDA, including the recommendation therein of project implementation priorities;

(ii) Making comments to the district organization board of directors concerning any board-initiated revisions of such OEDP documents;

(iii) Informing EDA when such revisions by the district organization board of directors constitute major departures from the recommendations of the EDA component and efforts to reinstate the substance of the recommended OEDP documents have not been successful;

(iv) Submitting the OEDP and any supplements or revisions for review by appropriate governmental bodies and significant organized interest groups, and the attaching thereto of dissenting opinions and comments received; and

(v) Determining when, on the initiative of the district, to revise and resubmit the OEDP.

(4) *Coordination and implementation activities.* The EDA components unit shall: (i) Enter into a planning-coordination memorandum of agreement with the A-95 areawide clearinghouse in accordance with § 309.17(b)(4), if the EDA component is organized under terms of § 303.4-2(c)(4);

(ii) Take actions required by EDA concerning grant or loan applications from other eligible applicants within the district which affect the district; and

(iii) Carry out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations and to the development and implementation of the overall economic development program.

(5) *Application for and use of EDA grants.* The EDA component shall: (i) Advise the district organization board of directors concerning the scope of work section of grant applications; and

(ii) Comply with EDA terms and conditions relating to work program requirements.

4. 13 CFR 303.7(a)(1) is revised to read as follows:

§ 303.7 Termination and suspension of district designation.

(a) * * *

(1) Where the district no longer meets the standards for designation: (i) As set forth in § 303.2(a), (b), (c), (d), (f), or (g), or

(ii) As set forth in § 303.2(e), except that district designation status may be continued if those counties which would maintain their commitment to support economic development activities are determined by EDA to meet the other standards of § 303.2 and the standards of § 303.1.

* * * * *

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

5. 13 CFR 304.3 is revised to read as follows:

§ 304.3 Redevelopment Area OEDP Committee.

(a) The preparation of the Area OEDP and of the ongoing development program which it charts is the primary responsibility of the Area OEDP committee.

(1) Area OEDP Committees are required only in those areas not located in districts. (District organization requirements are set forth at § 303.4-1, § 303.4-2 and § 303.4-3 of this chapter.)

(2) However, because of the crucial role of the OEDP committee, EDA recommends that all areas establish such an organization even though located within a district and using the district OEDP (as allowed under § 304.2).

(b) The Area OEDP committee shall be representative of the community so that all viewpoints are considered in discussion and decisionmaking and all available local skills are engaged in program formulation. Representation on the committee shall include representatives of local government (county, city, and town), business, industry, finance, agriculture, the professions, organized labor, utilities, education, minorities, and the unemployed or underemployed. 13 CFR Part 311 of this chapter, as implemented by the *Civil Rights Guidelines*, contains the requirements for the specific representation of minority groups.

(c) If an existing development group meets the criteria as set forth in paragraph (b) of this section, that group may function as the Area OEDP committee.

PART 307—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

Subpart B—Planning Grants and Economic Growth Study Grants

6. 13 CFR 307.25(b)(2) and (b)(2)(i) are revised to read as follows:

§ 307.25 Terms and conditions.

* * * * *

(b) * * *

(2) Except as set forth in paragraph (b)(2)(i) of this section, no planning grants to economic development district organizations will be extended unless at least three-fourths of the counties within the district boundaries indicate, by resolution or other appropriate document, their commitment to support the activities of the district.

(i) Where a sufficient number of counties have withdrawn from the district to make compliance with this three-fourths requirement impossible or unreasonable, EDA may fund the continuing committed counties in the name of the original district organization if the Assistant Secretary determines that the remaining counties can meet the requirements for authorizing and designating EDDs, as set forth at § 303.1 and § 303.2 of this chapter.

* * * * *

PART 311—CIVIL RIGHTS REQUIREMENTS ON EDA ASSISTED PROJECTS

7.13 CFR 311.4 is revised to read as follows:

§ 311.4 Public planning organizations.

(a) Minorities must be represented on the governing boards, or the EDA components established under § 303.4–2 of 13 CFR Part 303, of public planning organizations receiving EDA assistance as set forth in the *Guidelines*. Minorities must also be represented, as required by the *Guidelines*, on any executive committees as may be established by such governing boards or EDA components. Planning organizations shall comply with the requirements of the *Guidelines* to provide minorities with the opportunity to select their own representatives.

(b) Each planning organization must develop a written Affirmative Action Plan for its employees as set forth in the *Guidelines*.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4 (September 30, 1975), as amended (40 FR 56702, as amended))

Dated: August 18, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80–25497 Filed 8–20–80; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 20632; Amdt. 39–3899]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the pitch trim control system, replacement of the pitch trim unit and modification of associated wiring, and addition of white markings on the pitch trim control wheel on Airbus Industrie Model A300 series airplanes. This AD is prompted by a report of pitch trim runaway which could result in loss of control of the airplane.

DATES: Effective September 4, 1980. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Airbus Industrie, Airbus Support Division, BP 33, 31700 Blagnac, France.

Copies of the applicable service bulletins are contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS–110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 426–8192.

SUPPLEMENTARY INFORMATION: The FAA has received a report of pitch trim control runaway with the autopilot engaged. Investigation of the incident revealed faults in the trim engage unit on Airbus Industrie Model A300 series airplanes which could result in loss of control of the airplane.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires checks of the pitch trim system before each flight until installation of a modified pitch trim unit and placement of white markings on the pitch trim control wheel on Airbus Industrie Model A300 series airplanes. Subsequent repetitive operational checks are required of specified components of the pitch trim control.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, certificated in all categories.

Compliance is required as indicated.

To prevent incorrect pitch trim control operation which could result in pitch trim control runaway and possible loss of control of the airplane, accomplish the following: (a) Before each flight, check the pitch trim system in accordance with the instructions in paragraph 2, "ACCOMPLISHMENT INSTRUCTIONS," of Airbus Industrie Service Bulletin No. A300–22–024, Revision No. 4, dated August 30, 1976, or an FAA-approved equivalent, on airplanes in which the modifications required by paragraph (b) of this AD have not been incorporated.

(b) Within the next 750 hours time in service after the effective date of this AD, unless already accomplished, modify the trim handwheel and the wiring between the electronic rack 80VU/STA 1380 and the flight compartment overhead panel, and replace the trim engage unit in accordance with the instructions in paragraph 2, "ACCOMPLISHMENT INSTRUCTIONS," of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(c) After accomplishing the modifications required by paragraph (b) of this AD, comply with the following: (1) At intervals not to exceed 2,000 hours time in service from the last inspection, perform the operational inspection in accordance with paragraph 3.A. of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(2) At intervals not to exceed 6,000 hours time in service from the last inspection, perform the functional inspection in accordance with paragraph 3.B of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(d) After the modifications required in paragraph (b) of the AD have been accomplished, compliance with paragraph (a) of this AD is no longer required.

(e) If an equivalent means of compliance is used in complying with paragraphs (a), (b), and (c), that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective September 4, 1980.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on August 14, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80-25400 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-1-AD. Amdt. 39-3889]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment further amends FAA Airworthiness Directive (AD) 79-04-01, which requires inspection and replacement as necessary, of certain main landing gear extension/retraction system components on Boeing Model 727 series airplanes whose failure can result in gear-up landings. This rule requires either (1) installation of an improved door safety bar mechanism (this terminates the repetitive inspection/replacement requirements), or (2) installation of improved lock system components and incorporation of an overhaul/maintenance program. Also, this rule requires replacement of certain main landing gear manual extension system support structure components and modification of the uplock assembly.

DATES: Effective date September 25, 1980.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The ATA report noted in this directive may be obtained upon request to the Air Transport Association (ATA) of America, 1709 New York Avenue, N.W., Washington, D.C. 20006. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

History

Failures in the main landing gear lock system on Boeing Model 727 series airplanes have occurred which caused missequencing and subsequent jamming of the gear and wheel well door. Nine jamming incidents resulted in gear-up landings. Also, failures have occurred in the main landing gear manual extension system support structure which prevented extension of the gear by manual means, resulting in gear-up landings when the "A" hydraulic system (which powers the normal extension system) was inoperative.

Amendment 39-3410, AD 79-04-01, as amended by Amendment 39-3577, requires inspection of certain main landing gear lock system components whose failure can or has caused the missequence condition. AD 79-04-01 also requires replacement of certain parts, such as bolts, for which repetitive inspection has been determined to be inappropriate or impractical. AD 79-04-01 further requires inspections of the main landing gear manual extension system support structure components made from 7079-T6 aluminum alloy.

Two gear-up landings occurred subsequent to the issuance of AD 79-04-01. As a result of these two incidents, it was necessary to amend the AD (by Amendment 39-3577) to decrease the inspection intervals of components involved in these incidents.

The incidents further indicated the need for a comprehensive action such as redesign and/or modification of the existing lock system. Boeing has designed, tested and received FAA approval of an improved door safety bar mechanism which will satisfy this need. This mechanism is capable of withstanding hydraulic-operated door loads associated with missequencing for which the original safety bar was not designed.

In addition, modification and/or replacement of the uplock assembly and emergency extension system support structure were considered necessary in lieu of continued repetitive inspections presently required by AD 79-04-01.

A Notice of Proposed Rule Making (NPRM) was published in the Federal Register (45 FR 7555) on February 4, 1980, proposing these changes.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented and the Air Transport Association (ATA) of America commented on behalf of its members and other airline operators. In addition, All Nippon Airways Co., Ltd. submitted comments.

Discussion of Comments

All three commenters stated that the largest impact would be caused by the proposed mandatory incorporation of the improved safety bar mechanism. Both Boeing and ATA pointed out that the availability schedule for the safety bar mechanism kits would not accommodate the proposed July 1, 1982, compliance data. The ATA stated that most airlines would need from 4 to 5 years to accomplish the modifications (estimated to require approximately 460 man-hours per aircraft) without removal of some aircraft from service. the ATA stated that a substantial number of 727 operators believe that installation of the improved design lock system components in conjunction with an overhaul/maintenance program will provide a level of safety equivalent to that provided by the new safety bar. (Note: The improved design lock system components are those specified in Boeing Service Bulletin No. 727-32-237, and are sometimes referred to as "unlimited life" components because their fatigue lives, based on service experience, testing, and analysis are greater than that of the aircraft itself.) The ATA submitted a copy of ATA Report 32-30-01 describing a maintenance program, including an MSG-2 analysis, which was developed by several airlines. These airlines believe that a periodic overhaul of the lock system equipped with the "unlimited life" components will reveal any unforecast distress such as corrosion, bearing/bushing wear or other component wear. The ATA pointed out that such a maintenance process is routinely used for maintaining the safety of other nonfailsafe, unlimited

life components such as propellers and landing gear assemblies. The FAA has reviewed this alternative to the installation of the improved safety bar mechanism and consider it to provide an equivalent level of safety. Accordingly, the amendment, as adopted, permits as an option to installation of the improved safety bar, the installation of the improved design lock system components. Operators electing this alternative method of compliance must incorporate an overhaul/maintenance program approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The ATA overhaul/maintenance program specified in ATA Report 32-30-1, Revision 2, dated July 9, 1980, is an FAA approved program for the purpose of complying with the requirements of paragraph F.2 of this AD.

ATA requested that the proposed compliance date for modification of the main landing gear uplock assembly per Boeing Service Bulletin No. 727-32-245, Revision 4, be extended one year to July 1, 1982. They stated that the extension of time would allow all of the modification on each aircraft to be accomplished during the same visit. Since AD 79-04-01 presently requires rotational force tests on the uplock assembly every 1500 landings for detection of binding, a one year extension is considered acceptable and is incorporated into the rule as adopted.

The ATA requested that FAA permit the installation of grooved aluminum bronze bushings with the lubrication fitting as an equivalent to the modifications specified in Boeing Service Bulletin No. 727-32-245, Revision 4. Several operators have received approval from the FAA Northwest Region for this alternate modification. The service bulletin modification includes replacement of a cartridge-type bungee with an external spring-type bungee. Some operators who have shown their service experience with the cartridge-type bungee to be satisfactory have received approval for the modification (i.e. aluminum bronze bushing and lubrication fitting) without the bungee replacement. Since this approval is based on operator experience, the FAA will continue to handle requests for approval on an individual basis.

Several operators objected to the proposed mandatory replacement of the manual extension system support structure components, i.e., gearbox horizontal supports, support yokes, and gearbox housings. The FAA believes that the replacement of these components, made from 7079-T6 aluminum alloy and susceptible to stress corrosion cracking, is essential to assure continued, reliable operation of the manual extension system. Therefore, Paragraph G is adopted as proposed.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by further amending Airworthiness Directive 79-04-01 (Amendment 39-3410, 44 FR 9735, as amended by Amendment 39-3577, 44 FR 56318), as follows: 1. By amending Paragraph C.2 to read as follows:

2. On or before July 1, 1982, accomplish the main landing gear uplock assembly modification specified in Boeing Service Bulletin No. 727-32-245, Revision 4, dated August 31, 1979, or later FAA approved revisions, or an alternate approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. This modification constitutes terminating action for the requirements of Paragraph C.1 above.

2. By redesignating Paragraphs F, G, and H as Paragraphs H, I, and J, respectively; and

3. By adding the following new Paragraphs F and G:

F. Accomplish one of the following: 1. On or before July 1, 1982, install the main landing gear safety bar mechanism, LH and RH sides, in accordance with Boeing Service Bulletin No. 727-32-275, dated March 28, 1980, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If Boeing Service Bulletin Numbers 727-32-237, Revision 2, dated March 9, 1979; 727-32-251, dated March 11, 1977; and 727-32-257, Revision 1, dated July 21, 1978; or later FAA approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, have been accomplished the improved safety bar mechanism or FAA approved equivalent need not be installed until December 31, 1983.

2. On or before July 1, 1982, replace the main landing gear lock system components with improved components in accordance with Boeing Service Bulletin No. 727-32-237, Revision 2, dated March 9, 1979, or later FAA-approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and thereafter overhaul and maintain the main landing gear lock system in accordance with a supplemental overhaul/maintenance program acceptable to the assigned FAA maintenance inspector and approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. [Recurring action taken under the overhaul/maintenance program shall be recorded to show the status of compliance with this A.D.]

Accomplishment of Paragraph F.1. constitutes terminating action to Paragraphs A, D, and E above. If Paragraph F.2. is accomplished, the requirements of F.2. supersede Paragraphs A, D, and E.

G. On or before July 1, 1982, (1) replace the main landing gear manual extension system gearbox horizontal supports, LH and RH sides, Boeing P/N 65-24575-1, with Boeing P/N 65-69156-1 in accordance with Boeing Service Bulletin No. 727-32-164, Revision 2, dated June 22, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, (2) replace the main landing gear manual extension system support yokes, LH and RH sides, Boeing P/Ns 65-26300-1/-2, 65-26300-7/-8, 65-81412-1/-2, 65-26300-11/-12, and 65-26300-17/-18 with Boeing P/Ns 65-26300-21/-22 or 65-26300-23/-24 in accordance with Boeing Service Bulletin No. 727-32-204, Revision 3, dated December 7, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and (3) replace the main landing gear manual extension system gearbox housing, Boeing P/N 65-27485-1/-2, LH and RH sides, with Boeing P/N 65-27485-11/-12 in accordance with Boeing Service Bulletin No. 727-32-279, dated June 22, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The replacement accomplished per this paragraph constitutes terminating action to Paragraph B of this AD.

Note.—The overhaul/maintenance program specified in ATA Report 32-30-1, Revision 2, dated July 9, 1980, is an FAA-approved program for the purpose of complying with the requirements of paragraph F.2. of this AD.

This amendment becomes effective September 25, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 11, 1980.

E. O'Connor,

Acting Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-25399 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 80-ASW-28; Amdt. 39-3884]

Airworthiness Directives; Bell Models 206A, 206B, 206A-1, 206B-1 206L, and 206L-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive magnetic particle inspections and replacement as necessary for main rotor trunnions, P/N 206-010-104-3 and 206-011-113-001, installed on Bell Models 206A, 206B, 206A-1, and 206B-1 helicopters or main rotor trunnion, P/N 206-011-120-001, installed on Bell Models 206L and 206L-1 helicopters. The proposed AD is needed to prevent inflight failure of the main rotor trunnion, P/N 206-010-104-3, 206-011-113-001, or 206-011-120-001, which could result in loss of the helicopter.

DATES: Effective September 15, 1980. Compliance required as prescribed in the AD.

ADDRESSES: Copies of the applicable service bulletins may be obtained from the Regional Counsel, Attention: Docket NO. 80-ASW-28, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

Bell service information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) requiring repetitive magnetic particle inspections and replacement as necessary for main rotor trunnions, P/N 206-010-104-3 and 206-011-113-001, installed on Bell Models 206A, 206B, 206A-1, and 206B-1 helicopters or main rotor trunnion, P/N 206-011-120-001, installed on Bell Models 206L and 206L-1 helicopters was published in 45 FR 40615.

There has been one report of a trunnion failure, P/N 206-011-113-001, on a Model 206B at 4,060 operating hours. The fatigue crack originated in the leading edge of the inboard radius of the trunnion spindle and progressed toward the splines. The inspection requirement at the last required overhaul was either not accomplished or was improperly accomplished. There has also been a trunnion failure, P/N 206-011-120-001, on Model 206L at 3,226 operating hours. The reported failure originated in the inboard fillet radius of the spindle.

Two other reports have been received of cracked trunnions, P/N 206-011-113-001 on Model 206B helicopters. One occurred at 5,193 operating hours and one at 1,197 hours. Both were detected by proper inspections at the required interval.

Interested persons have been afforded the opportunity to participate in the making of the amendment. One comment was received from the National Transportation Safety Board in support of the proposal. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell: Applies to Models 206A, 206B, 206A-1, 206B-1, 206L, and 206L-1 helicopters equipped with main rotor trunnions, P/N 206-010-104-3, 206-011-113-001, or 206-011-120-001 certificated in all categories (Airworthiness Docket No. 80-ASW-28).

Compliance required as indicated.

To prevent possible failure of the main rotor trunnion, P/N 206-010-104-3, 206-011-113-001, and 206-011-120-001 due to fatigue cracks, accomplish the following, unless already accomplished, in accordance with Bell Helicopter Textron Alert Service Bulletin 206-80-7, Revision A, dated February 26, 1980 (206A, 206B, 206A-1, 206-B-1) or 206L-80-9, Revision A, dated February 26, 1980 (206L, 206L-1) or FAA approved equivalent.

a. For trunnions with less than 1,100 hours' total time in service, on the effective date of this AD, accomplish a magnetic particle inspection prior to attaining 1,200 hours and again prior to attaining 2,400 hours, and thereafter at intervals not to exceed 600 hours.

b. For trunnions with more than 1,100 hours and less than 1,700 hours' total time in service, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service and again prior to attaining 2,400 hours, and thereafter at intervals not to exceed 600 hours.

c. For trunnions with 1,700 hours or more total time in service, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service, and thereafter at intervals not to exceed 600 hours.

d. For trunnions with time unknown, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service, and thereafter at intervals not to exceed 600 hours.

e. If a crack is found, remove and replace the trunnion before further flight.

f. If no cracks are found, reassemble and install the main rotor hub on the helicopter in accordance with the pertinent Model 206 Maintenance and Overhaul Manual and continue the repetitive inspections specified above.

g. Report in writing any cracks found during the inspections required herein to Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101. Each report must include the location of the cracks and the trunnion total time in service. Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.

h. If trunnion P/N 206-011-113-103 (206A, 206B, 206A-1, 206B-1) or P/N 206-011-120-103 (206L, 206L-1) is installed, the inspections specified in this AD are not required.

i. The helicopter may be flown in accordance with FAR 21.197 to a base where inspections can be performed.

This amendment becomes effective September 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Forth Worth, Texas, on August 5, 1980.

C. R. Melugin,

Director, Southwest Region.

[FR Doc. 80-25366 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-37-AD, Amdt. 39-3887]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 78-05-08 (Amdt. 39-3155, 43 FR 9592 as amended by Admt. 39-3458, 44 FR 25834) requires inspection of emergency escape system cool gas generator propellant cartridges in Boeing 747 airplanes. Service experience since the adoption of the AD now indicates that cartridge deterioration is likely to occur in a shorter time span if cool gas generators remain in airplanes which are parked for extended periods in hot weather. Therefore, the AD is further amended to require additional inspections of propellant cartridges if they are left in airplanes parked for extended periods in hot weather.

DATES: Effective date August 28, 1980.

FOR FURTHER INFORMATION, CONTACT: Mr. Joseph M. Starkel, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

History

AD 78-05-08 requires annual inspections of cool gas generator cartridges used in escape systems on Boeing Model 747 airplanes. This AD was necessary to preclude use of defective cartridges which, when fired, could produce overpressure leading to a structural failure of the generator. Subsequent to the issuance of the AD, the FAA has determined that x-ray inspections are required if propellant cartridges remain on aircraft parked for extended periods in hot weather.

During a recent scheduled sampling deployment of an emergency escape slide, the cool gas generator breech closure assembly separated and departed the aircraft injuring four maintenance personnel. It was reported that the cartridge had been stored in an air conditioned area and was installed in the cool gas generator approximately four months prior to the incident. The aircraft is known to have been parked for an extended period in temperatures frequently exceeding 90° F. Cartridge swelling and deterioration due to chemical phase transitions at extreme temperatures is the cause of such a malfunction. In the instance of an aircraft parked in hot weather, a more rapid deterioration of the cartridge will occur since the cartridge is more frequently exposed to the phase transition temperature. As a consequence, the AD is being amended to require x-ray inspections of propellant cartridges which are left in airplanes parked for extended periods in hot weather. Clarification is also made in the lead-in paragraph by adding the name of the manufacturer of the propellant cartridges.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive No. 78-05-08 (Amdt. 39-3155, 43 FR 9592 as amended by Amdt. 39-3458, 44 FR 25834), as follows:

1. Delete the lead-in paragraph and replace with the following:

Boeing: Applies to all Boeing 747 series airplanes which incorporate propellant cartridges manufactured by Olin Corporation in the emergency escape slide inflation system. Accomplish the following:

2. Add new paragraphs G. and H. as follows:

G. If, for any reason, an airplane is parked for more than 10 consecutive days with the cool gas generator installed, or has been parked for this extended period since the date of last cartridge inspection, *and* the peak atmospheric temperature outside the aircraft exceeds or exceeded 90°F on any 10 or more days during this parked period, the cartridges must be inspected, unless already accomplished, in accordance with paragraph E as follows:

(1) If the airplane is parked for 20 days or less, the inspection must be made within 15 days following return of the airplane to active flight status;

(2) If the airplane is parked for more than 20 days, the inspection must be made before further flight or before any escape system tests are performed.

Alternate inspections or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

Note.—Thermal cycling, at elevated temperatures, of the propellant cartridges installed in cool gas generators can cause excessive swelling and rapid deterioration of the propellant grain. For greater temperature control the cool gas generators should be removed from aircraft which are expected to be parked for extended periods in hot weather. The gas generators should be stored within the temperature limits of +10°F to +90°F.

H. Aircraft requiring immediate inspection may be ferried to a maintenance base in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 8, 1980.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 80-25072 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-CE-25-AD; Amdt. 39-3888]

Airworthiness Directive; Gates Learjet Model 35 and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires rework/replacement of the forward engine mounts on certain Gates Learjet Model 35 and 36 series airplanes. In the interim, a maximum operating speed (V_{MO}) of 307 KIAS, sea level to 31,100 ft. altitude, is imposed. This action will assure the operational safety of the aircraft in flight conditions that could otherwise overload, and possibly fail, the forward engine mount structure.

EFFECTIVE DATE: August 28, 1980.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: The applicable Airplane Service Bulletin No. 35/36-11-3 dated July 28, 1980, and Airplane Modification Kit No. AMK 80-6 may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, telephone number (316) 946-2000. Copies of the Bulletin and Modification Kit are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Marvin Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: The Gates Learjet Model 35 and 36 series airplanes forward engine mount casting, which is to be used on a new Gates Learjet model airplane, failed during static tests of the new model at a lower load value than approved for the Models 35 and 36. No engine mount failures on in-service airplanes have been reported.

Follow-on static tests indicate that a degradation in static strength below minimum certification levels of the engine mount may have occurred since the initial casting qualification tests. Gates Learjet has, therefore, conducted an extensive investigation to define the effectivity and cause of this reduction in strength. The resulting hardware rework/changes necessary to re-establish the structural integrity of the mount system are defined in Gates

Learjet Corporation Airplane Modification Kit (AMK) 80-6.

Until AMK 80-6 is incorporated, Gates Learjet has issued Service Bulletin 35/36-11-3, dated July 28, 1980, which provides instructions for installation of airspeed warning placards and modification of the Mach/overspeed warning system to effect a 307 KIAS (V_{MO}) speed limitation. This limitation will preclude operation of the airplane at velocities, in combination with critical gust conditions, that could overload the engine mount. The appropriate Flight Manual changes to reflect the airspeed limitation are included in the Service Bulletin.

Since the condition described herein is likely to exist or develop on airplanes of the same type design, an AD is being issued, applicable to Gates Learjet Model 35 and 36 series airplanes. The new AD makes compliance with Gates Learjet Corporation Service Bulletin mandatory until the airplane has been modified in accordance with Gates Learjet Corporation Modification Kit (AMK) 80-6 which is required within 600 hours after the effective date of this AD.

Since a situation exists that requires the immediate adoption of this regulation, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Gates Learjet: Applies to the following model and serial number airplanes:

Model 35 Series—Serial Number 35-050 through 35-339 except 35-054 and 35-065

Model 36 Series—Serial Number 36-017 through 36-045

Compliance: Required as indicated unless already accomplished. To prevent encountering a possible overload flight condition that could fail the forward engine mount, accomplish the following: (A) Within the next 75 hours time-in-service after the effective date of this AD, in accordance with Gates Learjet Corporation Service Bulletin 35/36-11-3, dated July 28, 1980:

1. Install airspeed warning placards and modify the Mach/overspeed switch circuit to effect a reduced maximum operating airspeed (V_{MO}) of 307 KIAS, from sea level to 31,100 feet altitude.

2. Insert in the existing Airplane Flight Manual the temporary Airplane Flight Manual Supplement included in Service Bulletin 35/36-11-3.

(B) Within the next 600 hours' time-in-service after the effective date of this AD, replace or re-age both forward engine mounts in accordance with Gates Learjet Corporation Airplane Modification Kit AMK 80-6. Accomplish the removal and installation of the engine mounts at authorized Gates Learjet Service Centers and the nondestructive testing and heat treating at appropriately rated FAA certified repair stations.

(C) Upon compliance with Paragrpah B above, the requirements of Paragraph A of this AD are no longer applicable.

(D) Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving the affected airplanes to a location where the modifications required by this AD can be accomplished.

(E) Any equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 8, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-25397 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-37-AD; Amdt. 39-3890]

Airworthiness Directive; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires replacement of cable guard pins on McDonnell Douglas DC-10 series airplanes fuselage numbers 1 thru 243. The AD is prompted by two reports that during ground system tests wing engine emergency fire shut-off handles were restricted in movement and could not be moved completely to the agent discharge position, preventing the use of fire extinguishing agent which could result in uncontrollable engine fire and possible loss of the airplane.

DATES: Effective August 28, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attn: Director, Publication and Training C1-750-[54-60].

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been reports of the wing engine hydraulic transition drum cable guard pins P/N AA 2603-9 working loose and restricting movement of the hydraulic shut-off valve-to-transition drum push rod assembly. This limits engine emergency fire shut-off handle travel, restricting shut-off of fluids to engine and preventing the discharge of fire extinguishing agent. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and reinstallation of cable guard pins using a serviceable cable guard pin sealed in position with RTV-731 or 732 or equivalent or installation of a new design pin on McDonnell Douglas DC-10 series airplanes, fuselage numbers 1 thru 243.

Since a situation exists that requires immediate adoption of this regulation, it

is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to DC-10 Series Airplanes fuselage numbers 1 through 243.

Compliance required as indicated, unless already accomplished. To prevent restriction of travel of the wing engine emergency fire shutoff handle and loss of associated fire fighting safeguards, accomplish the following:

Within 300 hours additional time in service after the effective date of this AD, accomplish paragraph (1) or (2) below.

(1) Inspect and seal cable guard pin P/N AA 2603-9 in place in accordance with McDonnell Douglas Alert Service Bulletin A76-27 dated 6/24/80 and within 1500 hours additional time in service after the effective date of this AD accomplish the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80; or

(2) Accomplish the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80.

(3) Accomplishment of the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80 is terminating action for this AD. Service Bulletin 76-27 calls for the replacement of the existing guard pin with a new guard pin incorporating a lip retaining head.

(4) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modification required by this AD.

(5) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which, is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California on August 7, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80-25398 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80NE-20; Amdt. 39-3837]

Airworthiness Directives; Sikorsky S-76A Helicopters; Certificated in All Categories; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

In docket number 80-NE-20, Amendment 39-3837, appearing on page 47131 in the Federal Register of July 14, 1980, the date of July 12, 1980, specified in paragraphs 1.c. and 2., was incorrectly stated. The correct date is July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen J. Soltis (617) 273-7336.

Issued in Burlington, Massachusetts, on July 30, 1980.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 80-25450 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-34]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Levelland, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter transition area at Levelland, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing an instrument approach procedure to the Levelland Municipal Airport. The circumstances creating the need for the action are the present transition area which is improperly described because of an incorrect bearing of the north extension and the geographical coordinates of the airport which are also incorrect.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The present transition area for the Levelland Municipal Airport is in error describing the extension to the north and the geographical coordinates for the airport reference point are incorrect. This action is necessary to correct these errors and to properly describe the airspace necessary for the protection of Instrument Flight Rules (IFR) aircraft operating to or from the airport. Since this action is minor in nature and will not impact the user, circulation and public notice of this action is not considered necessary.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) Levelland, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing an instrument approach procedure to Levelland Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., October 30, 1980, as follows.

In Subpart G, § 71.181 (45 FR 445), the following transition area is amended by deleting the present description and substituting the following:

Levelland, Texas

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (latitude 33°33'32"N., longitude 102°22'20"W., and within 3 miles each side of the 010° bearing of the Levelland NDB (latitude 33°33'20"N., longitude 102°22'29"W.), extending from the 7-mile radius area to 8.5 miles north of the Levelland NDB.

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

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

Issued in Fort Worth, Tex., on August 12, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-25392 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AEA-44]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Name Change—Millville VORTAC to Cedar Lake VORTAC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Millville VORTAC is located approximately 11¼ nautical miles (NM) from the Millville Airport. Pilots frequently report over Millville or in the proximity of Millville. The controller must then verify whether the pilot is over the VORTAC or the airport. To eliminate this ambiguity and potential for confusion, we are changing the name of "Millville VORTAC" to "Cedar Lake VORTAC." This change is editorial in nature.

EFFECTIVE DATE: October 30, 1980.

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to rename the "Millville, N.J., VORTAC" to "Cedar Lake VORTAC." Segments of victor airways 16, 184, 284, and 467 are described, in part, by reference to the Millville, N.J., VORTAC. The Millville VORTAC is located approximately 11¼ NM from the Millville Airport. Pilots frequently report over Millville or in the proximity of Millville. The controller must then verify whether the pilot is over the VORTAC or the airport. To eliminate this ambiguity and potential for confusion, we are renaming the "Millville VORTAC" to "Cedar Lake VORTAC." The Cedar Lake VORTAC has been assigned the identifier V-C-N. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the Federal Register on January 2, 1980 (45 FR 307).

Discussion of Comments

No informal airspace meeting was held concerning this change. However, to determine whether or not the name change was controversial, a nonrule circular was issued and posted at local airports in the immediate vicinity of Millville. No adverse comments were received to the nonrule circular. Further, because this change is editorial in nature, I find that notice and public procedure for this action is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, October 30, 1980, as follows:

1. Under V-16—In the text, delete, "Millville, N.J.;" and substitute "Cedar Lake, N.J.;" therefor.

2. Under V-184—In the text, delete, "Millville, N.J.;" and substitute "Cedar Lake, N.J.;" therefor.

3. Under V-284—In the text, delete, "INT Sea Isle 008° and Millville, N.J., 150° radials; Millville." and substitute "INT Sea Isle 008° and Cedar Lake, N.J., 150° radials; Cedar Lake." therefor.

4. Under V-467—In the text, delete, "INT Sea Isle 256° and Millville, N.J., 216° radials; Millville; INT Millville 037° and LaGuardia, N.Y., 209° radials;" and substitute "INT Sea Isle 256° and Cedar Lake, N.J., 216° radials; Cedar Lake; INT Cedar Lake 037° and LaGuardia, N.Y., 209° radials;" therefor.

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

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

Issued in Washington, D.C., on August 13, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25286 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 359

Effects of Imported Articles on the National Security

AGENCY: Office of Industrial Moblization, Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979) (Reorg. Plan) transferred to the Secretary of Commerce (the Secretary) the functions performed previously by the Secretary of the Treasury pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C 1862) (the Act). Executive Order 12188 of January 2, 1980 (45 FR 989, January 4, 1980) (E.O. 12188), established January 2, 1980, as the effective date of this transfer. Under Section 232 of the Act, the Secretary now has the responsibility to commence and conduct an investigation to determine the effect on the national security of the imports of any article. This will enable the Secretary to make a report to the President recommending action or inaction regardng an adjustment of the imports of the article. These regulations prescribe the procedures to be followed for such an investigation.

DATES: These rules are effective August 21, 1980 and may be revised in light of any comments received. Comments must be received by the Department before noon, October 20, 1980.

ADDRESS: Written comment (6 copies when possible) should be sent to Room 4104, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Oral communications or requests for further information concerning these interim rules should be directed to John A. Richards, Deputy Director, Office of Industrial Mobilization, (202) 377-3695.

SUPPLEMENTARY INFORMATION: The regulations of this Part, implementing Section 232 of the Act, prescribe the procedures to be followed by the Department of Commerce to commence and conduct an investigation to determine the effect on the national security of the imports of any article. Prior to January 2, 1980, this function was performed by the Secretary of the Treasury pursuant to regulations promulgated in 31 CFR Part 9. E.O. 12188 implemented Section 5(a) of the Reorg. Plan transferring this duty to the Secretary as of January 2, 1980.

These regulations are similar in content to the Treasury Department's regulations. They include rules for: the initiation of an investigation; the criteria for determining the effects of imports of the article on the national security; the filing and content of requests and applications for investigations; the conduct of an investigation; the Secretary's report to the President; and the public availability of the record of the investigation and the Secretary's report. Additional provisions to prevent duplicative investigations are included permitting consolidation or rejection of duplicative requests or applications. The provisions for public hearings during an investigation are expanded to permit the highest possible level of public participation.

For investigations initiated and conducted prior to January 2, 1980, the public availability of the record of the investigation and the report to the President will be governed by the applicable regulations in effect at that time.

Because these regulations relate to agency procedures pursuant to Section 232 of the Act, the relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Nevertheless, in the interest of involving the public in the rulemaking process, comments are invited. Comments should be written and may take the form of proposed regulatory language, narrative discussion, or any other appropriate format. If oral comments are received, the Department official receiving such comments will prepare a written memorandum containing the substance of the comments and identifying the individual making the comments, as well as the entity on whose behalf they purport to be made. All such memoranda will be made part of the public record. All comments will be evaluated and acted upon in the same manner as if these regulations were proposed rules. Until such time as any further changes are made, 15 CFR Part 359, as set forth below, shall remain in effect.

The period for submission of comments will close at noon, October 20, 1980. No comments received after the close of the comment period will be accepted or considered by the Department. Written public comments which are accompanied by a request that part or all of the material be treated confidentially will not be accepted. Such comments and materials will be returned to the submitter and will not be considered. All comments that are considered will be a matter of public record.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. Information pertaining to the inspection and copying of records at the facility may be obtained from Ms. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

It has been determined that these regulations are "not significant" within the meaning of Section 4.04 of Department of Commerce Administrative Order 218-7 and International Trade Administration Administrative Instructions 1-6 (44 FR 2082 et seq., January 9, 1979), which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

These regulations will be republished if any revisions are made after public comments have been considered.

Accordingly, a new Part 359 to Chapter III of Title 15, Code of Federal Regulations, is established to read as follows:

PART 359—EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Sec.

359.1 Definitions.
359.2 Purpose.
359.3 Commencing and investigation.
359.4 Criteria for determining effects of imports on the national security.
359.5 Request or application for an investigation.
359.6 Confidential information.
359.7 Conduct of an investigation.
359.8 Public hearings.
359.9 Emergency action.
359.10 Report of an investigation and recommendation.

Authority: Sec. 232 Trade Expansion Act of 1962, as amended (Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1993, 19 U.S.C. 1862); Reorg. Plan No. 3 of 1979 (44 FR 69273, December 3, 1979); Exec. Ord. 12188 of January 2, 1980 (45 FR 989, January 4, 1980); Dept. of Commerce Org. Ord. No. 10-3 (45 FR 6141, Jan. 25, 1980); and International Trade Administration Organization and Function Order No. 41-1 (45 FR 11862, Feb. 22, 1980).

§ 359.1 Definitions.

As used in this Part:

"Department" means the United States Department of Commerce and includes the Secretary of Commerce and the Secretary's designees.

"Secretary" means the Secretary of Commerce or the Secretary's designees.

"Applicant" means the person or entity submitting a request or application for an investigation pursuant to this Part.

§ 359.2 Purpose.

These regulations set forth the procedures by which the Department shall commence and conduct an investigation to determine the effect on the national security of the imports of any article. Based on this investigation, the Secretary shall make a report and recommendation to the President for action or inaction regarding an adjustment of the imports of the article.

§ 359.3 Commencing an investigation.

Upon request of the head of any other government department or agency, upon application of an interested party, or upon motion of the Secretary, the Department shall immediately conduct an investigation to determine the effect on the national security of the imports of any article.

§ 359.4 Criteria for determining effects of imports on the national security.

(a) To determine the effect on the national security of the imports of the article under investigation, the Department shall consider the quantity of the article in question or other circumstances related to its import. With regard for the requirements of national security, the Department shall also consider the following:

(1) Domestic production needed for projected national defense requirements;

(2) The capacity of domestic industries to meet projected national defense requirements;

(3) The existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense;

(4) The growth requirements of domestic industries to meet national defense requirements and the supplies and services including the investment, exploration and development necessary to assure such growth; and

(5) Any other relevant factors.

(b) In recognition of the close relation between the strength of our national economy and the capacity of the United States to meet national security

requirements, the Department shall also, with regard for the quantity, availability, character and uses of the imported article under investigation, consider the following:

(1) The impact of foreign competition on the economic welfare of any domestic industry essential to our national security;

(2) The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; and

(3) Any other relevant factors that are causing or will cause a weakening of our national economy.

§ 359.5 Request or application for an investigation.

(a) A request or application for an investigation shall be in writing. The original and 12 copies shall be filed with the Director, Office of Industrial Mobilization, Room 4104, U.S. Department of Commerce, Washington, D.C. 20230.

(b) When a request, application or motion is under investigation, or when an investigation has been completed pursuant to § 359.10 of this Part, any subsequently filed request or application concerning imports of the same or related article that does not raise new or different issues may be either consolidated with the investigation in progress as provided in § 359.7(e) of this Part, or rejected. In either event, an explanation for taking such action shall be promptly given to the applicant. If the request or application is rejected, it will not be returned unless requested by the applicant.

(c) Requests or applications shall describe how the quantity, availability, character, and uses of a particular imported article, or other circumstances related to its import, effect the national security, and shall contain the following information to the fullest extent possible:

(1) Identification of the applicant;

(2) A precise description of the article;

(3) Description of the domestic industry affected, including pertinent information regarding companies and their plants, locations, capacity and current output of the industry;

(4) Pertinent statistics on imports and domestic production showing the quantities and values of the article;

(5) Nature, sources, and degree of the competition created by imports of the article;

(6) The effect that imports of the article may have upon the restoration of domestic production capacity in the event of national emergency;

(7) Employment and special skills involved in the domestic production of the article;

(8) Extent to which the national economy, employment, investment, specialized skills, and productive capacity is or will be adversely affected;

(9) Revenues of Federal, State, or local Governments which are or may be adversely affected;

(10) National security supporting uses of the article including data on applicable contracts or sub-contracts, both past and current; and

(11) Any other information or advice relevant and material to the subject matter of the investigation.

(d) Statistical material presented should be, if possible, on a calendar-year basis for sufficient periods of time to indicate trends. Monthly or quarterly data for the latest complete years should be included as well as any other breakdowns which may be pertinent to show seasonal or short-term factors.

§ 359.6 Confidential information.

(a) Any information or material which the applicant or any other party desires to submit in confidence at any stage of the investigation that would disclose national security classified information or business confidential information (trade secrets, commercial or financial information, or any other information considered sensitive or privileged), shall be submitted on separate sheets with the clear legend "National Security Classified" or "Business Confidential," as appropriate, marked at the top of each sheet. Any information or material submitted that is identified as national security classified must be accompanied at the time of filing by a statement indicating the degree of classification, the authority for the classification, and the identity of the classifying entity. By submitting information or material identified as business confidential, the applicant or other party represents that the information is exempted from public disclosure, either by the Freedom of Information Act (5 U.S.C. 552 et seq.) or by some other specific statutory exemption. Any request for business confidential treatment must be accompanied at the time of filing by a statement justifying non-disclosure and referring to the specific legal authority claimed.

(b) The Department may refuse to accept as business confidential any information or material it considers not intended to be protected under the legal authority claimed by the applicant, or under other applicable legal authority. Any such information or material so refused shall be promptly returned to the submitter and will not be considered. However, such information or material may be resubmitted as non-confidential in which case it will be made part of the public record.

§ 359.7 Conduct of an investigation.

(a) If the Department determines that it is appropriate to afford interested parties an opportunity to present information and advice relevant and material to an investigation, a public notice shall be published in the Federal Register soliciting from any interested party written comments, opinions, data, information or advice relative to the investigation. This material shall be submitted as directed within a reasonable time period to be specified in the notice. All material shall be submitted with 6 copies. In addition, public hearings may be held pursuant to § 359.8 of this part.

(b) All request and applications filed and all material submitted by interested parties, except information or material that is classified or determined to be confidential as provided in § 359.6 of this part, will be available for public inspection and copying in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Further information may be requested by the Department from other sources through the use of questionnaires, correspondence, or other appropriate means.

(d) The Department shall, as part of an investigation, seek information and advice from, and consult with, the Secretary of Defense and any other appropriate officers of the United States or their designees, as shall be determined. The Department may also seek assistance in the conduct of an investigation from other agencies of the United States, as shall be necessary.

(e) Any request or application that is filed while an investigation is in progress, concerning imports of the same or related article and raising similar issues, may be consolidated with the request, application or motion that initiated the investigation.

§ 359.8 Public hearings.

(a) If it is deemed appropriate by the Department, public hearings may be held to elicit further information.

(1) A notice of hearing shall be published in the Federal Register describing the date, time, place, the subject matter of each hearing and any other information relevant to the conduct of the hearing. The name of a person to contact for additional information or to request time to speak

at the hearing shall also be included. Public hearings may be held in more than one location.

(2) Hearings shall be open to the public unless national security classified information will be presented. In that event the presiding officer at the hearing shall close the hearing, as necessary, to all persons not having appropriate security clearances or not otherwise authorized to have access to such information. If it is known in sufficient time prior to the hearing that national security classified information will be presented, the notice of hearing published in the Federal Register shall state that national security classified information will be presented and that the hearing will be open only to those persons having appropriate security clearances or otherwise specifically authorized to have access to such information.

(b) Hearings shall be conducted as follows:

(1) The Department shall appoint the presiding officer:

(2) The presiding officer shall determine all procedural matters during the hearing;

(3) Interested parties may appear, either in person or by representation, and produce oral or written information relevant and material to the subject matter of the investigation;

(4) Hearings will be fact-finding proceedings without formal pleadings or adverse parties. Formal rules of evidence will not apply;

(5) After a witness has testified, the presiding officer may question the witness. Questions submitted to the presiding officer in writing by any interested party may, at the discretion of the presiding officer, be posed to the witness. No cross examination of any witness by a party shall be allowed.

(6) Each hearing will be stenographically reported. Transcripts of the hearing, excluding any national security classified information, may be purchased from the Department at actual cost of duplication, and will be available for public inspection in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

§ 359.9 Emergency action.

In emergency situations, or when in the judgment of the Department, national security interests require it, the Department may vary or dispense with any or all of the procedures set forth in § 359.7 of this part.

§ 359.10 Report of an investigation and recommendation.

(a) When an investigation conducted pursuant to this Part is completed, a report of the investigation shall be promptly prepared. The report shall be organized in several sections, if necessary. One section shall contain all information and material that is not classified or confidential as provided in § 359.6 of this part. Another Section shall contain all national security classified information and material. A third section shall contain all business confidential information and material.

(b) The Secretary shall report to the President the findings of the investigation and a recommendation for action or inaction within one year after receiving a request or application or otherwise beginning an investigation pursuant to this Part.

(c) The report, excluding the sections containing national security classified and business confidential information and material, shall be published in the Federal Register upon the disposition of each request, application, or motion made pursuant to this Part. Copies of the published report will then be available for public inspection and copying in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Issued in Washington, D.C. on August 15, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25502 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79-29, Order 84-B]

Clarification and Extension of Date of Rule on Limitation on Percentage Adders in Electric Rates for Transmission Services

August 11, 1980

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order clarifying and granting extension for compliance with Final Rule.

SUMMARY: The Federal Energy Regulatory Commission hereby clarifies its final rule relating to the limitation for percentage adders in electric rates for transmission services and grants an extension to utilities to file in compliance with the final rule to September 1, 1980. The extension is granted in response to requests of utility companies.

DATE: The date for filings in compliance with Order No. 84 is extended to September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cackowski, Deputy Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (202) 376-9229.

SUPPLEMENTARY INFORMATION:

Amendment to Part 35 of The Regulations Under the Federal Power Act; Limits for Percentage Adders in Electric Rates for Transmission Services, Docket No. RM79-29, Order 84-B, Order Further Clarifying Rule and Granting Extension of Compliance Date.

Representatives of a number of utilities have raised with our staff the questions of interpretation of Order Nos. 84 (45 FR 31294, May 13, 1980) and 84-A (45 FR 47841, July 17, 1980). The question is of sufficient importance that we deem it appropriate to clarify the matter *sua sponte.*

The first question presented is whether the limit on percentage adders as applied to purchased power costs applies (a) only when a multi-party transaction is contemplated by all the parties from the beginning, *i.e.* when the arrangement between the utility transmitting the power (but applying a sales rate schedule rather than a transmission rate schedule) and the ultimately purchasing system explicitly recognizes that the transmitting system will be buying the power from another utility and applying a percentage adder to the cost of the purchased power; or (b) to *any* transaction where purchased power costs make up all or part of the incremental energy cost to which a percentage adder is applied when the power is resold. The correct answer is (b).

The fundamental basis for the Commission's adoption of Order 84 was that the claimed cost justification for uncapped percentage adders consisted of certain difficult-to-quantify costs incurred by the seller in generating the power for interchange; and that these difficult-to-quantify costs of generation were not incurred by systems that were not, in fact, generating the power they were selling. This proposition applies in equal degree whether or not the system ultimately purchasing the power expected from the beginning that the power is purchased would be generated by a system other than the immediate

seller. Thus, the rule applies to *any* transaction where and to the extent that the base of incremental costs to which a percentage adder is applied consists of purchased power costs.

A related question has arisen as to how purchasing and reselling systems will know whether a percentage adder is capped for a particular transaction where the purchase and resale were not scheduled together. The answer is that when the reselling system figures out its bill and finds that purchased power costs comprise part or all of the incremental costs being billed to the buyer, then the rule applies.

The second question deals with whether the limit on percentage adders applies in a particular set of circumstances involving centrally dispatched pools to entities outside the pool where the rate schedule under which the sale takes place is a rate schedule of an individual member of the pool rather than the pool as a whole. The question arises in connection with the first two words of the definition of the term "purchased power price" as stated in § 35.23 of the Commission's rules and regulations which section was adopted by Order 84. The definition states that this term means the amount paid by a utility or system that performs a transmission or purchase and resale function for electric power generated by another utility or system. In the case of a sale by one member of a centrally and economically-dispatched power pool to an entity outside the pool, at a price based in whole or in part on the pool incremental running cost plus a percentage of that cost, the question is whether "electric power generated by another utility or system" includes the energy sold but not generated by the selling member. The answer is in the negative. In such circumstances none of the energy sold would fall within the § 35.23(b) definition of purchased power since the sale is in essence a sale by the entire pool although in a manner governed by the pool agreement.

The essential test here is whether the incremental cost to which the selling system applies the percentage adder consists solely of the generating utility's (and the pool's) incremental cost. If so, then it would be a triumph of form over substance (with unfortunate and unintended effects on interchange transactions) to deny the generating system the rate to which it would be entitled if it made the sale in its own name rather than the name of another pool member. On the other hand, if the base to which the selling utility would apply a percentage adder includes some charge from the generating utility above the generating utility's incremental cost (such as split savings or a percentage adder applied by the generator), then the rule and the cap apply.

The Requests for Extension of Time

A number of utilities have requested extensions of time to comply with Order 84, which requires compliance by August 11, 1980. In order to permit additional negotiations and to allow billing on a calendar month basis, we shall grant an extension of time for filings in compliance with Order No. 84, until September 1, 1980. Upon a showing of good cause, the Secretary of the Commission may grant individual requests for extensions of time for filing beyond that date, but the effective date of any late filed compliance rates should be no later than September 1, 1980.

The Commission orders: (A) The date for filings in compliance with Order No. 84 is hereby extended to September 1, 1980.

(B) The effective date of any compliance filings for which an extension is granted by the Secretary shall be no later than September 1, 1980.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25518 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 7H5156/T60; FRL 1579-6]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Profenofos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a feed additive regulation related to the experimental use of the pesticide profenofos in or on cottonseed hulls and soapstock. The extension was requested by Ciba-Geigy Corp. This rule will permit the marketing of cottonseed hulls and soapstock while further data are collected on the subject pesticide.

EFFECTIVE DATE: Effective on August 21, 1980.

ADDRESS: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-343, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller (202-426-9458) at the above address.

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the Federal Register of August 22, 1979 (44 FR 49249) that a temporary feed additive regulation had been issued to Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro, NC 27409. This regulation established a temporary tolerance for residues of the insecticide profenofos (*O*-(4-bromo-2-chlorophenyl)-*O*-ethyl *S*-propyl phosphorothicate) and its metabolites converted to 4-bromo-2-chlorophenol (calculated as the parent compound) in cottonseed hulls at 6 parts per million (ppm) and soapstock at 15 ppm resulting from application of the insecticide to growing cotton in a proposed experimental program in accordance with an experimental use permit that was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136). This experimental program will expire August 16, 1980.

Ciba-Geigy Corp. has requested an extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the insecticide profenofos to cottonseed hulls and soapstock.

The scientific data reported and other material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued under FIFRA. A related document concerning the extension of temporary tolerances for residues of the subject pesticide in or on the raw agricultural commodities cottonseed; eggs; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in this issue of the Federal Register. Accordingly, a feed additive regulation is extended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708, (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for

the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

EFFECTIVE DATE: August 21, 1980.

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1)))

Dated: August 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

§ 561.53 [Amended]

Therefore, 21 CFR 561 is amended by changing the date in the last line of paragraph (a) in § 561.53 from "August 16, 1980" to "October 16, 1980".

[FR Doc. 80-25500 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF STATE

22 CFR Part 2

[Departmental Reg. 108.792]

Protection of Foreign Dignitaries and Other Official Personnel; Revision

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This revision substitutes the Chief of Protocol for the Deputy Under Secretary for Management as the Department of State officer authorized to designate official guests within the meaning of 18 U.S.C. 112.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Horace F. Shamwell, Jr., Deputy Assistant Legal Adviser for Management, Office of the Legal Adviser, Department of State, Washington, D.C. 20520, (202) 632-0768.

SUPPLEMENTARY INFORMATION: The Act for the Prevention and Punishment of Crimes against Internationally Protected Persons, Pub. L. 94-467, 18 U.S.C. 112, provides for the designation by the Secretary of State of "official guests" of the United States. The current rule contained in section 2.4 of 22 CFR delegates that authority to Deputy Under Secretary of State for Management [current title Under Secretary of State for Management] through the Deputy Secretary. This revision of the rule substitutes the Chief of Protocol for the Deputy Under Secretary for Management.

Since this revision relates solely to a matter of internal management, compliance with the requirements relating to proposed rulemaking and delayed effective date under 5 U.S.C. 553 is not necessary. Accordingly, § 2.4 is revised to read as follows:

§ 2.4. Designation of official guests.

The Chief of Protocol shall also maintain a roster of persons designated by the Secretary of State as official guests. Any inquiries by law enforcement officers or other persons as to whether a person has been so designated shall be directed to the Chief of Protocol. The designation of a person as an official guest is final. Pursuant to section 2658 of Title 22 of the U.S.C., the authority of the Secretary of State to perform the function of designation of official guests is hereby delegated to the Chief of Protocol.

(22 U.S.C. 2658)

Dated: August 6, 1980.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 80-25613 Filed 8-20-80; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR 657 and 658

Certification of Size and Weight Enforcement

Correction

In FR Doc. 80-23879, appearing at page 52365, in the issue of Thursday, August 7, 1980, please make the following correction:

On page 52367, the third column, the first paragraph, line 17 now reading "improved plan * * *" should read "approved plan * * *".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Pilot Program for Use of Community-Based Treatment Facilities for Treatment of Alcohol and Drug Dependence

AGENCY: Veterans Administration.

ACTION: Interim final regulations.

SUMMARY: The "Veterans Health Care Amendment Act of 1979" authorizes the Veterans Administration to conduct a 5-year pilot program for care and treatment and rehabilitation services on a contract basis in halfway houses, therapeutic communities, psychiatric residential treatment centers and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Contractors will be required to meet quality and effectiveness standards established by the Veterans Administration before they can be authorized to provide services. This rule making will establish interim regulations and provide authority for furnishing treatment and rehabilitation service for alcohol and drug dependence or abuse disabilities in a residential or live-in arrangement under contractual arrangement with halfway houses and other similar residential treatment centers.

DATES: The effective date is April 28, 1980. Comments must be received on or before September 19, 1980.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A). Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Olson, Chief, Program Development Division, Mental Health and Behavioral Sciences Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202) 389-3513.

SUPPLEMENTARY INFORMATION: The following additional information describes the new benefits as they relate to existing entitlement in title 38, United States Code. The purpose of the pilot program is to provide treatment and rehabilitation to veterans, suffering from alcohol or drug dependence or abuse, in a community-based peer-group oriented residential facility which provides food, lodging and supportive services in a drug and alcohol free environment for persons involved in a recovery process. When referred by a VA physician, veterans who have completed detoxification or other hospital level treatment for alcohol or drug dependence or abuse, may be furnished treatment and rehabilitation through halfway house care.

Such community-based care is intended to provide opportunities for immediate learning and development of

responsible living, and support for the individual desire for sobriety (alcohol/drug abuse free life style). Such care should also permit the patient to understand the illness/recovery process, to upgrade skills and to improve personal relationships. Community halfway house care will not be used as an emergency boarding facility nor as a way-station for veterans headed for domiciliary placement or hospitalization. Candidates for halfway house placement under the pilot program will be patients who have been discharged from hospital care but require transitional residential assistance to permit integration into the community. Such a placement would permit the patient to gain additional time and support in order to become self supportive. Beneficiaries might include veterans with an unsatisfactory home environment who require additional time to stabilize the changes made in inpatient care before living autonomously and semi-stable individuals who need a brief inpatient stay and require a therapeutic milieu. The new authority for the establishment of the pilot program for use of community-based treatment facilities for treatment of Alcohol and Drug Dependence is found in Section 620A, Title 38, United States Code. Compliance with the provisions of Section 1.12 of Title 38, CFR which requires publication of proposed regulations prior to final adoption is waived in this instance.

Publication of these regulations in proposed form would not be in the public interest because adherence to this procedure would unduly delay the implementation of liberalizing legislation. Delay in its implementation would also compromise the purpose of this pilot program, which is intended to demonstrate any medical advantages and cost effectiveness that may result from furnishing veterans suffering from alcohol or drug dependence or abuse with treatment and rehabilitation services in community-based treatment facilities. Public Law 96–22 requires the Administrator to report to congressional committees by March 31, 1983, on the findings and recommendations regarding the operation of this program through September 30, 1982. In addition, we have determined that under Executive Order 12044 (43 FR 12661) and VA Final Report implementing Executive Order 12044 published in the Federal Register (44 FR 7026) these regulations are nonsignificant. These interim final regulations are being adopted under the authority granted the Administrator by sections 210(c) and 620A of Title 38, United States Code.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding the interim regulations to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

All material received will be considered, and appropriate regulatory revisions will be published. These regulations, however, shall remain effective until further amended. 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 September 29, 1980. Any person visiting Veterans Administration Central Office for the purpose of inspecting any such comments will be received by Central Office Veterans Services Unit in room 132. Such visitors to any field stations will be informed that the records are available for inspection only in Central Office and furnished the above address and room number.

Approved: August 14, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

Section 17.960 is added to 38 CFR Part 17 to read as follows:

§ 17.960 Pilot Program; Use of Community (Contract) Halfway Houses, Therapeutic Communities, Psychiatric Residential Treatment Centers and Other Community-Based Treatment Facilities for Eligible Veterans Suffering from Alcohol and Drug Dependence.

(a) *Definition.* (1) A community halfway house (HWH) for alcohol and/or drug dependence treatment, is defined as a community-based, peer-group oriented, residential facility which provides food, lodging and supportive services in a non-drinking environment for persons involved in a recovery process (or some similar definition which is generic). Licensing requirements vary considerably from state to state and HWHs may be found which are licensed as boarding homes, board and care facilities, intermediate care facilities, and, most desirable, as halfway houses per se. Attention is invited to the discussion of standards for Halfway House Alcoholism Programs, published by the Association of HWH Alcoholism Programs of North America (Address: 786 E. 11th Street, St. Paul, Minnesota 55106).

(2) It is anticipated that about twenty (20) contracts will be established in fiscal year 1980. It is further anticipated that each contract will provide assurance for approximately eighty (80) placements per contract year and that placements will provide for an expected length of stay of sixty days. Selection and approval of contract proposals will be based on the need to obtain data on both urban and rural geographic parameters, and on a number of associated logistical factors of importance. Those medical centers that have specialized Alcohol or Drug Dependence Treatment Programs which are located in or near communities possessing halfway house resources are encouraged to submit contract proposals.

Responsibilities. (1) Medical Center Directors are responsible for designating the appropriate individuals to serve as members of the contracting officer's negotiating team and to develop proposed contracts. They also are responsible for assuring appropriate clinical/administrative participation in the selection and placement of patients, issuing authorizations and processing invoices, inspecting HWHs and coordinating the follow-up of patients. The medical center contracting officer is responsible for negotiating and consummating contracts with HWHs. Copies of negotiated new, amended or canceled contracts will be furnished to the Regional Director and to the appropriate clinic of jurisdiction. A contract format is being developed and will be distributed in Calendar Year 1980. Any contracts required to be negotiated prior to that distribution will be accomplished as a service contract on SF–33 and include all requirements contained in this regulation.

(2) The Regional Director is responsible for maintaining a current file of all contracts within the Region. This file will serve as a regional resource file as to the location and the terms of the contracts for inquiries from other interested facilities. Contract costs are to be charged to DM&S Cost Center 8361 "Alcohol and Drug Treatment and Rehabilitation".

(3) Referral for medical follow-up may be made to another VA medical center or to a Veterans Administration outpatient clinic when the distance between the placing medical center and the HWH or other compelling circumstances would make follow-up by the authorizing medical center impracticable. When two or more facilities place patients in the same halfway house, follow-up services may be exchanged by mutual agreement.

(4) Contracts will be sought with HWHs which meet the standards and desire to furnish care to VA patients.

Appropriate medical center personnel will advise the Medical Center Director of suitable HWHs known to them. Every effort will be made to secure contracts to include within the per diem rate in addition to room and meals, the cost of routine medical care, and other necessary services as described in the contract. If this is not possible, it will be necessary for the contract to specify those services and supplies which are not included in the per diem rate.

(c) *Additional VA Minimum Standards.* Standards are to reflect the provision of residential, nutritional, limited health-related services, and social rehabilitation with support and guidance toward the goal of independent living. Since Federal Standards for such facilities are minimal and broadly defined, the facility must meet the following additional VA standards:

(1) The HWH conforms to the standards of the Life Safety Code (National Fire Protection Association #101) in effect on the date of the award of the contract, conforms to the fire and safety code imposed by the State law, which adequately protects residents in HWHs, and meets all city, state, and Federal requirements concerning licensing and health codes. In all cases, the VA requires a level of safety which conforms to NFPA 101. All contract facilities must be licensed under state or Federal authority.

(2) Accreditation and licensing by the State. Accreditation by the Joint Commission on Accreditation of Hospitals is evidence of internal quality assurance mechanisms and is desirable, but is not required.

(3) The notification and contract clause entitled "Privacy Act" as specified in Federal Procurement Regulations 1-1.327 shall be incorporated into this contract by the contracting officer, as will references to 38 U.S.C. 4132, "Confidentiality of Certain Medical Records", and 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records".

(4) Basic Services will Ordinarily Include: (i) A supervised, alcohol and drug free environment, including active affiliation with Alcoholics Anonymous (AA) programs. The facility will be staffed on a 24-hour basis, and have at least one live-in staff member.

(ii) Board and room.

(iii) Laundry facilities for residents to do their own laundry.

(iv) Structured activities: resident participation in group sessions will depend upon resident preference and Alcohol Dependence Treatment Program/Drug Dependence Treatment Program-HWH staff recommendations.

(v) A variety of group activities, including physical activities as appropriate.

(vi) Health and personal hygiene maintenance.

(vii) Monitoring of medications.

(viii) Supportive Social Service.

(ix) Individual counseling as required (with special emphasis on vocational rehabilitation counseling, in collaboration with VA program resources).

(5) Records and Reports: An individual client record will be maintained on each veteran admitted under this contract, which will include, in addition to reasons for referral:

(i) All essential identifying data relevant to the resident and his/her family including a sociocultural assessment.

(ii) Data relating to the resident's admission.

(iii) Copies of any medical prescriptions issued by physicians, including orders, if any, for medications to be taken.

(iv) Reports of periodic re-evaluation by halfway house staff.

(v) Final summaries on each resident who leaves the program, to include reason for leaving, the resident's future plans, and follow-up locator information.

(vi) Individual case records will be maintained in confidence as required by 38 U.S.C. 4132, "Confidentiality of Certain Medical Records" and 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records". Records will be accessible to the VA's ADTP or DDTP staff, and such data will materially contribute to the evaluation study required by Congress.

(vii) Periodic reports will be provided to the VA (i.e., fiscal accountability) as required.

(6) *Staffing:* Sufficient staff in numbers and position qualifications to carry out the policies, responsibilities, and programs of the facility. As a minimum, there must be a full-time administrative staff member or his/her staff designee on duty on the premises or residing at the house and available for emergencies 24 hours a day, 7 days a week. Inspection teams are expected to evaluate the contractor's ability to consistently assure the presence of staff capable of providing those services required under the terms of the contract.

(d) *Scope of Care:* The care provided is to include:

(1) Opportunities for immediate learning/development of responsible living.

(2) Support for the individual desire for sobriety (alcohol/drug abuse-free life style).

(3) Opportunities for learning, testing, and internalizing knowledge of illness/recovery process, and to up-grade skills and improve personal relationships.

(e) *Pre-Contract Assessment.* A multidisciplinary VA team consisting at a minimum of a physician, a social worker, psychologist, or nurse, and an engineering service safety office will conduct an assessment of the home prior to the award of a contract. Programs to be utilized will be restricted to community-based peer-group oriented, residential facilities that provide food, shelter, and service in a supportive, non-alcohol drinking/non-drug abusing environment (abstinence). The Safety Officer will inspect the facility for conformity to the current Life Safety Code and submit the findings to the chairperson of the team. The other members of the team will focus on an assessment of the quality of care provided by the facility and the quality of life within the facility, giving particular attention to the following critical indicators:

(1) General observation of residents indicates that they maintain an acceptable level of personal hygiene and grooming.

(2) The facility meets applicable fire, safety and sanitation standards in attractive surroundings conducive to social interaction and the fullest development of the resident's rehabilitative potential. It is preferably in a central urban location, near public transportation, and not too far from areas which provide employment.

(3) Appropriate organized activity programs during waking hours (including evenings) reflect a high level of activity in the facility.

(4) Appetizing, nutritionally adequate meals are provided in a setting which encourages social interaction and nutritious snacks for between meals and bedtime are available for those requiring or desiring additional food, when it is not medically contraindicated. The addition of nutritious snacks to requirements for board is important for alcohol or drug dependent patients. Many of these patients are either undernourished or have developed poor eating habits because of their addiction. The local VA dietitian may consult with the initial inspection team and the team making subsequent assessments, in evaluating not only the printed menus but the patients' satisfaction with meals and actual consumption of food offered.

(5) Staff behavior and interaction with residents convey a genuine attitude of concern and caring.

(6) Treatment and discharge planning reflect a team assessment of health and social and vocational needs and the

involvement of residents' families and appropriate community resources in resolving problems and setting goals.

(7) The facility demonstrates a commitment to constant upgrading of knowledge and skills of staff through provision of documented training programs which respond directly to the resident's treatment needs.

(8) There is evidence of facility-community interaction. This may be demonstrated by the nature of scheduled activities, by information about resident flow out of the facility, e.g., family, volunteers, local consumer services, etc.

(9) There is documented evidence of the facility's commitment to the implementation of the Patient's Bill of Rights.

(10) If urine screening is required or other procedures, there shall be data developed to measure which hospital based services are required.

(11) The report of Pre-Contract Survey, with recommendations, will be submitted to Central Office for review and approval (Attn: 10B/116A3) prior to awarding a contract. Funding will be made available subsequent to VACO approval of proposed contract.

(12) Preliminary to making each inspection of facility and survey of patient care, the team leader (who will usually be a physician assigned to the program) will:

(i) Contact the person in charge of the HWH to arrange date and time of inspection.

(ii) Review report of most recent previous inspection, if any, and discuss with the Chief of Medical Administration, hospital contracting officer and the Chief, Social Work Service, any problems or irregularities which they may have encountered in dealing with the HWH.

(iii) Review terms of existing agreement.

(13) A formal report of each inspection will be prepared and forwarded to the medical center contracting officer. In accordance with normal contract administrative practices, the following actions can be expected to ensue:

(i) The HWH will be advised of the findings of the inspection team.

(ii) In the event deficiencies have been noted, the HWH will be given a reasonable time to take corrective action and to notify the contracting officer that the corrections have been made.

(iii) If satisfactory corrections are not made in a reasonable time, the contracting officer will consult with the concerned officials so that suitable arrangements can be made to discharge or transfer patients and terminate the contract.

(iv) The original copy of the report and pertinent correspondence will be filed in the contract file. Copies of all new, amended or terminated contracts will be sent to the appropriate clinic of jurisdiction and Regional Medical Director.

(14) Contracts will not be initiated until noted deficiencies have been eliminated.

(15) Any unsatisfactory conditions noted during a follow-up visit to a HWH will be reported in writing to the contracting officer through the Medical Center Director.

(16) All HWHs, as a part of the contract, have agreed and warranted that they do not maintain nor provide dual or segregated patient facilities on the basis of race, creed, color or national origin. As a part of each inspection, special attention will be given to evaluating compliance by the HWH with this requirement. If, during the course of the inspection, an unresolved discrimination complaint arises or maintenance of segregated facilities has been observed, a report will be forwarded to the appropriate regional director (10BA-). The report will contain pertinent facts and observations with a description of action taken to correct the situation. A copy of the report will be given to the contracting officer.

(f) *Subsequent assessments.* Subsequent assessment of the facility must be made at least every two years by a multidisciplinary team including such hospital personnel as the Director considers necessary to assure that the facility provides quality care in a safe environment.

(g) *Guidelines for Selection for Post-Hospital Referral.* It should be emphasized that this program is limited to out-placement of eligible veterns who have recently completed detoxification or other hospital level treatment. The program is not intended for use as an emergency boarding house, nor as a way-station for veterans headed for domiciliary placement, nor for treatment prior to hospitalization or rehospitalization. Technical (clinical) guidance, patient selection, and associated coordination will be provided by the Office of the Chief, ADTP, or DDTP, at the contracting VA medical center. Selection will include:

(1) Patients capable of self-preservation. In an emergency situation, the patient should have sufficient capacity to recognize physical danger, sufficient judgment to recognize when such danger requires immediate egress from a group residence, sufficient capacity to follow a prescribed route of egress, and sufficient physical mobility to accomplish such egress;

(2) Patients who, for various reasons, need a slower integration into the community, perhaps requiring a low-skilled job and some help finding a room with cooking privileges;

(3) Alcohol or drug abusing veterans who, because of health problems, may find readjustment to "street life" tough going, and who may need additional time and support in order to be self-supportive;

(4) The alcohol or drug dependent veteran who has an unsatisfactory home environment may need more time to stabilize the changes made in the inpatient unit, before living autonomously;

(5) The semi-stable individual who has a lot of ego strength and some environmental support, but due to crisis, needs a brief inpatient stay and requires a therapeutic milieu.

(h) *Per Diem Rates and Census.* To the degree that any savings are generated by lower per diem rates, census may be adjusted to accommodate placement of additional veterans so long as facilities remain within their dollar allocation. Length of stay at VA cost will be limited to 60 days, unless in exceptional cases a waiver of up to 30 additional days is authorized by the medical center Chief of Staff on the recommendation of appropriate clinical official subject to availability of funds as determined by Fiscal Service. Additional contract funds will not be allocated for placement of veterans at this level of care for post-hospital treatment of alcohol or drug dependence beyond the 90th day.

(i) *Other Instructions.* (1) Contracting facilities must certify willingness to make available to the VA documented information as deemed necessary to conduct utilization review audits, to verify quality of patient care for veterans, to assure confidentiality of patient record information, and to determine the completeness and accuracy of financial records. It is anticipated that a comprehensive program evaluation study will be implemented at a date to be determined, and will draw part of its data from the contracted facilities.

(2) Assessment of treatment outcome at periodic intervals is expected of all ADTPs and DDTPs. Veterans provided placement in halfway house or similar residential care facilities under this program, will also be included in such follow-up activities as part of the continuing support and involvement of the contracting VA program.

(3) Review of opinions expressed by the Director, National Institute on Alcohol Abuse and Alcoholism, and by the National Association of Halfway House Programs, indicates a cost factor of $17.00 per day for Halfway House Care is a realistic averaged figure for use in estimating costs for contract fee-basis services. Unusual cases requiring higher cost/days may be referred to VACO for review.

(4) Pub. L. 96-22 requires an evaluation report be submitted to the Congress, considering both the treatment and the cost experiences in a comparison with VA-provided care. Such report, covering program operations through September 30, 1982, must be submitted by the Administrator not later than March 31, 1983.

(5) The requirements and mechanism for periodic reporting of program activity are currently under development and will be available to participating field facilities in Calendar Year 1980.

(6) As is noted in the text of the legislative authority, care, treatment and rehabilitative services authorized under Pub. L. 96-22, (38 U.S.C. 620A), may not be provided after the last day of the fifth fiscal year following the fiscal year in which this pilot program is initiated (DM&S Circular 10-80-85).

[FR Doc. 80-25303 Filed 8-20-80; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 36

Allowable Easements for Drainage and Irrigation Purposes—Guaranteed Home and Mobile Home Lot Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations to specify the conditions under which easements for drainage and irrigation purposes will be viewed as acceptable limitations on title. Adoption of these amendments should reduce the paperwork burdens of both lenders and the VA with regard to drainage and irrigation easements.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Veterans Administration, Washington, DC 20420, (202-389-2691).

SUPPLEMENTARY INFORMATION: On page 25411 of the Federal Register of April 15, 1980, there was published a notice of proposed regulatory development to amend §§ 36.4253 and 36.4350 relative to allowable easements for drainage and irrigation purposes.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

These amendments are adopted under authority of sections 210(c), 1803(c), and 1819(g) of title 38, United States Code.

By direction of the Administrator.

Approved: August 13, 1980.

Rufus H. Wilson,
Deputy Administrator.

1. Section 36.4253 is amended as follows:

(a) By deleting the words "his price" and inserting the words "the price" in paragraph (b)(5)(iii).

(b) By revising paragraph (c)(4)(i) as set forth below:

§ 36.4253 Title and lien requirements.

* * * * *

(c) The following limitations on the quantum or quality of the estate or property shall be deemed for the purposes of paragraph (b) of this section to have been taken into account in the appraisal of the mobile home lot and determined by the Administrator as not materially affecting the reasonable value of such property:

* * * * *

(4) *Easements.* (i) Easements for public utilities along one or more of the property lines and easements for drainage or irrigation ditches, provided the exercise of the rights thereof do not interfere with the use of the mobile home or improvements located on the subject property.

* * * * *

2. In § 36.4350, paragraph (c)(4)(i) is revised as follows:

§ 36.4350 Estate of veteran in real property.

* * * * *

(c) The following limitations on the quantum or quality of the estate or property shall be deemed for the purposes of paragraph (b) of this section to have been taken into account in the appraisal of residential property and determined by the Administrator as not materially affecting the reasonable value of such property:

* * * * *

(4) *Easements.* (i) Easements for public utilities along one or more of the property lines and easements for drainage or irrigation ditches, provided the exercise of the rights thereof do not interfere with the use of any of the buildings or improvements located on the subject property.

* * * * *

(38 U.S.C. 210(c), 1803(c), 1819(g))

[FR Doc. 80-25403 Filed 8-20-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1574-7]

District of Columbia Implementation Plan; Approval and Promulgation of Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting FR Doc. 76-53326, published December 6, 1976, concerning the District of Columbia Implementation Plan. This notice corrects an error which appeared in a previous Federal Register notice and does not alter the intent or substance of that rulemaking.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Joanne McKernan, U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8182.

Correction

An amendment to § 52.470 (Identification of Plan) of 40 CFR Subpart J (District of Columbia) which appeared in the December 6, 1976 Federal Register, 41 FR 53326, FR Doc. 76-35728, was inadvertently codified as § 52.470(c)(8). The proper designation of this paragraph should be § 52.470(c)(9). In addition, an amendment to 40 CFR 52.470 which appeared in the May 12, 1976 Federal Register (41 FR 19310) FR Doc. 76-13700, was inadvertently deleted and will be reinstated with its proper designation as (c)(8). Also, amendment (c)(10) has been reserved. This notice serves to make these corrections. Paragraphs (c)(1) through (c)(7), (c)(11) and (c)(12) of 40 CFR 52.470 remain unchanged.

In Section 52.470, paragraphs (c)(8) through (c)(10) should read as follows:

§ 52.470 Identification of plan.

(c) * * *

* * * * *

(8) Section 8-2:709 and Section 8-2:724 are amended to limit particulate emissions to .08 grains per day standard cubic foot at Solid Waste Reduction Center #1 (S.W.R.C. #1) and allow continued operation of S.W.R.C. #1 respectively; submitted July 17, 1975 by the District of Columbia.

(9) Amendments to Sections 8-2:704 and 8-2:705 of the District of Columbia Air Quality Control Regulations submitted on February 25, 1976 by the Mayor.

(10) [Reserved]

(42 U.S.C. 7401-642)

Dated: July 31, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25452 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1579-4; OPP 300020A]

Inert Ingredients in Pesticide Formulations; Tolerances and Exemptions From Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of a tolerance for certain additional inert (or occasionally active) ingredients in pesticide formulations. The regulation was submitted by various firms. This rule permits the use of the exempted inerts in pesticide products.

EFFECTIVE DATE: Effective on August 21, 1980.

ADDRESS: Send comments to: Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, (202/577-3710) at the above address.

SUPPLEMENTARY INFORMATION: On January 10, 1980, the EPA issued a notice that published in the Federal Register (45 FR 2058) of proposed rulemaking to amend 180.1001 by exempting certain pesticide chemicals which are inert (occasionally active) ingredients from tolerance requirements under Section 408(e) of the Federal Food, Drug, and Cosmetic Act. The comments that were received have been incorporated in this regulation. It has been concluded that the amendment will protect the public health and, therefore, the amendment to the regulation should be adopted as set forth below.

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

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: August 12, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore Subpart D of 40 CFR Part 180 is amended by alphabetically inserting new items in the table in paragraph (d), § 180.1001, to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
Corn gluten meal, Hydrolyzed.	———	Attractant.
* * *	* * *	*
Iso-octadecanol	Not more than 2% of pesticide formulation.	Defoaming agent.
* * *	* * *	*
Polyvinylpyrrolidone, butylated.	———	Surfactants, related adjuvants of Surfactants.

[FR Doc. 80-25400 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-1, 1-3

[FPR Amdt. 206]

Small Purchase Set-Asides for Small Business Concerns

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Pub. L. 95-507 amended the Small Business Act and included a requirement in section 221 that "each contract for goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be exclusively reserved for small business concerns." This amendment implements the act, the revised regulations of the Small Business Administration, and Office of Federal Procurement Policy, Policy Letter No. 80-6, July 22, 1980 (45 FR 50493, July 29, 1980). The intended effect of the amendment is to increase the award of small purchases to small business concerns.

EFFECTIVE DATE: September 30, 1980, but may be observed earlier.

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

SUPPLEMENTAL INFORMATION: This amendment also clarifies the treatment to be accorded late proposals when only one proposal is received.

PART 1-1—GENERAL

Subpart 1-1.7—Small Business Concerns

1. Section 1-1.701-1 is amended to revise paragraph (d)(3) to read as follows:

§ 1-1.701-1 Small business concerns (for Government procurement).

* * * * *

(d) * * *

(3) In the case of Government procurement reserved for or involving the preferential treatment of small business concerns (including equal low bids), such nonmanufacturer shall furnish in the performance of the contract the products of a small business manufacturer or producer which products are manufactured or produced in the United States. However, if the procurement has an anticipated value of less than $10,000 and is subject to, and is procured under, the "small purchase procedures" (see Subpart 1-

3.6), a nonmanufacturer may furnish any domestically produced or manufactured product. Subject to the foregoing, if the goods to be furnished are woolen, worsted, knitwear, duck and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been furnished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but excluding mercerizing, spinning, throwing, or twisting operations.") If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classification Industries No. 2951, Paving mixtures and blocks, No. 2952, Asphalt felts and coatings, No. 2992, Lubricating oils and greases, or No. 2999, Products of petroleum and coal, not elsewhere classified, paragraph (i) of this section is for application. ("Nonmanufacturer" means any concern which in connection with a specific Government procurement contract, other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement, but does not do so in connection with that procurement.)

* * * * *

2. Section 1-1.702 is amended by revising paragraph (b)(13) as follows:

§ 1-1.702 Small business policies.

* * * * *

(b) * * *

(13) Small purchases shall be set-aside for small business concerns.

* * * * *

3. Section 1-1.706-1 is amended by adding paragraph (g) to read as follows:

§ 1-1.706-1 General.

* * * * *

(g) *Small purchases.* Small purchases; i.e., purchases under $10,000 subject to small purchase procedures, shall be identified as small business-small purchase set-asides for small business concerns as provided in §§ 1-3.602 and 1-3.603-3.

PART 1-3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 1-3 is amended by adding the following entry:

Sec.
1-3.603-3 Small business-small purchase set-asides.

Subpart 1-3.6—Small Purchases

1. Section 1-3.602 is amended by adding paragraphs (f) and (g) as follows:

§ 1-3.602 Policy.

* * * * *

(f) *Policy.* (1) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased (see 15 U.S.C. 644(j)).

(2) The provisions of 15 U.S.C. 644(j) shall be implemented by using a special category of set-asides identified as small business-small purchase set-asides when purchases under $10,000 are affected by small purchase procedures.

(3) The responsibility of agencies to make purchases under directed sources of supply, such as Federal Prison Industries, Industries for the Blind and the Other Severely Handicapped, and manadatory multiple award Federal Supply Schedule contracts, is unaffected by the provisions of Pub. L. 95-507 and this § 1-3.602.

(g) Provide for prompt payments to contractors with a minimum of paperwork whenever small purchases procedures are used.

2. Section 1-3.603-3 is added to read as follows:

§ 1-3.603-3 Small business-small purchases set-asides.

(a) Small business-small purchase set-asides of each small purchase procurement of supplies or services having an anticipated value of less than $10,000 is automatically established for small business concerns (see paragraph (g) of this § 1-3.603-3 for procurements under $500). Any written solicitation for small business-small purchase set-asides shall cite it as a set-aside under section 15(j) of the Small Business Act.

(b) If the contracting officer determines that he can reasonably expect to obtain two or more offers from small business concerns that are competitive in terms of (1) market price, (2) quality and (3) delivery, he shall proceed to make an award under the small business-small purchase set-aside.

(c) If the contracting officer determines he cannot reasonably expect to obtain two or more offers from small business concerns that will be competitive in terms of (1) market price, (2) quality, and (3) delivery, he need not proceed with the small business-small purchase set-aside and may complete the procurement on an unrestricted basis.

(d) In making the determinations in (b) and (c), the contracting officer, as appropriate, should ascertain by telephone, or other informal means, the availability of small business suppliers.

(e) If the contracting officer proceeds with the small business-small purchase set-aside, solicits offers, and:

(1) Receives only one responsive offer from a responsible small business concern at a reasonable price, he shall make an award to such concern;

(2) Receives no responsive offers from any responsible small business concerns, he may cancel the small business-small purchase set-aside and solicit offers on an unrestricted basis.

(f) If the contracting officer proceeds under (c) or (e)(2) of this § 1-3.603-3 he shall document the file accordingly.

(g) Small purchases not exceeding $500 may be made on a non-competitive basis from small business concerns (see § 1-3.603-1). If a responsible small business source is not available, the non-competitive purchase may be made on an unrestricted basis.

(h) Existing appeal rights of small business specialists and SBA representatives with respect to set-asides shall apply to small business-small purchase set-asides.

Subpart 1-3.8—Price Negotiation Policies and Techniques

§ 1-3.802-1 [Amended]

1. Section 1-3.802-1 is amended to revise paragraph (c) as follows:

* * * * *

(c) Where only one proposal is involved and it is received after the time specified, it may be evaluated and considered for award in accordance with agency procedures. As used in this section the term "only proposal received" means a proposal which is submitted by the only offeror responding to the request for proposals or a sole source. The term "only proposal received" does not mean (1) an offeror who is offering proprietary items in response to a request for proposals which specifies that awards will be made on the basis of proprietary items identified by the offeror by brand name, model, type, or other identification, and (2) an offer which is based on a performance specification or a brand name product which is specifically identified in the request for proposals.

* * * * *

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

Dated: August 13, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25436 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Parts 5A-7, 5A-26, 5A-76

[APD 2800.3 CHGE 8]

Procurement; Miscellaneous Amendment

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (Chapter 5A), is amended to prescribe clauses pertaining to (1) requirements for recovered materials in the performance of a contract, and (2) requirements for contractors to maintain a separate accounting for change orders. An exhibit of a form letter is added for use in connection with late bids or proposals. These actions reflect changes in policies and operating procedures. The effect of these changes is to improve the procurement system.

EFFECTIVE DATE: September 26, 1980.

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

PART 5A-7—CONTRACT CLAUSES

The table of contents for Part 5A-7 is amended by revising the following entries:

Sec.
5A-7.103-85 [Reserved]
5A-7.103-86 Recovered material requirements.

Section 5A-7.103-85 is deleted and the section is reserved as follows:

§ 5A-7.103-85 [Reserved]

Section 5A-7.103-86 is revised to read as follows:

§ 5A-7.103-86 Recovered material requirements.

(a) Pub. L. 94-580, Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), provides that after October 21, 1978, procurements exceeding $10,000 shall require Federal agencies to procure items (subject to certain exceptions) which have the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

(b) Before issuing a solicitation, the contracting officer shall review the Item Purchase Description cards (IPD's) for recovered material requirements. Solicitations requiring the use of recovered materials shall include the following contract provisions:

Recovered Material Requirements

(a) Pub. L. 94-580, Resource Conservation and Recovery Act of 1976, requires Federal agencies to procure items which have the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

(1) Recovered material is defined as material which has been collected or recovered from solid waste.

(2) Solid waste is defined as any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (32 U.S.C. 1242), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(b) Columns A and B set forth the Government's requirements of recovered materials (as defined in the specifications or elsewhere defined in this solicitation) which must be met. Column C is to be completed by the offeror. By signing the offer, the offeror certifies that the Government's minimum requirements will be met. If the offeror indicates a percentage which is less than required, the offer will be rejected as nonresponsive. If the offeror indicates a percentage which is higher than required, it will become a contract requirement. Failure to insert a percentage shall be deemed to be an offer of the Government's minimum percentage listed in Column B.

A	B	C
Solicitation item number	Percentage of recovered material required	Percentage of total material utilized which will be recovered material

(c) Any decision to procure items with less than the required percentage of recovered materials shall be made only if one or more of the following circumstances are present.

(1) The item with the required percentage of recovered material is not available within a reasonable period of time.

(2) The item with the required prescribed minimum percentage of recovered material(s) fails to meet the performance requirements set forth in the applicable specifications or fails to meet the requirements of the using activity. In this case, the matter shall be referred to the Office of Programs and Requirements (FR).

(3) The item with the required percentage of recovered material is available only at an unreasonable price.

(4) A satisfactory level of competition cannot be maintained.

(d) Solicitations and contracts for commercial or specification items, including multiple award federal supply schedule contracts, for which the recovered material requirements are unknown shall include the following contract provision:

Recovered Materials Information

(a) Pub. L. 94-580, Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) requires Federal agencies to procure items which have the highest percentages of recovered material practicable, consistent with maintaining a satisfactory level of competition.

(1) Recovered material is defined as material which has been collected or recovered from solid waste.

(2) Solid waste is defined as any garbage, refuse sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, and contained gaseous material resulting from industrial, commercial, and mining and agricultural operations, and from community activities but does not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1242), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 as amended (42 U.S.C. 2011).

(b) To provide a basis for making future determinations as to percentages of recovered materials as defined in paragraph (a) which can reasonably be expected, you are encouraged to furnish the following information for each item on which you submit an offer.

Solicitation item No.	Percent of recovered material

(e) Upon receipt of the offeror's recovered materials percentages, the contracting officer shall furnish the

information to the Office of Programs and Requirements (FR).

Section 5A-7.103-87(a) (1) and (2) are revised to read as follows:

§ 5A-7.103-87 Availability for inspection and testing and delivery.

* * * * *

(1) The clause may be modified to accommodate individual circumstances, such as, shipment authorized under a "Quality Approved Manufacturer Agreement".

(2) The clause may be modified to require availability for delivery. "Delivery" shall be substituted for "shipment," and "notice of award" for "receipt of order" in definite quantity procurements.

* * * * *

PART 5A-26—CONTRACT MODIFICATION

Subpart 5A-26.50—Change Orders

Section 5A-26.5002 is amended to read as follows:

§ 5A-26.5002 Change order accounting procedures.

(a) Prior to the issuance of a change order, "forward pricing" should be accomplished whenever feasible. Forward pricing means: The price of contract modifications shall be negotiated prior to execution if this can be done without adversely affecting the interest of the Government.

(b) If a significant cost increase could result from a change order but time does not permit negotiation of a firm price for the change order, a maximum price for the total contract should be negotiated, if practical. As a minimum, the file should be documented to show the Government's estimated cost for the change.

(c) When forward pricing is not possible and retroactive pricing is the only alternative, the latter can be effected more accurately if the Government has complete and accurate information disclosing a contractor's costs incurred in performing the changes. Recording change order cost is a difficult and complex task with respect to certain aspects of work and costs; hence, contractors' accounting systems seldom segregate the costs of performing changed work. Therefore, before submission of offers, prospective contractors should be advised of the possible need to alter or improve their accounting procedures to comply with the need for appropriate change order cost segregation.

(d) The following Change Order Accounting clause and Change Orders—Submission of Claims clause shall be included in all solicitations when it is anticipated (i) that after award of a contract there may be a change(s) which may exceed $100,000 in cost, or (ii) that the total contract award with changes may exceed $500,000.

Change Order Accounting

The contractor and his subcontractors are required to maintain acceptable accounting systems including change order account systems for each change order, or series, or related change orders. These systems shall include separate accounts, by job order or other suitable accounting procedure, of all incurred segregable direct costs (less allocable credits) of work, both changed and unchanged, allocable to the change. These accounts shall be controlled by the general books of account.

Change Orders—Submission of Claims

(a) Any claims for adjustment of contract price or delivery schedule which a Contractor wishes to assert as a result of any change order(s) must be submitted in accordance with the Changes clause (article 2 of Standard Form 32) and the Change Order Accounting clause.

(b) If it is impossible for the Contractor to completely support the assertion of claim with detailed cost or pricing data as required by 41 CFR 1-3.807-3(a)(2) of the Federal Procurement Regulations, the Contractor shall state the reasons for his inability to do so at the time of first asserting the claim. The Contractor shall then be allowed [1] calendar days from the date of first asserting the claim to submit the missing detailed data, or until the Contractor has completed (or manufactured) [2] percent of the items which were changed by the change order(s), at the option of the Contracting Officer.

(e) It may not be possible to enumerate all categories of costs attributable to a change order because such costs vary according to the particular contract and the contractor's accounting system. Certain categories of costs are less susceptable to accounting segregation than others. Nevertheless, the following categories of costs normally are segregable and accountable as direct costs under the terms of the first clause in (d), above:

(1) Nonrecurring costs; e.g., engineering costs and costs of obsolete work or reperformed work;

(2) Costs of added distinct work; e.g., new subcontract work, or new prototypes, or new retrofit or backfit kits caused by the change order; and

(3) Costs of recurring work; e.g., labor and material costs.

[1] Normally 30 calendar days.

[2] Normally 50 percent. (The contracting officer may determine any other number of days or percentages that is reasonable and adequate to protect the Government's interests. The determination shall be documented in the contract file.)

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended by adding the following entry:

Subpart 5A-76.1—Letters and Notices

* * * * *

Sec.

5A-76.102 Letter form for late/bid proposal in response to solicitations.

* * * * *

Note.—The letter illustrated at § 5A-76.102 is filed with the original document.

(Sec. 305(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: July 25, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-24723 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-61-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Parts 7-6 and 7-7

[AIDPR Notice 81-2]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This AID Procurement Regulation (AIDPR) Notice makes administrative and editorial revisions to Parts 7-6 (Foreign Purchases), and 7-7 (Contract Clauses) of the AIDPR. The changes correct typographical errors, conform AIDPR contract clauses to clauses prescribed in the Federal Procurement Regulations (FPR), and formally incorporate material previously issued within AID as internal procedural instructions or policies.

EFFECTIVE DATE: This AIDPR Notice is effective August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: A summary of the changes made by the AIDPR Notice, and the reason for specific changes follows:

AID's contract clauses concerning "Changes" (§§ 7-7.5001-2, and 7-7.5401-3), "Standards of Work" (§ 7-7.5001-6), "Limitation of Cost" (§ 7-7.5001-8), "Limitation of Funds" (§ 7-7.5501-10), and "Insurance-Liability to Third Persons" (§§ 7-7.5001-22 and 7-7.5501-25), are all based on required contract clauses in the Federal Procurement

Regulations (FPR). Rather than presenting these clauses in full text, they are revised to cross-reference the appropriate FPR clause. This is consistent with our treatment of other such clauses, and insures that AID clauses conform to FPR clauses.

A new contract clause governing reporting requirements on participants trained under AID contracts is added in §§ 7-7.5003-11, 7-7.5301-30, and 7-7.5403-12. This clause establishes standard reporting requirements to enable AID to gather data necessary for reports to the Congress.

The contract clauses governing source and nationality requirements in § 7-6.5103 and local cost financing in § 7-6.5104, are revised to correct a typographical error.

The contract clauses governing transportation requirements in §§ 7-7.5002-15, 7-7.5402-8, and 7-7.5502-10 are revised to conform to AID's new source, origin, and nationality policies, as published in AID Handbook 1, Supplement B, Chapter 5 (Procurement Policies, Source and Nationality). The clause requirement relating to shipments on U.S. flag vessels has been changed to require at least 50% of the gross tonnage of goods purchased under the contract to be shipped on U.S. flag vessels, rather than requiring that U.S. flag vessels be use "when available", and to allow use of vessels serving under Cooperating Country Flag registry, when procurement has been authorized from AID Geographic Code 941 (the United States and certain developing countries).

The contract clauses governing marking of AID-financed goods (§ 7-7.5002-5, cross-referenced in §§ 7-7.5402-6, and 7-7.5502-17) are revised to reflect new AID policies as published in AID Handbook 1, Supplement B, Chapter 22 (Procurement Policies, Marking). The changes reflect a transfer of responsibility for marking requirements from AID's Small Business Office to the cognizant Mission Director, Regional Bureau Assistant Administrator, or the Office of Commodity Management.

PART 7-6—FOREIGN PURCHASES

Subpart 7-6.51—Source, Origin, and Nationality

§ 7-6.5103 [Amended]

1. § 7-6.5103, Contract clause—source and nationality requirements, is amended by deleting paragraph (c)(2)(i) of the clause, and re-numbering paragraphs (c)(2)(ii) through (c)(2)(v) as paragraphs (c)(2)(i) through (c)(2)(iv).

§ 7-6.5104 [Amended]

2. § 7-6.5104, *Contract clause—authorization of local cost financing with U.S. dollars*, is amended by deleting the word ". . . may . . ." as it appears in paragraph (d)(2)(ii) of the clause, and in its place inserting the word ". . . does . . .".

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.50—Clauses for Cost Reimbursement Contracts

3. § 7-7.5001-2, *Changes*, is revised as follows:

§ 7-7.5001-2 Changes.

Insert the clause set forth in FPR 1-7.404-5, and the following additional paragraph (d):

(d) If this contract is executed by an AID/Washington Contracting Officer, valid change orders may be issued only by the AID/Washington Contracting Officer, or such person as he or she may designate in writing for such purpose.

4. § 7-7.5001-6, *Standards of Work*, is revised as follows:

§ 7-7.5001-6 Standards of work.

Insert the clause set forth in FPR 1-7.302-3.

5. § 7-7.5001-8, *Limitation of cost*, is revised and re-titled as follows:

§ 7-7.5001-8 Limitation of cost or funds.

(a) For *fully funded* contracts *not* providing for cost-sharing, insert the Limitation of Cost clause set forth in FPR 1-7.202-3(a), in accordance with FPR 1-7.402-2(a).

(b) For *fully funded* contracts which *do* provided for cost-sharing, insert the Limitation of Cost (Cost-Sharing) clause set forth in FPR 1-7.402-2(b).

(c) For *incrementally funded* contracts *not* providing for cost-sharing, insert the Limitation of Funds clause set forth in FPR 1-7.202-3(b), in accordance with FPR 1-7.402-2(c). (If the contract does *not* provide for payment of a fee, delete paragraph (g) of the clause specified in FPR 1-7.202-3(b)).

(d) For *incrementally funded* contracts which *do* provide for cost-sharing, insert the Limitation of Funds (Cost-Sharing) clause set forth in FPR 1-7.402-2(d). (If the contract does *not* provide for payment of a fee, delete paragraph (g) of the clause specified in FPR 1-7.402-2(d)).

6. § 7-7.5001-22, *Insurance-liability to third persons*, is revised as follows:

§ 7-7.5001-22 Insurance-liability to third persons.

Insert the clause set forth in FPR 1-7.204-5, in accordance with FPR 1-7.404-9.

7. § 7-7.5002-5, *Marking*, is revised as follows:

§ 7-7.5002-5 Marking.

Marking (August 1980).

(a) It is AID policy that AID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the AID red, white, and blue handclasp emblem. Shipping containers are also to be marked with the last five digits of the AID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the Cover Page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions, or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

§ 7-7.5002-15 [Amended]

8. § 7-7.5002-15, *Transportation and storage expenses*, is amended by:

(a) Changing the clause date from "(DECEMBER 1976)" to "(AUGUST 1980)"; and

(b) Revising paragraph (d)(1) as follows:

(d) * * *

(1) Flag eligibility requirements for ocean carriers is covered by paragraph (c)(2) of the General Provision entitled Source and Nationality Requirements of this contract.

* * * * *

9. A new § 7-7.5003-11 is added as follows:

§ 7-7.5003-11 Participant training.

Participant Training (August 1980).

(a) *Definitions.*

(1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her home country.

(b) *Applicable regulations.*

Participant training is to be conducted according to the policies established in AID Handbook 10—Participant Training, except to the extent that specific exceptions to AID Handbook 10 have been provided in this contract. (Handbook 10 may be obtained by submitting a request to the Office of International Training, at the address specified in paragraph (c) of this section.)

(c) *Reporting requirement.*

Once each month the Contractor shall submit three copies of AID Form 1380-9, "Monthly Report of Participants Under Contract" to the Office of International Training, Bureau for Development Support (DS/IT), AID, Washington, D.C. 20523.

Subpart 7-7.53—Contracts for Participant Training

10. New § 7-7.5301-30 is added as follows:

§ 7-7.5301-30 Participant training.

Insert the clause set forth in AIDPR 7-7.5003-11.

Subpart 7-7.54—Clauses for Fixed Price Contracts for Technical Services

11. § 7-7.5401-3, *Changes,* is revised as follows:

§ 7-7.5401-3 Changes.

Insert the clause set forth in FPR 1-7.304-1, and the following additional paragraph:

If this contract is issued by an AID/Washington Contracting Officer, valid change orders may be issued only by the AID/Washington Contracting Officer, or such other person as he or she may designate in writing for such purpose.

§ 7-7.5402-8 [Deleted and reserved]

12. § 7-7.5402-8, *Ocean transportation,* is deleted and reserved.

13. A new § 7-7.5403-2 is added as follows:

§ 7-7.5403-12 Participant training.

Insert the clause set forth in AIDPR 7-7.5003-11.

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts with Educational Institutions

14. § 7-7.5501-10, *Limitation of funds,* is revised and re-titled as follows:

§ 7-7.5501-10 Limitation of cost or funds.

Insert the appropriate clause specified in FPR 1-7.402-2, as detailed in AIDPR 7-7.5001-8.

15. § 7-7.5501-25, *Insurance-liability to third persons,* is revised as follows:

§ 7-7.5501-25 Insurance-liability to third persons.

Insert the appropriate clause as specified in FPR 1-7.404-9.

16. § 7-7.5502-17, Marking, is revised as follows:

§ 7-7.5502-17 Marking.

Insert the clause set forth in AIDPR 7-7.5002-5.

§ 7-7.5503-5 [Deleted and reserved]

17. § 7-7.5503-5, *Limitation of cost,* is deleted and reserved.

(41 CFR 7-1.104-4)

Dated: August 12, 1980.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 80-25504 Filed 8-20-80; 8:45 am]

BILLING CODE 4710-02-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amdt. E-242]

Procurement Sources and Programs; Requisitioning Items From GSA

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation changes the policy on ordering items from GSA to reduce the incidence of agencies ordering items when it is not economically justifiable. Because of higher costs of preparing and processing requisitions, the ordering of small quantities of low dollar value items from GSA is costly in relation to the value of items ordered and, in many instances, is not the most economical method of obtaining the items. This regulation will reduce Government costs by allowing agencies to purchase small quantities of many low dollar value items on the open market rather than obtaining the items from GSA.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Renner, Director, Regulations Management Division (703-557-5026).

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation E-68 (44 FR 59529, Oct. 16, 1979) is canceled and deleted from the appendix at the end of Subchapter E in 41 CFR Chapter 101.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Subpart 101-26.1—General

1. Section 101-26.102-1 is revised to read as follows:

§ 101-26.102-1 General.

(a) GSA is a nonmandatory source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for nonstock centrally procured items managed by GSA when the total value of the line item requirement is less than $100. Agencies shall not divide orders to avoid requisitioning items from GSA.

(b) Upon request, GSA will perform purchasing services in addition to the sources specified in this Part 101-26.

(c) Any Federal agency, mixed-ownership corporation, the government of the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol, and any non-Federal agency, when the function of a Federal agency authorized to procure for it is transferred to GSA, may arrange for these special buying services to be performed by GSA.

Subpart 101-26.3—Procurement of GSA Stock Items

2. Section 101-26.301 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

§ 101-26.301 Applicability.

All executive agencies within the United States (including Hawaii and Alaska) shall requisition from GSA needed stock items available from GSA supply distribution facilities, including items needed by activities located outside of the United States which are required, by agency instruction or otherwise, to be requisitioned in the United States except as provided in this § 101-26.301 and as may be otherwise specifically authorized. (Items available from GSA stock are listed or described in the GSA Supply Catalog, which is issued in accordance with Subpart 101-30.6.) Federal agencies not required to requisition stock items from GSA are encouraged to do so.

* * * * *

(b) GSA is a nonmandatory source of supply for activities in the conterminous United States, Hawaii, and Alaska for items listed in the GSA Supply Catalog when the total value of the line item requirement is less than $25, except for requirements for Standard and Optional forms (see § 101-26.302), items produced by the Federal Prison Industries, Inc., or items listed in the Procurement List published by the Committee for

Purchase from the Blind and Other Severely Handicapped. Agencies shall not divide orders to avoid the requirement to requisition from GSA. GSA will process all requisitions for stock items, regardless of value, from activities electing not to exercise the option provided by this § 101-26.301(b).

* * * * *

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

Dated: August 11, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25524 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF JUSTICE

41 CFR Part 128-1

Use of Bureau Seals and Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This regulation establishes policy concerning the use of the Department of Justice and other bureau seals by commercial or Government entities, and redelegates the authority to approve requests to use their individual organizational seals to appropriate bureaus within the Department.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony C. Moscato, Director, Property Management and Procurement Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530, 202-633-4405.

SUPPLEMENTARY INFORMATION: The Code of Federal Regulations, 28 CFR 0.146 delegates the authority to prescribe regulations governing the use of the seal of the Department and various organizational units to the Assistant Attorney General for Administration. Due to repeated requests from outside sources to reproduce and utilize the Department seal, the following policy has been developed. Section 128-1.5007 is added as indicated.

Note.—The Department of Justice has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

By virtue of the authority vested in me by 28 CFR 0.146 and 41 CFR 128-1.105, 41 CFR 128-1.5007 is added as follows:

§ 128-1.5007 Reproduction of departmental and bureau seals.

(a) Requests for permission to reproduce the Departmental seal for commercial, educational, ornamental or other purposes by other government agencies or private entities shall be referred to the Assistant Attorney General for Administration for decision.

(b) Requests for permission to reproduce the seals of the Federal Bureau of Investigation, the Bureau of Prisons, the Federal Prison Industries, the Immigration and Naturalization Service, the Board of Parole, the Drug Enforcement Administration, and the United States Marshals Service for such purposes by other government agencies or private entities shall be referred to the head of the respective Departmental organization for decision.

(c) The decision whether to grant such a request shall be made on a case-by-case basis, with consideration of any relevant factors, which may include the benefit or cost to the government of granting the request; the unintended appearance of endorsement or authentication by the Department; the potential for misuse; the effect upon Departmental security; the reputability of the use; the extent of control by the Department over the ultimate use; and the extent of control by the Department over distribution of any products or publications bearing a Departmental seal.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 80-25509 Filed 8-20-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Financial Distress Grants to Health Professions Schools

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: The Public Health Service is issuing regulations to implement the program of financial distress grants to health professions schools to assist them in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms. These grants are authorized under the Public Health Service Act.

DATE: These regulations are effective August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Donald C. Parks, Deputy Director, Office of Program Support, Bureau of Health Professions, Room 4-22, Health Resources Administration, 3700 East-West Highway, Center Building, Hyattsville, Maryland 20782. (Telephone: 301-436-6560).

SUPPLEMENTARY INFORMATION: In the Federal Register of March 21, 1979 [44 FR 17159], the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, issued regulations revising Subpart M of Part 57 of Title 42 of the Code of Federal Regulations. The regulations implemented amendments made by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) to section 788(b) of the Public Health Service Act.

Section 788(b) of the Public Health Service Act ("Act") authorizes the Secretary to make grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health to assist in meeting the costs of operation of these schools if they are in serious financial distress, or in meeting accreditation requirements if they have a special need for assistance in meeting these requirements. Funds can also be used for carrying out appropriate operational, managerial, and financial reforms.

Several changes in the final regulations have been made to make the grants administration policy more responsive to the needs of financially distressed institutions.

In order to secure more time for grantees to integrate their financial distress awards with their financial plans for the school year, the final regulations have been amended to permit an acceleration of the grant cycle. The interim-final regulations tied the amount of grant awards for operating deficits to a school's deficit through June 30 of the Federal fiscal year during which the school applied for a grant. This stipulation prevented the submission of applications and award of grants prior to the fiscal year during which the school obligates grant funds. § 57.1207 has been amended to base the amount of the grant award on the amount needed to cover the school's deficit through June 30 of the fiscal year for which the grant is made. This change will facilitate improved financial planning by allowing grant funds to be awarded at the Federal level and budgeted at the grantee level before the school year begins.

Two modifications to the restrictions on using grant funds have been made to permit the program to respond to the

particular financial difficulties which may afflict some institutions. To permit financial relief for institutions which are burdened by debts incurred for special costs, § 57.1209(a)(1) has been amended to permit grant funds to be used to amortize the principal portion of debts incurred for these costs with the prior written approval of the Secretary. Second, § 57.1209(b) has been added to permit the transfer of grant funds from the grantee health professions school to its parent organization for the cost of services provided to the school. These transfers require the prior written approval of the Secretary. This codifies current administrative policy and recognizes that the financial soundness of a health professions school is tied to the viability of its parent organization.

The applicability of the Department's grants administration regulation (45 CFR Part 74) has been clarified in § 57.1211(c) to indicate that because overhead costs are treated as direct costs in this program, no other indirect cost charges may be applied to these grants. This clarification codifies present cost policy.

Comments were solicited on the interim-final regulations for a period of 60 days from the date of publication in the Federal Register. No comments were received.

The Department has deleted the requirement in § 57.1208 of the regulation that the amount of a financial distress grant to a school may not exceed 75 percent of the amount granted to the school for that purpose in the immediately preceding year. This change was made in accordance with the amendment of section 788(b) of the Act by the Nurse Training Amendments of 1979 (Pub. L. 96-76).

The final regulations have been restructured based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions (interim-final §§ 57.1208-1214) have either been revised to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). All provisions have been reorganized into a standardized format for health manpower grants regulations, and many provisions have been rewritten for clarity.

Accordingly, Subpart M of Part 57 of Title 42 of the Code of Federal Regulations is revised as set forth below.

Dated: June 7, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

Subpart M—Financial Distress Grants to Health Professions Schools

Sec.
57.1201 To what programs do these regulations apply?
57.1202 Definitions.
57.1203 Who is eligible to apply for a grant?
57.1204 What assurances are required of an applicant?
57.1205 What requirements may the Secretary impose?
57.1206 How will applications be evaluated?
57.1207 How is the amount of the award determined?
57.1208 How long does grant support last?
57.1209 For what purposes may grant funds be spent?
57.1210 What other audit and inspection requirements apply to grantees?
57.1211 What additional Department regulations apply to grantees?
57.1212 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 788(b), 90 Stat. 2319 (42 U.S.C. 295g-8(b))

§ 57.1201 To what programs do these regulations apply?

These regulations apply to the award of grants under section 788(b) of the Public Health Service Act (42 U.S.C. 259g-8(b)) to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms.

§ 57.1202 Definitions.

"Act" means the Public Health Service Act, as amended.

"Comprehensive cost analysis study" means an in-depth review of all the significant factors and circumstances affecting costs incurred in the operation and management of the institution. The review includes, but is not limited to, personnel and property utilization and practices, cost efficiency in specific areas of operation, and the search for additional sources of revenue.

"Construction" or "cost of construction" means the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architect's fees, acquisition of land, offsite improvements, and the initial equipping of these buildings).

"School" means a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health as defined in section 701(4) of the Act, which is accredited according to section 772(b) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1203 Who is eligible to apply for a grant?

(a) Any school which is located in a State is eligible to apply for a grant if it is either in serious financial distress or has a special need for financial assistance in meeting accreditation requirements.

(b) For purposes of this subpart: (1) a school is in serious financial distress if it has incurred costs in excess of its ability to pay for those costs; and (2) a school has a special need for financial assistance in meeting accreditation requirements if it cannot meet its accreditation requirements within the school's revenues.

§ 57.1204 What assurances are required of an applicant?

(a) The applicant must provide assurances satisfactory to the Secretary that it will spend in carrying out its functions as a school during the fiscal year for which the grant is sought, an amount of funds (other than funds for construction) from non-Federal sources which is at least as great as the average amount of funds from non-Federal sources spent for this purpose by the school during the preceding two fiscal years. The determination of the average amount of funds from non-Federal sources spent by a new school which has been in operation for less than two years will be the amount of expenditures which were actually made in carrying out the functions of the school in the preceding year.

(b) The Secretary may, in individual cases, require additional assurances where he or she finds that additional assurances are necessary to carry out the purposes of section 788(b) of the Act.

§ 57.1205 What requirements may the Secretary impose?

The Secretary will make grants upon terms and conditions which he or she determines are reasonable and necessary, including requirements that the school:

(a) Disclose any financial information which the Secretary decides is necessary to determine the cause of the school's financial distress;

(b) Conduct a comprehensive cost analysis study, as directed by the Secretary; and

(c) Carry out operational, managerial, and financial reforms which the Secretary decides are appropriate on the basis of the comprehensive cost analysis study and other relevant information. These reforms may include increasing tuition or obtaining increased financial support from State or local governmental units.

§ 57.1206 How will applications be evaluated?

After consultation with the National Advisory Council on Health Professions Education established by section 702 of the Act, the Secretary will award grants by considering the following among other factors:

(a) The extent to which the school is either unable to meet its incurred costs or has a special need for financial assistance to met its accreditation requirements;

(b) The reasons for the school's failure to meet its costs or accreditation requirements and the alternatives available to the school to meet its costs or requirements; and

(c) The actions which the applicant has taken to alleviate the need for financial assistance to meet its costs of operation or accreditation requirements and the applicant's plan to eliminate this need in the future.

§ 57.1207 How is the amount of the award determined?

The amount of the award will be based on the Secretary's estimate of the sum necessary for the costs of the approved activity. Grant awards to meet incurred costs in excess of a school's ability to pay these costs may not exceed the actual funds necessary to met such excess costs of the school through June 30 of the Federal fiscal year for which the grant is sought, plus an amount which the Secretary estimates is necessary to carry out appropriate operational, managerial and financial reforms.

§ 57.1208 How long does grant support last?

(a) The written notice of grant award specifies the period during which grant funds are available for obligation by the grantee. This period will not exceed one year.

(b) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

§ 57.1209 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations. Grant funds may be spent to:

(1) Pay for costs incurred for all school fiscal years through June 30 of the Federal fiscal year for which the grant is sought. These costs exclude construction (other than alterations and renovations), student aid, and other costs not allowable under § 57.1211. Costs may include the amortization of the principal portion of loans for construction, student aid, and other costs not allowable under § 57.1211, with the prior written approval of the Secretary.

(2) Meet accreditation requirements; and

(3) Carry out, under an approved plan, appropriate operational, managerial, and financial reforms.

(b) Grant funds may be paid or transferred to the school's parent organization for services provided for the operation of the school only with the prior written approval of the Secretary.

(c) Grant funds may not be used for sectarian instruction, or any other religious purpose.

§ 57.1210 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the applicable requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

§ 57.1211 What additional Department regulations apply to grantees?

(a) Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals process
45 CFR Part 16—Department grant appeals process
45 CFR Part 46—Protection of human subjects
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance from the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86—Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91[1]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance

(b) The provisions of 45 CFR Part 74, establishing uniform administrative procedures and cost principles apply to all awards granted under this subpart, except that, in the case of grants awarded to assist schools unable to pay for incurred costs or meet accreditation requirements, the following provisions of 45 CFR 74.172(a) are modified as listed below:

(1) Costs normally not allowed under the following sections will be allowed: Sections J.2; J.4; J.17 (a), (b), and (c); J.19; J.25; J.29; J.39; J.40; J.41(a)(2); and J.43(f).

(2) Costs normally allowed under the following section will not be allowed: Section J.9.

(3) The grantee may not charge any indirect costs to a grant under this subpart, since direct costs include those identified in section F.

§ 57.1212 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the continued viability of the school, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-25107 Filed 8-20-80; 8:45 am]
BILLING CODE 4110-83-M

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 80-36; General Order 46]

Exemption of Husbanding Agreements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission hereby exempts only those husbanding agreements that deal with routine vessel operating activities in port from the filing and approval

[1] When issued.

requirements of section 15 of the Shipping Act, 1916. These husbanding agreements have such minimal competitive impact that continued regulation of these agreements through the section 15 review process serves no substantive purpose.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission solicited comment on a proposed rulemaking by notice filed in the Federal Register on June 4, 1980 (45 FR 37703) to exempt certain husbanding agreements between persons subject to the Shipping Act, 1916; from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814). Husbanding agreements generally fall into two categories. The first consists of those agreements that deal with routine vessel operating activities in port such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; arranging bunkers, stores, repairs, water, garbage disposal; assisting with passengers and crew matters; and related services. The second consists of those agreements which in addition to the foregoing, also cover agency matters involving the solicitation and booking of cargoes and signing of contracts of affreightment and bills of lading.

Section 35 of the Shipping Act, 1916, (46 U.S.C. 833a) provides that the Commission, upon application or on its own motion, may be order or rule exempt any class of agreement between persons subject to the Act, or any specified activity of such persons from any requirement of the Act, where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce.

The first category of husbanding agreements has such minimal competitive impact that continued regulation of these agreements through the section 15 review process serves no substantive purpose. The delay involved in the regulatory process is not offset by any corresponding regulatory benefit under the Act, provided that such agreements do not preclude the agents from servicing other carriers. These agreements are rarely protested, nor are they frequently made the subject of formal Commission proceedings to determine their approvability under the standards of the Shipping Act. Exemption from the filing and approval requirements of section 15 is warranted for this category of agreements as it will present no impairment to the Commission's effective regulation of the parties' activities, nor will it be unjustly discriminatory or detrimental to commerce. The exemption will not confer antitrust immunity; however section 15 approval consideration will remain available to parties requesting it.

The second category of husbanding agreements has a potential for competitive impact which requires a thorough analysis of the relationships between the parties involved. This category is presently under review for consideration for possible exemption in a separate proceeding.

The comments support the exemption of husbanding agreements from the filing and approval requirements of section 15 of the Shipping Act.

The Commission has adopted one suggested change in the requirement that exempted husbanding agreements be available for public inspection at the agent's office. After considering what is fair to the parties affected by the rule, no reason was found to now require the agreement, including rate schedules, to be made public. Thus, exempted agreements shall be kept by the parties and shall be available for the purpose of inspection by the Commission only.

The same comment also suggested that all agency agreements be exempted from the filing and approval requirements of section 15 with certain exceptions. The Commission is limited in affording relief to the scope of its published proposed rule. Therefore, we will treat this comment as a suggestion for further study.

Now, therefore, pursuant to sections 15, 35, and 43 of the Shipping Act, 1916, (46 U.S.C. 814, 833a, and 841a), and section 4 of the Administrative Procedure Act, (5 U.S.C. 553), it is ordered, that, effective August 21, 1980, Title 46 CFR is hereby amended by the addition of Part 520 as follows:

PART 520—EXEMPTION OF HUSBANDING AGREEMENTS

Sec.

520.1 Purpose.
520.2 Definition.
520.3 Exemption.
520.4 Termination of Approved Husbanding Agreements
520.5 Compliance with the Filing and Approval Requirements of Section 15

Authority: Section 15, 35, 43; 46 U.S.C. 814, 833a, and 841a

§ 520.1 Purpose.

(a) Section 15 of the Shipping Act, 1916, requires that certain agreements between common carriers by water and other persons subject to the Act be filed with and approved by the Commission prior to implementation. Section 35 of the Act, as pertinent in this context, provides that the Commission may by order or rule exempt any class of agreements between persons subject to the Act where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or detrimental to commerce.

(b) In the interest of minimizing unnecessary delay in the implementation of routine husbanding agreements between persons subject to the Act and to avoid the cost of unnecessary regulation, the Commission is exempting certain husbanding agreements from the filing and approval requirements of section 15.

§ 520.2 Definition.

As used in this part, husbanding agreements are agreements between a common carrier by water and another person subject to the Shipping Act, 1916, through which the carrier contracts with an agent to handle routine vessel operating activities in port, such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, and linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; dealing with passenger and crew matters; and providing similar services related to the above activities. The term does *not* include agreements which provide for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, nor does it include agreements that prohibit the agent from entering into similar agreements with other carriers.

§520.3 Exemption.

Husbanding agreements between persons subject to the Act are hereby exempted from the filing and approval requirements of section 15. Exempted agreements shall be kept by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

§ 520.4 Termination of Approved Husbanding Agreements.

Husbanding agreements which have received section 15 approval shall continue to be approved for the duration of their term or until terminated by the parties.

§ 520.5 Compliance with the Filing and Approval Requirements of section 15.

Notwithstanding the provisions of this part, persons who desire approval of husbanding agreements may continue to submit such agreements to the Commission for section 15 consideration in accordance with ordinary filing procedures.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-25514 Filed 8-20-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcast Services; Reregulation of Radio and TV Broadcasting

AGENCY: The Federal Communications Commission.

ACTION: Final Rule: Correction to Order.

SUMMARY: In the Broadcasting Reregulation *Order* FCC 80-165, published in the Federal Register on April 17, 1980, at 45 FR 26059, paragraph (a) of § 73.242, Duplication of AM and FM programming, is incorrectly stated. This document corrects that mistake.

EFFECTIVE DATE: August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, Broadcast Bureau, (202) 653-7275.

SUPPLEMENTARY INFORMATION: In the matter of Reregulation of Radio and TV Broadcasting.

Released: August 14, 1980.

In the above-captioned *Order*, FCC 80-165, released April 16, 1980, and published in the Federal Register on April 17, 1980 at 45 FR 26059, paragraph (a) of § 73.242, Duplication of AM and FM programming, is incorrectly stated. Section 73.242(a) is corrected to read as follows:

(a) The extent to which an FM station may duplicate the programming of an AM station owned by the same licensee in the same local area is governed by the following:

(1) If either the AM or the FM station is licensed to a community of over 25,000 population, the FM station shall not operate so as to devote more than 25% of the average program week to duplicated programming.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25482 Filed 8-20-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 94

[PR Docket No. 79-337; RM- 3241]

Private Operational-Fixed Microwave Service; Facilitating Operation of Low Power, Limited Coverage Systems in the 22.0-23.6 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule: Report and Order.

SUMMARY: The FCC amends Part 94 of its Rules to permit the operator of low power, limited coverage systems in the 22,000-23,600 MHz band.

This amendment will facilitate operation of low power, limited coverage systems in the 22.0-23.6 GHz.

EFFECTIVE DATE: September 26, 1980.

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

FOR FURTHER INFORMATION CONTACT: Donald Campbell, Office of Science and Technology, (202) 653-8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0-23.6 GHz, PR Docket No. 79-337, RM-3241. See also 45 FR 27457, April 23, 1980.

First Report and Order

Adopted: August 1, 1980.

Released: August 19, 1980.

1. On January 2, 1980, the Commission issued a Notice of Proposed Rule Making looking toward amending Part 94 of the Commission's rules to allow the operation of short haul, low cost, low power microwave systems in the 22.0-23.6 GHz band utilizing somewhat relaxed technical standards.[1] We took this action in response to a petition for rule making (RM-3241) submitted by the General Electric Company, (GE).

2. Our objective in proposing these rules was to stimulate the development of systems in the 22.0-23.6 GHz band, which is sparingly used, and to accommodate some of the existing and future operations which are now authorized in the 12.0-12.7 GHz band.[2]

3. Our present rules permit systems in the 22.0-23.6 GHz band to operate with a maximum transmitter output power of 10 watts, a frequency tolerance ±0.03%, a channel maximum bandwidth of 100 MHz and an attenuation for harmonics and spurious signals of 43+10 log 10 (mean output power in watts) decibels. In the Notice we proposed to authorize low power systems with maximum output power of 0.1 watt, to operate with a frequency tolerance of ±0.05%, a channel maximum bandwidth of 50 MHz and an attenuation for harmonics and spurious signals above 40,000 MHz of 33 plus 10 log 10 (mean output power in watts) decibels. We also proposed to limit the operation of these systems to a maximum number of five hops in tandem and a maximum tandem length of 40 km (25 miles). Finally, we proposed limiting their operating frequencies to the 22.2-22.4 GHz and 23.4-23.6 GHz band segments.

4. The parties which filed comments are listed in Appendix A.[3] The overwhelming majority of the comments fully supported the Commission's proposal. Rockwell International Corporation (Rockwell) and M/A-COM, Incorporated (M/A-COM) argued, however, that the proposed frequency tolerance of ±0.05% would waste the greatest part of the 50 MHz channel bandwidth. M/A-COM suggested the use of frequency control techniques to improve the frequency tolerance and the channel bandwidth of the proposed systems.

5. GE in response argued that the suggested M/A-COM frequency tolerance improvement would increase the cost of these systems substantially and that the market for such high cost systems was doubtful. It concluded that adoption of these proposals would result in the 22.0-23.6 GHz band remaining unused.

6. We have reviewed all of the comments and replies submitted in this proceeding carefully. The overwhelming support for our proposal indicates that the introduction of such systems in the 22.0-23.6 GHz band can fulfill an existing public need in a frequency spectrum which is presently unused. Also, we are concerned that the public interest would not be served by

[1] See Notice of Proposed Rule Making, Docket No. 79-337, 45 FR 2069 (January 10, 1980).

[2] This band was reallocated for shared use by the Fixed and Broadcast-Satellite Services in the 1979 World Administrative Radio Conference.

[3] Comments in this proceeding were requested by March 7, 1980, and replies by April 7, 1980. The reply comment date was extended to April 11, 1980. On May 28, 1980, Solfan Systems, Inc., filed a motion asking that we re-open the record for a 30 day period to give it an opportunity to file comments. The reasons given in support of this request, however, are not convincing. Although Solfan, says it became aware of this proceeding early in April, it did not request an extension until nearly the end of May. Solfan's own procrastination is not a good justification for re-opening and delaying disposition of this proceeding. The request is therefore denied.

restrictive standards which may retard the development and utilization of this spectrum. Further, the adoption of somewhat relaxed standards in the proposed frequency band does not preclude the operation of more advanced, tighter frequency tolerance systems. We have decided, therefore, to adopt at this time the ±0.05% frequency tolerance and 50 MHz maximum channel bandwidth for systems that operate with a maximum power output of 0.1 watt in the 21.8–22.0 MHz and 23.0–23.2 GHz band segments.[4] It is emphasized that the standards we are adopting here will apply only to a small portion of the 21.0–23.6 GHz band. Existing standards will continue to apply to the rest of the band and to higher power systems in the proposed band segments. Further, should future congestion in this band or interference with higher bands become major concerns, we may revisit the frequency tolerance and channel bandwidth specifications for these systems.[5]

7. Rockwell also urged the Commission to retain the present attenuation standard for harmonics and spurious signals of 43 plus 10 log 10 (mean output power in watts) decibels. Rockwell claimed that reducing the standards above 40,000 MHz to 33 plus 10 log 10 (mean output power in watts) decibels would increase the interference caused to the operation of future systems in the frequency bands above 40,000 MHz. GE on the other hand argued that the possibility of such interference would be minimal because the attenuation of 33 plus 10 log 10 (mean output power in watts) decibels would reduce the harmonics and spurious signals to a very low level. GE also claimed that any additional decrease of interference would cause an unnecessary increase in the cost of these systems.

8. We have considered Rockwell's and GE's arguments on this point, and we have decided to adopt our proposal. We reach this conclusion because we do not believe that the additional potential for interference to radio systems at or above 40,000 MHz would be as significant as Rockwell fears. The bands at 40,000 MHz and above are not developed, so there are no operational systems needing protection. Also radio signals at these frequency ranges experience severe attenuations so the potential for harmonics and spurious types of interference from the low power[6] systems under consideration, in our view, would be very small. Further, we are concerned that the cost for maintaining existing restrictions for these low power systems would be substantial. On balance therefore, we have decided to relax the attenuation requirements above 40,000 MHz, from 43 plus 10 log 10 (mean output power in watts) decibels to 33 plus 10 log 10 (mean output power in watts) decibels as proposed.

9. API requested the Commission to increase the proposed maximum number of five hops in tandem and maximum tandem length of 40 km (25 miles). API claimed that our proposal would prevent these low power systems from being used in areas where the incidence of attenuation due to rain and fog is great and where long distance communications are presently accommodated by systems in the congested lower microwave frequencies.

10. As we said previously, these low power systems are intended for use in short haul operations. For the operations API has in mind, systems with higher output power in this band would be more suitable. Nevertheless, in special situations, we will review proposed systems on a case-by-case basis and, if appropriate, authorize longer systems or more hops by rule waiver.

11. M/A-COM and GE recommended that the Commission adopt a channel pairing plan for the operation of these systems. We have considered this request and we have decided to adopt a channel pairing plan similar to the one provided for the 12.2–12.7 GHz frequencies in § 94.90 of our rules.

12. GE also requested again that digital operations be permitted to use the analog emission standards prescribed under § 94.71(c)(1) of the rules. We have considered this request and are denying it. As we said in the Notice, this exception to our rules for digital systems would increase the potential for harmful interference to adjacent channels.

13. GE and M/A-COM also urged that Part 15 of the Rules be amended to allow operation of these types of low power systems in the band without a license. GE also proposed that we adopt a temporary licensing program for the systems under consideration, and has requested the use of these frequencies for mobile operations. We have considered GE's request, however, we believe that in view of the needs to protect licensees on the channel pairs 21.875/23.075 GHz, 21.925/23.125 GHz and 21.975/23.175 GHz from interference, their suggestion would not be compatible with the operations being approved. The need for these capabilities (Part 15 operation, mobile operation and temporary licensing), however, is being explored in the accompanying Further Notice of Proposed Rule Making.

14. Accordingly, it is ordered, that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 94 of the Commission's rules is amended as discussed and denied in all other respects, effective September 26, 1980, as set forth in the attached Appendix D. IT IS FURTHER ORDERED that the Secretary shall cause a copy of this Report and Order to be published in the Federal Register.

Federal Communications Commission.

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

William J. Tricarico,

Secretary.

Appendix A—Parties Filing Comments and Reply Comments

Comments

Valley Cinema, Inc./Valley Sound
Master Electronic Systems, Inc.
National Safe Corporation
Meade Electric Company
Gonzales, Inc.
Lerro Electrical Corporation
Charles Wallach
Electronics Unlimited, Inc.
Bruce Dawson & Associates
Antronics, Inc.
Custom Video Systems, Inc.
Western Communications, Inc.
VT Technologies, Inc.
Rockwell International Corporation (Rockwell)
Farinon Group, Harris Corporation (Farinon)
Datapoint Corporation (Datapoint)
Microwave Associates, Inc. (M/A-COM)
American Petroleum Institute (API)
Utilities Telecommunications Council (UTC)
General Company (GE)

Reply Comments

American Petroleum Institute (API)

[4] In an effort to lessen the burden of frequency coordination and to allow the possibility of uncoordinated use of these devices, we have adopted different band segments than were proposed in the *Notice of Proposed Rule Making*. In the Notice, we proposed to allow these systems to operate in the band 22.2–22.4 GHz and 23.4–23.6 GHz. The international Radio Regulations, however, urges that assignments to stations in the 22.01–22.5 GHz band protect the Radio Astronomy Service. To simplify the coordination process we are now proposing to allow these low power devices to use the 21.8–22.0 GHz and 23.0–23.2 GHz band segments. It should also be noted that the Commission is addressing the necessity of frequency coordination for these low power devices in a companion *Further Notice of Proposed Rule Making*, FR Doc. 80-25484, Docket 79-337, adopted today in the Proposed Rules Section of this issue.

[5] Licensees are also put on notice that actions taken at the 1979 World Administrative Radio Conference (WARC) may affect the operation of these systems. The extent of the impact will be determined in a contemplated rule making proceeding for the implementing the provisions of the 1979 WARC. It should be noted that the band 21.2 to 23.6 GHz was reallocated and that more stringent frequency tolerances were established for the band 10.5 to 40.0 GHz by the 1979 WARC, as shown in Appendices B & C.

[6] I.e., one tenth of one watt.

Microwave Associates, Inc. (M/A-COM)
General Electic Company (GE)

Appendix B

"Appendix 3.—*Table of transmitter frequency tolerances*"

[Final Acts of the World Administrative Radio Conference, Geneva, 1979.]

Frequency bands (lower limit exclusive, upper limit inclusive) and categories of stations	Tolerances[2]	Tolerances[3]
Band: 10.5 to 40 GHZ		
1. *Fixed Stations*	500	300
2. *Radiodetermination Stations*	[1]7,500	[1]5,000
3. *Broadcasting Stations*		100
4. *Space Stations*		100
5. *Earth Stations*		100

[1]Where specific frequencies are not assigned to radar stations, the bandwidth occupied by the emissions of such stations shall be maintained wholly within the band allocated to the service and the indicated tolerance does not apply.
[2]In parts per 10^4 applicable until January 1, 1990, to transmitters in use and to those to be installed before January 2, 1985.
[3]In parts per 10^6 applicable to new transmitters installed after January 1, 1985, and to all transmitters after January 1, 1990.

Appendix C

"Article N7/5.—*Frequency allocations*"

[Final Acts of the World Administrative Radio Conference, Geneva, 1979]

Allocation GHz		
Region 1	Region 2	Region 3
21.2-21.4	Earth Exploration-Satellite (passive). Fixed Mobile Space Research (passive)	
21.4-22.0	Fixed Mobile	
22.0-22.21	Fixed Mobile except aeronautical mobile. 3801A	
22.21-22.5	Earth Exploration-Satellite (passive). Fixed Mobile except aeronautical mobile. Radio Astronomy Space Research (passive) 3801B 3801BA	
22.5-22.55 Fixed Mobile	22.5-22.55 Broadcasting-Satellite 3202/410B. Fixed Mobile 3801C	
22.55-23.0 Fixed Inter-Satellite Mobile 3801D	22.55-23.0 Broadcasting-Satellite 3802/410B. Fixed Inter-Satellite Mobile 3801C 3801D	
23.0-23.55	Fixed Inter-Satellite Mobile 3801D	
23.55-23.6	Fixed Mobile	

3801A In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the band 22.01-22.21 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3280/116 and 3281/116A and Article N33A).
3801B In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference in the band 22.21-22.5 GHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3280/116 and 3281/116A and Article N33A).
3801BA The use of the Band 22.21-22.5 GHz by the earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile services.
3802/410B In Regions 2 and 3, the broadcasting-satellite service is authorized in the band 22.5-23.0 GHz, subject to agreement obtained under the procedure set forth in Article N13A.
3801C Additional allocation: in Japan, the band 22.5-23 GHz is also allocated to the broadcasting service on a primary basis.
3801D In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the bands 22.81-22.86 GHz and 23.07-23.12 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3280/116 and 3280/116A and Article N33A).

Appendix D

1. Part 94 of the Commission's rules is amended as follows:

1. Footnote 12 in § 94.61(b) is amended to read as follows:

§ 94.61 Applicability.

* * * * *

(b) * * *

[12]Authorizations are normally granted only to common carriers (Part 21) in the band segments 21.2–21.8 GHz and 22.4–23.00 GHz, and to operational-fixed users (Part 94) in the segments 21.8–22.4 GHz and 23.0–23.6 GHz Cross-service, assignments for these users may be made only upon a showing that no interference-free frequencies are available in the appropriate band segments. Frequencies in the 21.8–22.0 GHz and 23.0–23.2 GHz band segments may be authorized to operational fixed users under the provisions of § 94.91.

* * * * *

2. Section 94.63 (b) and (d) are amended to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

(b) The interference protection criteria for operational-fixed stations, other than those licensed under the provisions of § 94.90 and 94.91 are as follows:

* * * * *

(d) * * *

(3) Except as provided in §§ 94.90 and 94.91, where the applicant's proposed facilities are of a type not included in paragraph (b) of this section or where the development of the carrier-to-interference (C/I) ratio is not covered by generally acceptable procedures, or where the applicant does not wish to develop the carrier-to-interference ratio, the applicant shall, in the absence of criteria or a developed C/I ratio, employ the following C/I protection ratios:

3. Section 94.65(i) is amended to read as follows:

§ 94.65 Frequencies.

* * * * *

(i) Except as provided in § 94.91 frequencies in bands authorized in § 94.61(b) above 13.0 GHz are not paired and will be specified in authorization.

4. Section 94.67(a) is amended by adding footnote 5 to the tolerance for the frequency band 12,700–40,000 MHz to read as follows:

§ 94.67 Frequency tolerance.

(a) * * *

Frequency band MHz	*Tolerance as percentage of assigned frequency*
* * * * *	
12,700–40,000	[5]0.03
* * * * *	

[5]For exceptions see § 94.91.

5. Section 94.71 is amended by adding footnote 7 to the maximum authorized bandwidth for the frequency band 21.2–23.6 GHz and a new subdivision (iv) to (c)(1) and (c)(2) is added to read as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) * * *

Frequency band MHz	*Maximum authorized bandwidth*
* * * * *	
21,200–23,600 MHz	up to 100 MHz[5]
* * * * *	

[5]For exceptions see § 94.91.

(c) * * *

(1) * * *

(iv) On any frequency above 40,000 MHz the carrier harmonics of any systems operating under the provisions of § 94.91 shall be attenuated at least 33 plus 10 log 10 (mean output power in watts) decibels.

(2) * * *

(iv) On any frequency above 40,000 MHz the carrier harmonics of any system operating under the provisions of § 94.91 shall be attenuated at least 33 plus 10 log 10 (mean output power in watts) decibels.

6. Section 94.73(a)(1) is amended by adding footnote 5 to maximum transmitter power output for the frequency band 12.2–40.0 GHz and in § 94.73(a)(2) footnote 5 is amended to read as follows:

§ 94.73 Power limitations.

* * * * *

(a) * * *

(1) * * *

Frequency band	*Maximum transmitter output power (watts)*
* * * * *	
12.2–40.0 GHz	[5]10
* * * * *	

(2)

Frequency band	*Maximum allowable ERP[2] dBm*
* * * * *	

[5]For low power operations see Sections 94.90 and 94.91.

7. In § 94.75, paragraph (b) is amended by adding footnote 5 to the frequencies "above 12,700 MHz" and paragraph (c) is amended to read as follows:

§ 94.75 Antenna limitations.

* * * * *

(b) * * *

* * * * * * *

Antenna Standards

Frequency band (in megahertz)	Category [1]	Maximum beamwidth to 3dB points included angle in degrees)	Minimum radiation suppression at angle in degrees from centerline of main beam in decibels—						
			5 to 10	10 to 15	15 to 20	20 to 30	30 to 100	100 to 140	140 to 180
Above [5] 12,700—To be specified in authorization except that bands shared with domestic public radio services stations (Part 21) shall conform to standards contained in § 21.108(c).									

* * * * * * *

[5] Except as provided in § 94.91.

* * * * *

(c) Applicants shall request, and authorization for stations in this service will specify, the polarization of each transmitted signal. When periscope antenna systems or passive repeaters are employed, the applicant shall indicate the expected polarization of the reflected signal. The polarization should be expressed as either horizontal, vertical, or at an angle from vertical. Antenna polarizations of horizontal and vertical should be denoted by the abbreviations (H) and (V), respectively. For antennas using linear polarizations other than horizontal or vertical, the polarization should be stated in degrees measured from the vertical, with angles between 0° and +90° denoting the on-coming electric field vector displacement in a counterclockwise direction, and angles between 0° and −90° denoting the on coming electric field vector displacement in a clockwise direction. In the event polarization diversity is authorized, the two polarizations must be separated by 90°. Antennas employing other than linearly polarized feed systems will not be authorized except for stations utilizing frequencies listed in § 94.65(a)(1) or under the provisions of § 94.91(i).

8. A new § 94.91, is added to read as follows:

§ 94.91 Special provisions for low power, limited coverage systems in the band segments 21.8-22.0 GHz and 23.0-23.2 GHz.

Notwithstanding any contrary provisions in this part the frequency pairs 21.825/23.025 GHz, 21.875/23.075 GHz, 21.925/23.125 GHz and 21.975/23.175 GHz may be authorized for low power, limited coverage, systems subject to the following provisions:

(a) Maximum effective radiated power (ERP) shall be 55 dBm.

(b) The rated transmitter output power shall not exceed 0.100 watts.

(c) Frequency tolerance shall be maintained to within 0.05 percent of the assigned frequency.

(d) Maximum beamwidth not to exceed 4 degrees. However, the sidelobe suppression criteria contained in § 94.75(b) of this part shall not apply, except that a minimum front-to-back ratio of 38 dB shall apply.

(e) Upon showing of need, a maximum bandwidth of 50 MHz may be authorized per frequency assigned.

(f) Radio systems authorized under the provisions, of this section shall have no more than five hops in tandem, except upon showing of need, but in any event the maximum tandem length shall not exceed 40 km (25 miles).

(g) Interfering signals at the antenna terminals of stations authorized under this section shall not exceed 90 dBm and 70 dBm respectively, for co-channel and adjacent channel interfering signals.

(h) Stations authorized under the provisions of this section shall provide the protection from interference specified in § 94.63 to stations operating in accordance with the provisions of this part.

(i) Antennas employing circular polarization may be used in operational-fixed systems operating under the provisions of this Section. In such cases, antenna polarization shall be defined either as clockwise or counterclockwise, as described in § 94.75(c).

[FR Doc. 80-25483 Filed 8-20-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-169; Amdt. No. 172-60]

Labeling of Radioactive Materials Packages

Correction

In FR Doc. 80-22428, appearing on page 49939, in the issue of Monday, July 28, 1980, make the following correction.

On page 49940, second column, the section heading for "§ 172.436" should have read:

§ 172.436 Radioactive White—I label.

BILLING CODE 1505-01

Interstate Commerce Commission

49 CFR Part 1331

[Ex Parte No. 297 (Sub-5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296 (Motor Carrier Act of 1980)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Interim Policy Requirements.

SUMMARY: Section 14 of the Motor Carrier Act of 1980 imposes a number of new requirements and standards on motor carrier rate bureaus as a condition to their continued immunity from the antitrust laws. In this proceeding, the Commission will interpret and implement these new provisions. Interpretations contained in this notice are imposed on an interim basis. Amendments to existing rate bureau agreements or new or revised agreements must be filed within 120 days of enactment. At the same time, comments on the interpretations and proposed conditions are invited. Final standards will then be set. Once this phase of the proceeding is completed, the Commission will undertake review of each revised agreement to determine whether it meets all statutory requirements.

DATES: Effective date: August 21, 1980. An original and 15 copies of comments must be filed with the Commission on or before October 6, 1980.

ADDRESS: Comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 275-7693
or
Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Motor carrier rate bureaus may be granted antitrust immunity to determine collectively motor carrier rates rules, practices, etc., provided that the agreements under which they function have been approved by the Interstate Commerce Commission. Approval of agreements hinges upon compliance with certain statutory requirements and rules promulgated by the Commission. Pub. L. 96-296, the Motor Carrier Act of 1980, has made a number of changes in the permissible scope of rate bureau agreements. These changes are quite broad and take many different forms. Some require little or no interpretation. Others leave to the Commission establishment of standards for their implementation. Some are effective immediately; others postponed to future years.

With the exception of certain limited areas, Congress did not authorize delay in implementation of these important changes. We find it necessary to adopt interim rules and conclude that notice of the interim rules would be impractical and contrary to the public interest. In fact, Section 14(e) of this legislation requires interim compliance, pending our final action on each agreement. Compliance, in certain cases, requires interpretation of the new language. Our experience under the 4R Act demonstrates the importance of making our interpretations of new statutory provisions effective as soon as possible. Thus we are requiring interim compliance with the new standards, as interpreted in this decision.[1]

At the same time, the bureaus and other interested persons will have the opportunity to comment on our interim interpretations. As will be seen in our discussion of each new requirement, the need for interpretation is in most instances minimal. In some cases, the legislation reflects prior Commission findings and rules. In other cases, e.g., quorum standards, our interpretations are designed to be consistent with present bureau activities and should not be controversial. Under Section 14(e), violations of these interim standards and interpretations are grounds for immediate consideration of withdrawal of immunity.

Following our review of the comments, we will issue final standards. Section 14(e) provides 120 days for the filing of new or amended agreements. This should provide adequate time for us to finalize these standards before amendments are filed. Revisions will be required only to the extent that final rules change existing agreement provisions. Any agreement that is not amended within 120 days to conform to our final standards could be immediately considered for termination. To simplify the amendment process, we are offering sample amendments that bureaus may consider.[2] The exact wording of our samples need not be adopted. However, in any case where we do not believe the amendment conforms to our final interpretation, we will disapprove the proposed agreement and consider terminating the existing one. Compliance with our findings at these two stages will ensure continued antitrust immunity through the first phase of this proceeding.

Implementation of the specific restrictions set out in new § 10706(b)(3) does not, by itself, fulfill the Commission's statutory obligations in this area. Under the standard of review of § 10706(b)(2), the Commission is directed to approve collective ratemaking agreements, if all specific statutory conditions are fulfilled, unless it finds that any such agreement is inconsistent with the National Transportation Policy (NTP). Moreover, the Commission may require compliance with any reasonable conditions to assure that the agreement furthers this transportation policy.

In the second stage of this proceeding, all agreements will be reviewed in light of the NTP as well as their compliance with specific sections of the Act. It is clear that even if a bureau is in compliance with § 10706(b)(3), continued immunity is not automatic. Therefore, in this second stage we will consider, for each bureau, the need for continued immunity under the standards of § 10706, including § 10706(b)(2).

Comments on our approach in this second stage are not requested at this time and will not be considered. At this point, we are concerned with implementing the specific restrictions contained in the revised statute. Our discussion of the second stage is included now only to give parties an overview of our intentions in the rate bureau area and to give advance notice that compliance with this first stage will not necessarily guarantee immunity in the future.

The Commission has terminated the proceedings in Ex Parte No. 297 (Sub-No. 3), *Modified Terms and Conditions for Approval of Collective Ratemaking Agreements under Section 5a of the Interstate Commerce Act*, and in Ex Parte No. 297 (Sub-No. 4), *Reopening of Section 5A Application Proceedings to Take Additional Evidence*. However, we take official notice of the comments submitted on the record in those proceedings where they are relevant to the proposals at issue here.

In addition, we take official notice of the comments made by the Federal Trade Commission (FTC) in its petition filed December 18, 1979, to reopen the record in Ex Parte No. 297 (Sub-No. 4), to the extent that that petition is relevant to the issues involved in this proceeding. We originally allowed parties 90 days to reply to the FTC's petition but have recently postponed this due date. We will permit parties to address the matters raised in that petition to the extent they remain relevant as a part of their comments in support of their new agreements in the second stage of this proceeding.

We will now proceed to a discussion of the specific changes for which amendments must be filed. While certain of the changes are not effective immediately, we are requiring amendments to conform to the legislation on these matters as well. This will avoid further fragmentation of the proceeding.

I. New Standards Related to Bureau Operations

A. *Identification and description of the member carriers*

§ 10706(b)(3) provides that:

> (A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, "affiliate" means a person controlling, controlled by or under common control or ownership with another person and "ownership" means equity holdings in a business entity of at least 5 percent.

These requirements are self-explanatory.

B. *Right of Independent Action*

§ 10706(b)(3)(B)(ii) provides:

> The organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

[1] To the extent necessary, we are also ordering changes in by-laws. By-laws must be consistent with our interpretations.

[2] Not all of the new provisions need be applicable to each bureau. Amendments will be required only in those areas applicable to a bureau's activities.

49 CFR 1331.6(A)(1), *Changing or Cancelling Rates Established by Independent Action,* established by the Commission in *Notification of Rate Proposals,* 358 ICC 487 (1978) defines independent action as:

> * * * any action taken by a common carrier member of a rate bureau, * * *
>
> (a) To establish a rate to be published in the appropriate rate bureau tariff, or to cancel a rate for that carrier's account, or
>
> (b) To instruct the rate bureau that an existing rate (whether established by independent action or collective action), that is proposed to be changed or canceled, be retained for that carrier's account and published in the appropriate bureau tariff, or
>
> (c) To have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action.

Independent actions may be taken by one carrier, on a single-line rate, or by more than one, in the case of an independent action on a particular joint-line rate. As can be seen from the definition, independent action is not limited to the establishment of a separate rate for the account of one carrier. It also includes changes to any published rate made only for the independent actor's account, as well as the refusal to agree to particular changes sought by other carriers.

This ratemaking freedom is crucial to price competition. We believe it would not be consistent with the Act's guarantees of the right of independent action for rate bureau agreements to require or provide that an independent rate action by a bureau member of members be published with the bureau, circulated to other members, or be discussed or voted upon by other members in advance of its filing with the Commission. Rate bureaus exist primarily as a forum for *collective* action on matters related to more than one carrier. Independent action is not related to these activities or to the functioning of the bureau on matters of collective interest. The bureau's role, subject to the exceptions in the statute, should be limited to the administrative function of tariff publication, as directed by the independent actor. As noted in the legislative history, "the bill allows rate bureaus to continue, subject to the provisions of this section, their functions. with respect to * * * filing independent actions for individual members." H.R. Rep. No. 96-1069, 96th Cong., 2nd Sess., 28 (1980).

To the extent that provisions in rate bureau agreements require or allow independent rate actions to be published with the bureau any specified number of days before it is filed with the Commission or to be circulated to or discussed by other bureau members before it is filed with the Commission, we believe such provisions are contrary to the concept of independent action and have the potential of interfering with the right of independent action contrary to Section 10706(b)(3)(B)(ii). Such provisions serve primarily to postpone the filing of independent proposals and thus hinder the independent actor's ability to react individually to market changes and delay pricing initiatives. They also tend to eliminate or significantly diminish the competitive advantages the independent actor would otherwise have had. They also may offer competing carriers the opportunity to attempt to exert improper pressure on the independent actor not to take the proposed action.

We recognize that Congress intended to allow rate bureaus to continue to perform such administrative functions as "docketing" and "publication of rates." Thus, Section 10708(d), which establishes a zone of rate freedom for motor carriers and prohibits antitrust immunity for any collective actions respecting rates filed under that section, also provides in subsection (d)(4) that "the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws." But neither the Act nor its legislative history defines "docketing" of rates, and we believe that both the basic purposes of the Act and its legislative history make clear that "docketing" was not to be used by rate bureaus or carriers as device for delaying or interfering with each carrier's statutory right of independent action, or generally as a means to facilitate statutorily prohibited collective action. Thus, as the House Report explained in discussing the purpose of Section 10708(d)(4) (pp. 24-25; emphasis supplied):

> This is to clarify that these two types of *administrative* functions may still be performed by rate bureaus for rates established pursuant to this subsection. *The Committee does not intend by the use of the language "docketing and publication of such rate" to preclude the Commission from issuing rules and regulations to assure that carriers who utilize the zone of rate freedom do so individually and not collectively.*

Moreover, it appears clear from the structure of the Act that the antitrust immunity conferred by Section 10708(d)(4) on "docketing and publication" was not intended to serve as a means of permitting discussion or voting otherwise prohibited by the Act. Thus, for example, Section 10706(b)(3)(C) prohibits rate bureau agreements from allowing "discussion or voting on rates" filed under the zone of freedom of Section 10708(d). It seems plain that the "docketing and publication" given antitrust immunity under Section 10708(d)(4) was not intended to override the specific prohibition of Section 10706(b)(3)(C).

In sum, although we intend to allow the "docketing and publication" of independent actions with rate bureaus, as Congress appears to have intended, we also believe that the purpose and legislative history of the Act support our decision to prohibit the "docketing" of independent action with the bureau until the bureau files the independent action (in tariff form) with the Commission. Simultaneous tariff filing and bureau docketing should eliminate the harshest anti-competitive effects of the collective ratemaking process on independent actions.

We realize that this prohibition may also deprive shippers of some measure of advance notice of rates to be offered through independent action. However, we believe the benefits to be gained from this prohibition clearly outweigh the harms, since it will foster price competition and does not prevent carriers from notifying shippers in advance of filing.

We note that these interpretations would not be inconsistent with our prior action in *Notification of Rate Proposals, supra.* There, we were concerned only with procedures for changes in existing independent actions. We did not reach the basic issue we are here addressing.

If a bureau agreement provides for the docketing of an independent action on or after the date it is filed with the Commission we will not, at least in the interim prior to the establishment of final rules, prohibit subsequent discussion of the docketed action by other bureau members. We believe that the comments that are submitted may illuminate further whether congressional intent and policy considerations warrant a prohibition on any bureau discussion of independent action. After the comments are received, we will seriously consider whether to prohibit such discussion altogether. As an alternative to an outright ban on discussion of independent actions, we will consider requiring rate bureaus to include in their bylaws a provision granting the party filing an independent action the right to direct the bureau not to permit discussion, if the party does not desire such discussion to take place.

Section 10706(b)(3)(B)(ii) contains specific exceptions to the right of independent action which permit bureau

changes to existing independently set rates. Regarding these exceptions, we will make the following interpretations, required on an interim basis:

(1) The prohibition of changes or cancellations by "the organization" will encompass changes or cancellations proposed by an individual carrier under the collective ratemaking procedures of the organization. Thus, another carrier(s) may not propose for collective consideration or as its own independent action, changes in independently set rates of another carrier.

(2) The organization may only change independently established rates for the purpose of tariff simplification, removal of discrimination, and elimination of obsolete items. Tariff simplication does not contemplate changes to independent rates in order to equalize rates. Rate equalization is not, in our view, tariff simplification; and

(3) Items will be considered obsolete only where a carrier has gone out of business, or has verified in writing that the item is obsolete.

For rate changes under these three circumstances, written consent of the carrier which initiated the independent rate must be obtained and kept on file. The standard covering consent may be found at 49 CFR 1331.6(o)(2).

(4) General increases and decreases and broad rate restructurings are not subject to these requirements. Ex Parte adjustments, however, may not have the effect of cancelling or eliminating any rate differential or differences in the application or rules established previously by an independent action, without prior written authorization of its proponent and any participants. General increases, reductions, or restructurings may only adjust independently established rates by the same amount or percentage as they change rates established through collective procedures for similar movements. The statutory language does not impose the consent requirement in these two situations.

Sample Amendment

There is reserved to each carrier participating in a tariff published by this organization the free and unrestrained right to take independent action, either before or after any determination is made under any procedure of this organization. New rates or other new tariff items proposed under independent action will not be docketed, discussed, or voted on, nor will the bureau provide, by any other means, advance notice of the proposal to any member or non-member, unless, simultaneous with docketing, the bureau files the independent action (in tariff form) with the Interstate Commerce Commission.

This organization will change or cancel a rate established by independent action only for the purposes of tariff simplification, removal of discrimination, or elimination of obsolete items.

To change or cancel an independently established rate, whether the change or cancellation is proposed under collective procedures or under the right of independent action, the organization will use the following procedures:

1. Member carriers participating in the independently established rate, shippers, and other interested parties will be provided 14 days notice (not counting the day the notice is sent) of any meeting at which a proposal to change or cancel a rate established by independent action will be considered. Notice will include: the rate, if there is one, limitations of weight or other restrictions pertaining to the existing rate and the proposed rate, the commodities moving under the rate, the relevant origin and destination points, the carriers participating in the rate proposed to be changed or cancelled, and the identity of the proponent of the change or cancellation.

2. The member carriers, shippers, and other interested parties shall have at least 14 days, after notice is sent to them, to respond to the notice and to express their views to the appropriate committee of this organization. Their views may be expressed in writing, in person or by any other means of their own choosing, within the established procedures of this organization.

3. A change or cancellation in the independently established rate will only apply to those carrier-members participating in the rate if those members have sent, and this organization has received, written consent to the change or cancellation. The written consent will clearly identify the rate and the change, and will be signed by a representative of the consenting carrier-member. The rate will continue to be treated as an independently established rate for the account of the participating carriers which do not give written consent to the change or cancellation.

General rate increases and broad rate restructurings are excepted from these requirements. However, such collective adjustments will not cancel rate differentials or differences in the application of rules existing as a result of any independent action taken previously, unless the proponent and any other participants in that independent action desiring to eliminate such rate differentials or applications first notify in writing this organization.

C. *Rate Bureau Protests*

§ 10706(b)(3)(B)(iii) provides:

> The organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property.

In Ex Parte No. 297, *Rate Bureau Investigation*, 349 ICC 811, (1975), we held that rate bureaus were prohibited from protesting independent action proposals of member carriers in any way, or from discouraging initiation of independent action proposals of members. Section 10706(b)(3)(B)(iii) goes further. It imposes a total prohibition against bureau filings of protests and complaints against any tariff item. We believe this provision needs no additional interpretation.

D. *Employee Docketing*

§ 10706(b)(3)(B)(iv) provides:

> The organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers.

In this section, the term "docket" will be interpreted to include "propose." Thus, organization employees and employee committees may not propose changes in tariff items published by or for the account of any member carrier or carriers.

The phrase "act upon" refers to the consideration of such proposals and to any determination or recommendation concerning the merits, published by or for the account of member carriers.

The phrase "act upon" refers to the consideration of such proposals and to any determination concerning the publishing or effectiveness of proposals. This would include screening performed by standing rate committees and action by general rate committees, if bureau employees participate in committee consideration or determination.

This section does not prohibit advice to carriers by employees concerning the legality of their actions.

It also does not prevent such employees from acting as moderators at meetings, so long as they do not participate in the substance of the discussions, or prohibit the organization from developing general cost data to support requests for general rate increases.

Sample Amendment

Employees and employee committees of this organization will act only on procedural or managerial business of the organization. In addition, they may advise the members of the organization

concerning the legality of rate and rule proposals under the laws of the United States, and may moderate meetings but they will not participate in the substance of discussion concerning rates and rules. In particular they will not initiate or act upon any proposal effecting a change in any tariff item published by or for the account of any member carrier.

E. *Open Meetings*

§ 10706(b)(3)(B)(v) provides:

Upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization.

This section is intended to help protect the public's interest in the rates established through procedures immune from the antitrust laws.

The phrase "upon request" will be interpreted to encompass all requests, however they are made. The requests for identification of a proponent and for votes cast by members should be answered immediately, as the information is readily available. Admission to meetings must also be granted immediately upon request without requiring advance arrangements.

The phrase "any person" will refer to any person, including but not limited to, motor carriers, non-bureau competitors, carriers by other modes, shippers, representatives of public interest groups, and government agencies. The organization may reasonably limit the number of representatives permitted per company or association.

The phrase "any meeting at which rates or rules will be discussed or voted upon" includes meetings where rates are discussed even if they are not voted upon at the same meeting.

The requirement that persons be admitted to meetings on request assumes as a prerequisite that these persons have notice of the meeting. No discussion or voting on rates is permitted unless the meeting is noticed. Therefore, this section will be interpreted to require that the organization give reasonable notice through its docket bulletin of meetings at which rates or rules will be discussed or voted upon. In addition to stating the time and place of the meeting, the notice must state the rate or rule proposals which will be discussed. If the notice concerns a rate, it should include a list or general description of the commodities moving under the rate, the relevant origin and destination points, and the justification for the proposed action, as well as any other relevant data.

This section will not require admittance to or divulgence of information from meetings whose subject matter relates solely to internal personnel rules and procedures of the organization and not to tariff rates or rules.

Sample amendment

The name of the proponent of a rule or rate docketed with this organization, and the vote cast by any member carrier on any proposal for this organization, will be immediately divulged to any person, upon request.

Any person requesting admittance to a meeting at which rates or rules are being discussed must be admitted immediately.

Notice must be given of meetings at which rates or rules may be discussed or voted upon will state the time and place of the meeting and the rate proposals or rules which will be discussed or voted upon, including a list or general description of the commodities moving under the rate, the relevant origin and destination points, and the appropriate justification for the proposed action as well as any other relevant data.

Notice of meetings will be transmitted at the same time to each receiver (subscriber), member and non-member, of the organization's docket bulletin.

F. *Proxy Voting*

§ 10706(b)(3)(B)(vi) provides:

The organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented.

Written proxies will be required when one carrier authorizes another to vote for it. The proxy must be signed, dated and contain a brief statement of the type of authorization (single meeting, period of time, etc.). A proxy may be revoked at any time, either by a subsequent written verification or by the member-carrier appearing at a meeting and expressing an intent to vote on its own behalf. A proxy may remain in effect for 2 years after which time it expires unless renewed. There is no limit to the number of proxies a carrier may hold. The bureau must immediately be tendered copies of all proxy agreements entered into, maintain these copies, and monitor and ensure compliance.

Sample Amendment

Any carrier voting for one or more other carriers must possess a written authorization of its authority. The proxy must contain the date, signature of the carrier that is releasing the vote, and the description of the type of proxy being granted. A copy of all effective proxies will be maintained by the bureau.

G. *Quorum Standard*

§ 10706(b)(3)(F) provides:

The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

We determine a reasonable quorum to be 35 percent of the membership of the particular group holding the meeting. We are concerned that the quorum standard be a uniform percentage for the various ratemaking organizations, affording them equal treatment regardless of actual size. Use of one particular number as a quorum for all organizations would not ensure appropriate representation for different organizations, since the number of members in each organization may change over time. Use of a percentage ensures, that, for any particular discussion, an adequate number of the total carriers involved will be represented, regardless of possible changes in membership.

In the final rules we are considering a requirement that a quorum be defined as the presence of at least 35 percent of the carriers members. We request comments on the reasonableness of this figure.

Past agreements have established various percentages as quorum requirements. The Illinois Freight Association Agreement requires a quorum of a majority of members. The Commission decision in *The Rocky Mountain Motor Tariff Bureau-Agreement*, 293 I.C.C. 585 (1954) requires a quorum of 6 percent.

Where organizations have very large memberships we think that requiring a 51 percent quorum per committee may be burdensome. On the other hand, requiring only a very small percentage quorum could permit a few dominant carriers to control the meetings and the rates. We think that a quorum of 35 percent is sufficient to ensure appropriate representation without being burdensome.

Sample Amendment

At any meeting of the organization or committee of the organization, at which rates or rules are discussed, 35 percent of the membership of the organization or the committee shall constitute a quorum.

H. *Final Disposition of Cases*

§ 10706(b)(3)(B)(vii) provides:

The organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may

extend such period, subject to review by the Commission.

This provision is essentially a codification of current Commission policy, as promulgated in *Rate Bureau Investigation*, 349 I.C.C. 811 (1975). In that case, we interpreted "final disposition" to include adoption, rejection or withdrawal of rate proposals including appeals procedures, if any, so as to render such a determination administratively final within the agreement procedures. We interpret 120 days to mean calendar days, although if the 120th day should fall on a Saturday, Sunday or public holiday, the due date shall be the first working day following.

The statute provides that the 120 days can be extended under unusual circumstances. In Ex Parte 297, we noted that examples of hardship cases might include issues such as complex interline or interterritorial adjustments and nationwide classification changes, although these matters will be decided on a case by case basis. Request for extension of the 120 day limit should be submitted to the Commission as soon as it becomes apparent that the deadline will not be met, but, in any event, no later than 30 days prior to the 120th day. If the 120 days expire and an extension has not been timely requested and granted, further consideration of the docketed item is automatically prohibited. Action on it must begin again at the notice stage.

Since this ruling has been in effect for some time, we assume that rate bureaus have already amended their bylaws to reflect this requirement.

II. Standards for Member Carrier Voting and Discussion of Collectively Established Rates

A. *General Standards*

§ 10706(b)(3)(B)(i) provides:

> (i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) The organization may allow any member carrier to discuss any rate proposal docketed,[3] but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal.

A primary purpose of this legislation is to infuse additional competition into the ratemaking process. Nowhere is this intent more evident than in the provisions which define the limits for voting and discussion of collectively established rates. As noted above, rates proposed under independent action have special requirements for docketing. Discussion, and voting of independent actions may ultimately be prohibited. Collectively established rates, whether single-line or joint-line, may be docketed, discussed and voted upon by any member carrier until January 1, 1981. After that date, discussion and docketing of collectively established rates is permissible but voting is limited to carriers with authority to operate under the proposed rate. To guarantee that voting is limited to those carriers which are entitled to vote we will require each bureau to submit a plan for identifying carriers which are eligible to vote which includes a sworn certification that each vote taken is limited to carriers with the requisite authority. These procedures must be set forth in the revised agreements or in revised by-laws, due to be filed within 120 days of enactment of Pub. L. 96-296.

Sample Amendment

While any member carrier may discuss (unless otherwise proscribed) any collectively established rate proposals docketed, after January 1, 1981, only those carriers with authority to participate in the transportation to which the proposed rates apply may vote on the rate.

A sworn certification will be made concerning the eligibility of those carriers which vote on collectively established rates after January 1, 1981.

B. *Single-line Rates*

§ 10706(b)(3)(D) provides:

> No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984 * * *

This section takes the general standard for collectively established rates one step further. After a three year transition period, discussion and voting on single-line rates is ended. This prohibition against collective action on single-line rates necessarily precludes the docketing of single-line rates in advance of their filing for the same reasons we used in our discussion of independent action.

Section 10706(b)(1) defines a single-line rate as a "rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier." On the basis of these provisions, the agreements of the rate bureaus must be modified to prohibit, after January 1, 1984, docketing in advance of filing, discussion or voting on single-line rates and to discontinue inclusion of both single-line and joint-line movements in one proposal. While this date may be delayed until July 1, 1984, if the Motor Carrier Rate Making Study is not complete, the substance of this section will remain the same.

Sample Amendment

After January 1, 1984 (or July 1, 1984), no docketing in advance of tariff filing, discussion or voting on single-line rates will be permitted by the bureau members or committees and single-line rates may not be included in the same item as joint-line rates.

III. Specific Exceptions to These Standards

A. *General Increases and Decreases*

§ 10706(b)(3)(D)(i) provides an exception to the limitations on single- and joint-line ratemaking in the case of general increases and decreases. This exception is subject to certain other restrictions. These are:

(1) The agreement must provide procedures to give shippers at least 15 days' notice of the proposal;

(2) Shippers must be given the opportunity to present comments on the proposal before it is filed with the Commission;

(3) Discussion of these proposals must be limited to industry average carrier costs; and

(4) After January 1, 1984 (or July 1, 1984), there may also be no discussion of individual markets or particular single-line rates, even if discussion is limited to industry average costs.

We interpret "notice" here to mean advance notification to shipper subscribers via a notice in the bureau's docket bulletin. The notice must include the intended changes and be issued at least 4 weeks before the proposal is to be filed with the Commission. As noted, the section states "at least 15 days," thus giving us discretion to require a longer notice period. If shippers are to develop serious comments and the bureau is to consider them, notice 15 days before the tariff is to be filed is not adequate. The bureau must also provide at least 2 weeks for the filing of these comments. The importance of this comment opportunity may not be disregarded by the bureau. We expect the bureaus to consider seriously these comments prior to filing the proposed tariff and develop specific procedures to implement this requirement. We will not require that a meeting be held to receive shipper comments. Written comments will be acceptable.

Sample Amendment

General rate increases and decreases may be discussed and voted on only if:

(1) Shippers receive, through docket bulletin publication, notice at least 4

[3] Released rates, zone of freedom rates, and other exceptions to this provision are covered by specific sections of the statute and are discussed elsewhere in this notice.

weeks in advance of the filing date of the proposals;

(2) Shippers are given at least 2 weeks to comment;

(3) The shipper comments are analyzed by the bureau, under specified procedures, prior to the filing of the proposal;

(4) Discussion of general rate increases and decreases is limited to industry average carrier cost information; and after January 1, 1984 (or July 1, 1984), no discussion of individual markets or particular single-line rates is permitted.

B. *Changes in Tariff Structures*

§ 10706(b)(3)(D)(iii) basically extends the general increase and decrease discussion exception to broad rate restructurings. We will not permit the phrase "changes in tariff structure" to be used to circumvent other restrictions. This interpretation is consistent with the 4R Act, with other provisions of Pub. L. 96-296, and with the broadly-accepted grouping of general increases (and decreases) and broad rate restructurings.

Sample Amendment

Discussion of changes in tariff structures (broad tariff restructurings) is limited to industry average carrier cost information. After January 1, 1984 (or July 1, 1984), discussions of individual markets or particular single-line rates are also prohibited.

C. *Zone of Freedom and Released Rates*

§ 10706(b)(3)(C) provides:

> No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of Section 10708(d) or 10730(b) of this title apply, except that rates established or filed under Section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with the respect to such rates may be discussed or voted on under agreement approved under this subsection until January 1, 1984.

Section 10708(d) is a new provision which allows for a zone of rate freedom for motor carriers of property and freight forwarders. It allows a carrier to increase its rate as much as 10 percent above the rate in effect the year before and allows it to decrease its rates to 10 percent below the rate in effect on July 1, 1980 without Commission intervention. A prohibition against discussion and voting is contained in the section. The legislative history notes that no collective action on these items is permitted, and that the rates may be proposed only by individual carriers. House Report at 29.

Section 10708(d)(4) provides antitrust immunity for the "docketing and publication" of rates in the zone of rate freedom. As we discussed earlier, the legislative history indicates that the purpose of this immunity is to permit the rate bureaus to perform administrative functions concerning rates which cannot be collectively considered or established. The drafters go further to state "The Committee does not intend by the use of the language 'docketing and publication of such rate' to preclude the Commission from issuing rules and regulations to assure that carriers who utilize the zone of rate freedom do so individually and not collectively." House Report at 25.

With this background in mind, when carriers docket with the rate bureau rates within the zone of rate freedom, docketing may not take place before the rates are filed with the Commission. If we are to encourage use of this provision the initiating carrier must be ensured the benefit of its action. If a proposed rate change is prematurely docketed, it notifies all competing carriers and nullifies whatever advantage the initiator might have had, especially in the short run.

Section 10730(b) permits carriers to establish rates for the transportation of property (other than household goods) under which the liability of the carrier for the property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper. This section specifically prohibits any discussion of or voting on released rates if the rates have not yet been established when the Act goes into effect. However, the legislative history makes it clear that all collective ratemaking on new released rates is prohibited. For the reasons discussed above, we believe this, also, requires a prohibition against premature docketing of new released rates proposed independently. If the rates are in effect at the time of enactment, they may be docketed, discussed and voted on until January 1, 1984. After January 1, 1984, released rates may not be the subject of collective action.

Sample Amendment

No docketing in advance of tariff filing, discussion or voting will be allowed on rates that are being proposed under the zone of rate freedom.

No new released rates may be docketed in advance of tariff filing, or discussed or voted by bureau members or its committees, but released rates, as defined by Section 10730(b), if in effect when the Motor Carrier Reform Act was enacted or filed to be effective before enactment may be docketed, discussed or voted on until January 1, 1984.

D. *Changes in Commodity Classification*

§ 10706(b)(3)(D)(ii) provides that the single and jointline ratemaking limitations do not apply to changes in commodity classifications. Presently, these changes are made collectively by one bureau, acting for all motor carriers of freight. The effect of the change is to continue to allow all carriers, whether or not they transport the commodities for which classification changes are proposed, to discuss and vote on changes. No amendment is necessary to implement this provision. However, the bureau must comply with the other new standards of general applicability (e.g., open meeting, proxies, etc.) by filing conforming amendments.

E. *Housekeeping Functions of the Bureau*

§ 10706(b)(3)(D)(iv) provides that certain prohibitions do not apply to:

> Publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

The general housekeeping duties of the rate bureaus, such as the items listed above, are not included in the prohibitions on rate discussions. Bureaus may continue to perform these types of services for carrier members. The last phrase complements § 10706(b)(3)(D)(iii).

IV. Burden of Proof of Violations and Effect of Violations

§ 10706(b)(3)(E) provides:

> In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing parallel behavior does not satisfy that burden by itself.

The section places the burden of proof upon the party alleging violation to show that the alleged event occurred. The reference to "parallel behavior" (behavior of one or more parties that is similar or identical but absent proof of intent by the party to agree upon a rate) means that it is not enough to show that the carrier ultimately published the same rate. Obviously, this proof is extremely difficult. In order to ensure compliance, the Commission must rely, to a great extent, on shipper monitoring of bureau and carrier activities. The open meeting requirement will certainly assist in this task. However, we believe it would be unduly burdensome to

require shippers to attend all meetings. We believe some sort of record-keeping requirement is necessary to ensure adequate access to necessary information. In the interim, bureaus will make sound recordings of all meetings and maintain them for the Statute of Limitations period. Typed transcriptions of these recordings must be made available for purchase, upon request. The purchase price should be no more than the cost of reproduction. The recordings must also be made available for use at bureau offices. We seek comments on this as a final standard. Another alternative which must be considered is a transcript requirement. As this could be more expensive than sound recordings, we have chosen the latter as the interim standard.

One troublesome aspect of past regulation of rate bureaus has been the lack of definite remedies for proven violations. In addition to the obvious potential remedy of withdrawal of immunity when serious and continuing violations occur, we propose to adopt a standard that provides that proof of significant violations of an agreement (i.e., actions outside the scope of permissible activities) will automatically result in tariff rejection. If the allegations of improper activity are not sufficient to warrant rejection, they will be considered as grounds for suspension or investigation of the tariff item. Rejection, suspension, or investigation for actions beyond the scope of permissible bureau activity, should not be viewed as restricting other remedies under the antitrust laws. This procedure merely will provide an immediate administrative remedy which will ensure the integrity and consistency of our regulation, to the extent rate bureau activity affects matters before us.

We seek comments on this approach and invite presentation of alternate solutions to this issue.

Sample Amendment

Transcripts (or sound recordings) of all meetings will be made and kept available for viewing at the bureau. Copies of transcripts (or sound recordings) are available for purchase.

V. Conclusions

Oral hearings do not appear to be necessary at this time and none are contemplated. Anyone wishing to present views and evidence, either in support of or in opposition to these proposals, is invited to submit written data, views, or arguments within 30 days. While actual rules have not been proposed, this notice provides adequate notice of contemplated actions. We are not yet certain whether all these changes warrant rules in the CFR. Section 10706(b)(3)(F), for example, seems to require regulations. Other statutory provisions are self-executing. While we recommend selective adoption of rules, an argument can be made that it is useful to have a complete set of regulations. We seek comment on this issue. In any case, existing rules (similar or different from Pub. L. 96-296) will be repealed or amended to conform to the new law.

We anticipate that final standards or rules will be completed in time to permit revised agreements to be filed within 120 days of enactment. If we are unable to meet this timetable, revised agreements consistent with this notice will be required.

It does not appear that this action will affect significantly the quality of the human environment or conservation of energy resources. However, comments on this issue are also invited.

(Pub. L. 96-196, 49 U.S.C. 10321, 10706, 5 U.S.C. 553)

Decided: August 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Gilliam concurring with a separate expression. Vice Chairman Gresham dissenting in part with a separate expression. Commissioner Stafford dissented with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, Concurring:

In the Motor Carrier Act of 1980, the Congress has provided the Commission with specific guidelines for approving collective ratemaking agreements. The new statute requires that the Commission approve any agreement conforming to the restrictions imposed under the statute, unless we determine that the agreement is inconsistent with the transportation policy. The legislative history reveals that Congress specifically intended to reduce the substantial discretion previously invested in the Commission to approve or disapprove rate bureau agreements. In reference to Section 14, the House Report states that "This is a clear example of Congress defining the limits which it believes the Commission should follow in reducing the discretion of the Commission to expand those limits." In this regard, the Report emphasizes that the legislation is not designed to eliminate rate bureaus. The creation of an independent Study Commission to examine the need for continued antitrust immunity is further evidence that the Congress and not the Interstate Commerce Commission will decide the ultimate fate of the rate bureaus.

The interim interpretations adopted here exceed the parameters imposed by the Congress on our discretion in the following ways. Before discussing the specific problems I have with these interpretations it is important to clarify the role of the Commission under the statute.

The duty of the Commission is to approve or disapprove collective ratemaking agreements submitted by the carriers. Antitrust immunity automatically follows by statute once approval is given, if the carriers adhere to the specific terms of their agreements. If they do not, they are automatically operating without immunity, subject to the operation of the antitrust laws. The carriers do not continue to be immunized while engaging in activities which are contrary to the terms of their agreement. It is not necessary for the Commission to first revoke their existing agreement in order for the carriers to become liable for antitrust violations.

The interim solution promulgated by this decision states that under Section 14(e), violations of these interim standards and interpretations are grounds for immediate consideration of withdrawal of immunity. This statement is erroneous. The Commission has not been vested by Section 14(e) with the power to withdraw interim immunity. What the statute does provide is continued immunity under previously approved agreements during the period in which new or amended agreements are being finally disposed of by the Commission. This interim immunity is conditioned upon compliance by the ratemaking organization with the statutory section including amendments made by this section and regulations issued under such amendments. If the conditions are not met, then the carriers have no interim immunity and operate subject to the antitrust laws until a final decision is made by the Commission on their new agreements. This interpretation of the statute applies equally to the other references to termination for specific causes which are contained in the decision.

A potentially more serious problem of exceeding the Congressional mandate arises from the interpretation of available remedies. The provision for suspension or investigation of rates on the basis of allegations of "improper activity" in my view goes beyond the Congressional intent. As in the prior statute the Commission's power in the rate bureau area is limited to approval or disapproval of agreements. It is the clear Congressional intent that the Commission "stay within the powers

specifically vested in it by the revised laws". As I have already stated, the Congress intended to limit our discretion not increase it. To my knowledge, the Commission has never suspended a rate on the grounds that a carrier violated its rate bureau agreement. The proper remedy appears to be under the antitrust laws to which the carrier would be automatically subject by engaging in unapproved activities. In fact the statute increases the efficacy of available remedies under the antitrust laws by providing for public scrutiny of rate bureaus, which argues against the necessity for excessive involvement by the Commission in the enforcement end of collective ratemaking.

Vice Chairman Gresham, Dissenting in Part:

If I were the author of this notice, I would have included the following quote from the House Report (H.R. Rep. No. 96-1069, 96th Cong., 2nd Sess., p. 29 (1980).) in the notice:

> In other parts of the rate bureau section of the bill, the Committee has proposed to reduce the amount of discretion that the Commission has to approve or disapprove rate bureau agreements. This reduction in Commission discretion goes hand-in-hand with the other reforms proposed in the rate bureau process. This is a clear example of Congress defining the limits which it believes the Commission should follow in reducing the discretion of the Commission to expand those limits. When the parties to an agreement meet all the conditions in the section, there is a presumption that the Commission should find the agreement to be in the public interest.

In my opinion, we must follow the Congressional direction explicated in this passage, which is similar to language found at page 31 of the Senate Report (S. Rep. No. 96-641, 96th Cong., 2nd Sess. (1980).) It is in this spirit that I issue this dissent.

Apart from the general tone of the notice, I agree with the rules or standards proposed by the majority with two exceptions. First, while I strongly endorse the proposal to prohibit rate Bureaus from requiring independent actors to docket their proposals, I would not at this time dictate to an independently acting carrier that it may not docket a proposal or that it may do so only at a prescribed time, except for those proposals which are singled out for different treatment under 49 U.S.C. 10706(b)(3)(C).

The Motor Carrier Act of 1980, which we here are proposing to implement, explicitly permits rate bureaus to discuss single line rates, with the previously noted exceptions, until 1984. Congress chose to allow this until 1984 and I am unwilling to undo that which Congress has mandated. Furthermore, I believe we do not have the authority to do so.

Second, I am not in favor of adopting the requirements that sound recordings be kept and that copies of these recordings and typed transcripts be made available for purchase upon request. Congress has added 49 U.S.C. (b)(3)(B)(v), which imposes "sunshine" requirements which I believe are adequate yet reasonable. Thus, I do not support the majority's proposal to supplement those requirements.

Commissioner Stafford, Dissenting:

Today's decision fails to give any consideration or credence to the principal concern of Congress that the rate bureau as an institution be retained without major change until Congress has received the report and recommendations of the Motor Carrier Ratemaking Study Commission. The rush to make changes herein, proposed administrative actions which presage renewed investigations of rate bureaus, threats to remove antitrust immunity, and separate actions or potential actions in other areas of ratemaking can lead but to one conclusion, this is a determined administrative effort to dismantle the rate bureaus as speedily as possible. Obviously, Congress did not establish the elaborate provisions regarding the Study Commission unless it expected that organization to do more than to rubber stamp interim actions of this Commission.

Turning next to specific aspects of the decision, the following areas raise serious legal and administrative problems.

1. *Sample forms.* The decision seeks to establish uniform provisions to be used by all rate bureaus. While uniformity is desirable in some circumstances, the situation at hand is not one of them. The establishment of rates and related matters are the prerogatives of the carriers, not the Commission, and I would defer to the distinctive needs of groups of carriers in a rate bureau[1] *providing* that the agreements are in conformity with the Act.

2. *Docketing.* When is a "docketing" a "docketing"? The interpretation of what constitutes docketing of a proposal, whether by independent action or otherwise, should be simply left open for comment. Without question, the interpretations offered in various sections of today's decision are complex, unclear, and will lead to disputes. Clearly, this agency should not attempt to act as a rate bureau, as is evident from the regulations applying to independent actions.

3. *Penalties.* The decision proposes to reject a rate tariff automatically if there are significant violations of an agreement. This is a drastic action and appears to be beyond the powers allotted to the Commission. In any event, rejection of a tariff should be automatically stayed pending an appeal.

In summary, I am concerned lest this and related decisions or actions lead inevitably to the dismantling of the rate bureaus even before the Study Commission, an expert independent body, has reviewed the matter and has made its recommendations to Congress.

[1] Cf., for example, the rate bureaus established by household goods carriers. The latter are a distinctive group of carriers, have a separate uniform system of accounts (49 CFR Part 1207, table III, et seq.), prepare a separate annual report (Form M-H), and are presently being given separate consideration by Congress in pending legislation. See, S. 1798, Household Goods Transportation Act of 1979, Section 4, in connection with antitrust immunity.

[FR Doc. 80-25560 Filed 8-20-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 26 and 27

Opening of the Charles M. Russell and UL Bend National Wildlife Refuges, Mont., To Camping and Use of Roads; and Possession of Firearms and Bows and Arrows

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director had determined that the opening to camping of the Charles M. Russell and UL Bend National Wildlife Refuges is compatible with the objectives for which the refuges were established and will provide additional recreational opportunity to the public. All vehicle traffic will be restricted to roads designated open to the public, except that direct access by motor vehicle is permitted to and from temporary campsites within 150 feet of designated roads. Firearms and bows and arrows are permitted on the refuges.

DATES: Year around (September 1, 1980, through August 31, 1981).

FOR FURTHER INFORMATION CONTACT: Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101; telephone: (406) 657-6115.

Ralph Fries, Refuge Manager, Charles M. Russell National Wildlife Refuge,

P.O. Box 110, Lewistown, Montana 59457; telephone: (406) 538-8706.

SUPPLEMENTARY INFORMATION: General: Portions of the refuges' roads which are open to vehicular traffic by the general public are designated by signs and/or delineated on maps available at refuge headquarters and from the office of the Area Manager (address listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational uses authorized by these regulations will not interfere with the primary purposes for which the following National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 26.34 Special regulations: Concerning public access, use, and recreation for individual national wildlife refuges.

Camping on the Charles M. Russell and UL Bend National Wildlife Refuges is permitted year-round. All forms of camping are limited to 14 days within any 30-day period, except in state parks within the refuge boundary where state regulations apply. Entrance to, travel on, and exit from these refuges is permitted only on designated and numbered routes. Operation of motor vehicles off designated and numbered roads is prohibited, except that direct access by motor vehicle is permitted to and from temporary campsites within 150 feet of designated roads.

§ 27.42 Firearms.

Firearms that are not cased and are not broken down are permitted on the refuge in vehicles. Weapons may only be removed from a vehicle, and/or discharged only by a licensed hunter during a legal refuge hunting season. Discharge of weapons or their removal from a vehicle at any other time is prohibited.

§ 27.43 Weapons other than firearms.

Bows and arrows may be possessed on the refuge in vehicles. They may only be removed from a vehicle and/or shot by a licensed hunter during a legal bow season. Shooting of arrows at any other time is prohibited.

The provisions of these special regulations supplement the regulations which govern public entry and use, and prohibited acts on wildlife refuges generally, which are set forth in Title 50, Code and Federal Regulations, Parts 26 and 27.

Note.—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 CFR, Part 14.

Dated: August 13, 1980.

Jack D. Larnoyeux,

Acting Area Manager.

[FR Doc. 80-25511 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

National Wildlife Refuges in Florida, Georgia and South Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The director has determined that the opening to hunting of certain national wildlife refuges in Florida, Georgia and South Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource and will provide additonal recreational opportunity to the public. Big game hunts on island refuges (i.e., Wassaw Island National Wildlife Refuge) provide biological control and keep population levels compatible with their habitat. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory game birds, upland game and big game species.

DATES: September 1, 1980 to June 30, 1981. See State regulations for waterfowl seasons in Georgia and Florida.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, telephone (904) 791-2267.

Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, Florida 32646, telephone (904) 628-2201.

Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028, telephone (904) 985-4673.

Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Florida 33437, telephone (305) 732-3684.

Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780, telephone (305) 867-4820.

Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31060, telephone (912) 986-5441.

Refuge Manager, Savannah National Wildlife Refuge Complex (Savannah, Blackbeard Island, Pinckney Island and Wassaw Island Refuges) P.O. Box 8487, Savannah, Georgia 31412, telephone (912) 944-4415.

Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355, telephone (904) 925-6121.

Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320, telephone (904) 653-8808.

SUPPLEMENTAL INFORMATION:

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, State regulations and the following applicable general conditions and special regulations:

The Refuge Recreational Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) that no area of the National Wildlife Refuge System is used for forms of recreation not directly related to the primary purposes for which the area was established, and (b) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chassahowitzka, Lake Woodruff, Loxahatchee, Merritt Island, Piedmont, Savannah, Blackbeard Island, Pinckney Island, Wassaw Island, St. Marks and St. Vincent National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November

1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. All hunters must possess a refuge permit to hunt on a national wildlife refuge. Permits are available from the refuge headquarters and/or check stations. Permits must be carried while hunting and are nontransferable. Permits may be obtained by either applying in person or by mail. All participants must fill in and return the questionnaire portion of the hunt permit to the refuge manager by the established deadline for the respective hunts.

3. A list of special conditions applicable to individual refuge hunts and a map of the hunt area are available at refuge headquarters. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps.

4. Ingress and egress points for motor vehicles and/or boats are limited to designated check stations or other specified areas.

5. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

6. Persons under age 18 must be under the close supervision of an authorized adult.

7. Deer, hogs and turkeys harvested during scheduled hunts for these species must be checked by refuge personnel before leaving the refuge.

8. Muzzleloading shotguns used during primitive gun big game hunts must be 20 gauge or larger loaded with single shot.

9. Unless specified, dogs are not permitted on refuge areas during hunts.

10. Only temporary blinds are permitted.

11. Personal property must be retrieved by owner and removed from the refuge daily, unless otherwise specified.

12. Use of buckshot is prohibited on refuge big game hunts (except the Savannah NWR feral hog hunt).

13. Portions of refuges open for hunts will be closed to other public use activities during these hunts.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Migratory bird hunting is permitted on the following refuges within those areas posted with signs and/or designated on a hunting area map. Migratory bird hunting shall be in accordance with the aforementioned general conditions and the following special conditions:

Florida

Chassahowitzka National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 2,500 acres which have been designated as being open to public hunting. (2) Hunting will be permitted daily during the State waterfowl season. (3) Travel to and from the hunting area will be permitted only by outboard motorboat or manually propelled boats and canoes. Air thrust boats are prohibited. (4) Dogs are permitted for retrieving dead and wounded game.

Loxahatchee National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 29,000 acres which have been designated as open to public hunting. (2) Hunting is permitted on Sundays, Wednesdays, Thursdays, Fridays, and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 11 a.m. (3) Air thrust boats may be launched at the headquarters landing only. (4) All air thrust boat operators must possess a refuge airboat permit available at refuge headquarters. (5) Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) within the hunting area and a clearly posted access trail through the headquarters "closed area." No hunting is permitted in these canals or in the posted "closed area" near headquarters and the concession. (6) Guns must be cased or dismantled when boat is in motion.

Merritt Island National Wildlife Refuge

(1) Migratory waterfowl hunting is permitted for ducks and coots only on approximately 38,500 acres. (2) Hunting is permitted only on Sundays, Wednesdays, Thursdays, Fridays, and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 1 p.m. (3) Proof of completion of a certified hunter safety training course is required to hunt Areas 1, 2, and 4 during the entire season. (4) A hunter check station is currently scheduled to be operated the first day of the season for issuance of daily permits. (5) Portions of the refuge may be closed to hunting at certain times during space shuttle operations. Consult local news sources for the space shuttle security schedule. (6) Hunting from or within 10 feet of any dike, roadway or railroad fill is prohibited. (7) All boaters must wear life jackets when boats are in motion in the Indian River and Mosquito Lagoon. Air thrust boats are prohibited. (8) The use of dogs is permitted, but they must remain under the control of their handlers at all times.

Georgia

Savannah National Wildlife Refuge

(1) Only ducks, coots and snipe may be hunted on approximately 3,500 acres which have been designated as open to public hunting. (2) Hunting will be permitted only on Thursdays, Fridays and Saturdays from one-half hour before sunrise to 12 noon during the State waterfowl season. (Note: Snipe season opens at different dates than duck and coot season but will close on the same date.) (3) Hunting will not be permitted in or on Middle River; Back River; the channels of the Savannah River known as Steamboat River and Houstown Cut, between Front and Middle Rivers; nor within 50 yards of the shoreline of these rivers. (4) Hunters will not be permitted to enter the hunting area sooner then one and one-half hours before sunrise.

§ 32.22 Special regulations; upland game for individual wildlife refuge areas.

Florida

St. Marks National Wildlife Refuge

The hunt area for upland game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations.

Georgia

Piedmont National Wildlife Refuge

(1) Species permitted: Quail, squirrel and rabbit. (2) Season: Daily except Sundays during State season. (3) Closed areas: Compartment 25 and the posted wildlife trail section of Compartment 14. (4) Permits: Available at refuge headquarters during the hunt. (5) Dogs are allowed for quail hunting and one dog per hunt party is allowed for squirrel hunting. Dogs are *not allowed* for rabbit hunting. (6) Handguns and buckshot are prohibited on the refuge. (7) Upland game hunting of designated species is permitted on approximately 33,000 acres.

§ 32.32 Special regulations; big game for individual wildlife refuges.

Florida

White-tailed deer, turkey, and/or feral hogs may be hunted on one or more of the following refuge areas:

Lake Woodruff National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer and feral hogs, (b) season: September 19–21 and October 3–

5, 1980, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: either sex, (e) permits—no quota, permits available at refuge headquarters prior to hunt and at the check station during the hunt. (2) *Muzzleloading firearms hunts:* (a) species permitted: deer and feral hogs, (b) season: October 17–19 and October 31–November 2, 1980, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: bucks only, must have visible antlers, (e) permits—100 permits for each hunt, applications must be received prior to the public drawing at 2 p.m. on August 22, 1980. (3) Stand hours: One-half hour before sunrise to 9 a.m. Stalking or movement through the hunt area is not permitted during stand hours. (4) No one may enter the hunt area prior to two hours before sunrise and all hunters must clear the area by two hours after sunset. (5) Big game hunting of designated species is permitted on approximately 2,250 acres.

St. Marks National Wildlife Refuge

The hunt area for big game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations and 14,000 acres of the Wakulla Unit plus 18,000 acres of the Panacea Unit subject to the aforementioned general conditions and the following special conditions:

(1) *Archery hunts:* (a) species permitted: deer and feral hogs, (b) season: September 26–28, 1980, (c) bag limit: deer—one deer; hogs—no limit, (d) sex: either sex (except spotted fawn), (e) permits: no quota, permits available at refuge headquarters until August 29, 1980. (2) *Muzzleloading firearms hunt:* (a) species permitted: deer and feral hogs, (b) season: November 21–23, 1980, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: deer—bucks only, must have visible antlers, hogs—either sex, (e) permits: no quota, permits available at refuge headquarters until August 29, 1980. (3) *Conventional weapon hunt:* (a) species permitted: deer and feral hogs, (b) season: December 12–14, 1980, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: deer—bucks only, hogs—either sex, (e) weapons: State regulations except *no* buckshot or handguns permitted. Shotgun slugs *are* permitted, (f) permits: limited to 400. Applications are available at refuge office until August 29, 1980.

St. Vincent National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: white-tailed deer and feral hogs, (b) season: November 7–9, 1980, (c) bag limit: deer—one deer, hogs no limit, (d) sex: either sex, (e) permits: no quota; permits available at refuge headquarters until October 30, 1980, (f) hunters must be on stand one-half hour before sunrise to 9 a.m. (2) *Muzzleloading firearms hunts:* (a) species permitted: white-tailed deer, turkey, and feral hogs, (b) season: December 12–14, 1980, (c) bag limit: deer—one deer, turkey—one bearded turkey, hogs—no limit, (d) sex: deer and hogs—either sex; turkeys—bearded only, (e) permits: no quota; permits issued by mail or in person at refuge headquarters until December 1, 1980. (3) All participants are required to check in and out at check stations. (4) Hunter camping and fires are restricted to two designated camping areas. Participants may not set up camp before 8 a.m. on the day prior to the scheduled hunt. All camping equipment must be removed by 1 p.m. the day following the last day of the hunt season. (5) Hunters are required to wear an outer garment above the waist which contains a minimum of 500 square inches of daylight fluorescent orange material. (6) St. Vincent National Wildlife Refuge is closed to the general public during these hunts. (7) Approximately 12,000 acres are open for hunting designated species of big game.

Georgia and South Carolina

Savannah National Wildlife Refuge

(1)(a) Species permitted: Feral hogs, (b) season: October 25, 1980 and February 21, 1981, (c) bag limit: no limit, (d) sex: either sex, (e) weapon: shotgun—"00" buckshot, (f) permits: 250 permits for each hunt, permit applications must be postmarked by September 25, 1980 for the October 25 hunt and January 21, 1981 for the Feburary 21 hunt.

Persons drawn for the first hunt will not be eligible for the second hunt. (2) The Savannah NWR (except for headquarters area) will be closed to the general public on hunt days. (3) Approximately 11,500 acres are open for feral hog hunting.

Georgia

Blackbeard Island National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: November 3–5, 1980 and December 28–30, 1980, (c) bag limit: two deer, (d) sex: either sex, (a) permits: no limit; application forms must be postmarked by October 3 for the hunt beginning November 3 and by November 28 for the hunt beginning December 28. (2) Camping and fires are permitted at designated camping areas only. Entry on the island will not be permitted more than two days in advance of the opening date of each hunt period. Participants will be confined to the camping area until the morning of the first day of each hunt period and must be off the island the day following the last day of the hunt period. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day, hunters must remain on their stands. No movement during these hours will be tolerated. (4) The Blackbeard Island National Wildlife Refuge will be closed to the general public November 1–6, 1980 and December 26–31, 1980. (5) Approximately 4,500 acres are open for deer hunting.

Wassaw Island National Wildlife Refuge

Special Conditions: (1) *Archery hunts:* (a) species permitted: deer, (b) season: November 14–16, 1980, (c) bag limit: two deer, (d) sex: either sex, (e) permits: unlimited permit applications must be postmarked by October 14, 1980. (2) *Gun hunts:* (a) species permitted: deer, (b) weapons: State regulations (except buckshot and handguns prohibited), (c) seasons: December 13–14, 1980, (d) bag limit: two deer, (e) sex: antlerless deer on December 13, 1980, either sex on December 14, 1980, (f) permits: 120 permits will be issued by drawing. Permit applications must be postmarked by November 13, 1980. (3) Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants must remain in the camping area until morning of first day of hunt period and must be off the island the day following last day of the hunt. (4) All camping and fires will be at designated camping areas only. (5) Stand hours: during the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day, hunters must remain on their stands. No movement during these hours will be tolerated. (6) The Wassaw Island National Wildlife Refuge will be closed to the general public November 13–17, 1980 and December 12–15, 1980. (7) Approximately 2,000 acres are within the designated deer hunting area.

Piedmont National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: October 4–11, 1980, (c) bag limit: two deer—either sex, (d) permits: no limit. (2) *Muzzleloading firearms hunt:* (a) species permitted: deer, (b) season: October 23–25, 1980, (c) bag limit: two deer—3 points or more on one side or antlerless, (d) permits: 1,500 permits issued by public drawing on August 25, 1980 at 1 p.m. (3) *Bucks only gun hunts:* (a) season: October 30–November 1, 1980, (b) bag

limit: one deer, (c) permits: 2,000 permits two bucks, with visible antlers, (c) permits: 1,500 permits issued by public drawing on August 25, 1980 at 1 p.m. (4) *Either sex gun hunt:* (a) seasons: November 8 and November 15, 1980, (b) bag limit: for each hunt issued by public drawing on August 25, 1980 at 1 p.m. (5) Children under age 12 are not permitted on the deer hunts. (6) Camping is permitted only in the Pippins Lake Campground, Compartment 19. The Campground will be open at 8 a.m. the day before each deer hunt and closed at 11 a.m. the day after each deer hunt. (7) Prehunt scouting and stand placement will be permitted from 8 a.m. until sunset on the day immediately prior to each deer hunt. Weapons are not permitted in the woods during scouting periods. (8) Refuge big game hunters are required to wear outer garment above the waist which contains a minimum of 500 square inches of daylight fluorescent orange material. (9) Handguns and buckshot are prohibited on the refuge. (10) Approximately 33,000 acres are open to deer hunting. (11) Piedmont National Wildlife Refuge (except headquarters area) will be closed to the general public on hunt days. (12) Submission of more than one application for each hunter is prohibited and shall be cause for rejection of all his permits. Duplication of the hunt application is prohibited. Each applicant must complete and sign his own application. Lack of signature will be cause for rejection of his application.

South Carolina

Pinckney Island National Wildlife Refuge

(1) *Gun hunts:* (a) species permitted: deer, (b) weapons: shotguns with slugs: (c) season: October 4, 1980 and October 11, 1980, (d) bag limit: two deer, (e) sex: October 4, antlerless deer only; October 11, one buck and one antlerless, (f) permits: 80 permits will be issued by public drawing for each hunt, applications must be postmarked by September 4, 1980. Persons drawn for the first hunt will not be eligible for the second hunt. (2) Participants must check in at headquarters no earlier than 4 a.m. and park in designated area prior to hunting. Entry by boat is prohibited. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset, hunters must be on their stands. (4) The refuge will be open September 28, 1980 from 8 a.m. until 5 p.m. for the purpose of scouting. Only hunt participants with their hunt permit will be permitted on the refuge. (5) Pinckney Island National Wildlife Refuge will be closed to the general public on October 4 and October 11, 1980. (6) The hunting area encompasses approximately 2,500 acres.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 14, 1980.

Donald J. Hankla,

Area Manager.

[FR Doc. 80-25503 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Eastern Neck National Wildlife Refuge, Maryland, To Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Eastern Neck National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 6, 1980, through December 31, 1980).

FOR FURTHER INFORMATION CONTACT: Phillip Feiger, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661, Telephone No. 301-639-7056.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the developent, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Eastern Neck National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 1,996 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery only: October 6, 7, 10, and 11, 1980, Non-Ambulatory hunters only, hunter choice of weapons: October 25, 1980, Muzzle-loading longarm only: October 27, 29, and November 1, 1980, Shotgun only: November 17, 19, and 22, 1980.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) All hunters must be checked in by no later than 8:00 a.m. of the morning they are to hunt. Failure to do so will constitute a no show and a standby hunter will be assigned.

No hunter may enter the refuge earlier than one-half hour before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of

legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distance respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in the 9 x 14 inch chest area of a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to one hundred and fifteen (115) per day for gun hunts, and one hundred and fifty (150) per day for archery hunts, and ten (10) for the non-ambulatory hunt. All participants of the non-ambulatory hunt will be subject to State regulations governing such hunting.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1980. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

(16) Hunters who have a valid refuge hunting permit for 1980 will be allowed to scout the refuge from October 1 to November 22 on all non-hunt days. Hunters exercising this privilege will display their 1980 refuge permit on the dashboard of their car.

(17) Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used.

(18) Target practice or the test firing of any weapon is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—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.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 12, 1980.

[FR Doc. 80-25508 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Parker River National Wildlife Refuge, Massachusetts, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Parker River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980, through January 31, 1981.

FOR FURTHER INFORMATION CONTACT: George Gavutis, Parker River National Wildlife Refuge, Northern Blvd., Plum Island, Newburyport, Massachusetts 01950, Telephone No. 617-465-5753.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practical and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Parker River National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Massachusetts, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,805 acres, and known as the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C), and the Youth Hunting Area (Area D), are delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl and coots, subject to the following special conditions.

1. Hunters will be required to have taken and passed the refuge open book Waterfowl Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it upon request. Hunters who are convicted of a violation of refuge regulations are subject to having their exam certification card revoked.

2. The number of hunters on the Pine Island Area will be limited to 75 each day, Parker River Area to 25 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis. Hunters using Area B must each bring and set out at least two (2) waterfowl decoys and waterfowl only may be hunted within 50 yards of these set decoys.

3. Hunters on all three areas may not fire or possess more than 15 shotshells per day. Steel shot is required for all shotguns. Waterfowl hunters may not have in their possession lead shotshells.

4. Hunters when requested by federal or state enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

5. The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days except Sundays under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

6. Boat access is prohibited on Area C and required on Area A. Boats may be landed only during the open season on waterfowl and by persons authorized to participate in refuge hunting programs. Access to Area B is permitted by foot from the refuge parking lot off of Marsh Avenue or via boat from the refuge launching ramp on Plum Island, or from off-refuge sites. Access to Area C must be from refuge parking lot on Stackyard Road.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1981. The public is invited to offer suggestions and comments at any time.

Note.—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.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 12, 1980.

[FR Doc. 80-25507 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Waubay National Wildlife Refuge, South Dakota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Waubay National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Gun: November 29, 1980, through December 7, 1980. Archery: December 8, 1980, through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. Johnson, Waubay National Wildlife Refuge, Waubay, South Dakota 57273, Phone Number (605) 947-4695.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Waubay National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. This area, comprising 4,591 acres, is delineated on maps available at the refuge headquarters. Hunters shall possess a valid Day County, South Dakota deer license and hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. No hunting within the 60-acre safety zone surrounding refuge headquarters.
2. All refuge roads and trails within the open hunting area, other than public roads, will be closed to vehicles. All gates and trails, however, will be open to foot traffic.
3. Campfires are prohibited.
4. All deer taken on the area must be checked in at refuge checking station located at the old CCC camp site.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Waubay National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Dated: July 2, 1980.

Robert R. Johnson,

Refuge Manager.

[FR Doc. 80-25512 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., for the 1980 Archery Deer Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined opening of archery deer hunting at Shiawassee National Wildlife Refuge is compatible with objectives for which the area was established. The hunt will utilize a renewable natural resource and provide additional recreational opportunity to the public.

DATE: December 1, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Michigan 48601—Telephone Number 517/777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game for individual wildlife refuge areas.

Archery deer hunting is permitted on the entire refuge from 6:00 AM to 7:00 PM EST each day from December 1, 1980 through December 31, 1980, with the exception of the period from December 5th through December 14th when the area north of the Shiawassee River is open a muzzleloader hunting and closed to archery deer hunting.

Hunting shall be in accordance with all State regulations covering archery deer hunts, plus the following conditions:

(1) While hunting all archers must possess a valid federal permit on their person.

(2) Applications for federal permits must be received at the refuge office on or before October 31, 1980.

(3) All hunters must exhibit their hunting license, federal permit, deer tag, game and vehicle contents to federal and state officers upon request.

(4) Bow hunters are prohibited from constructing or using any permanent blind, platform or scaffold.

The provisions of this special regulation supplement the regulations which govern hunting on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective

through December 31, 1980. The public is invited to offer suggestions and comments at any time.

Note.—The USFWS has determined that this document does not contain a minor proposal requiring preparations of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

David J. Frisque,

Acting Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

August 8, 1980.

[FR Doc. 80-25526 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., for the 1980 Muzzleloader Deer Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The director has determined opening of muzzleloader deer hunting at Shiawassee National Wildlife Refuge is compatible with objectives for which the area was established. The hunt will utilize a renewable natural resource and provide additional recreational opportunity to the public.

DATES: December 5, 1980 through December 14, 1980.

FOR FURTHER INFORMATION CONTACT: Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Michigan 48601—Telephone Number 517/777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game for individual wildlife refuge areas; muzzleloader deer hunting is permitted north only of the Shiawassee River from 6:00 AM to 7:00 PM EST each day from December 5, 1980 through December 14, 1980 only.

Hunting shall be in accordance with all State regulations covering muzzleloader deer hunts, plus the following conditions:

(1) All muzzleloader hunters must possess a valid federal permit on their person while they are within the boundaries of the refuge.

(2) Applications for federal permits must be received at the refuge office on or before October 31, 1980.

(3) All hunters must exhibit their hunting license, federal permit, deer tag, game and vehicle contents to federal and state officers upon request.

(4) Muzzleloader hunters are prohibited from constructing or using any permanent blind, platform or scaffold.

(5) All muzzleloading guns must be a .44 caliber or larger.

(6) There will be three permit periods each period comprising three to four days in length.

(7) The harvest will consist of bucks only.

(8) No archery deer hunting will occur within the muzzleloader zone during the muzzleloader hunt.

The provisions of this special regulation supplement the regulations which govern hunting on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1980. The public is invited to offer suggestions and comments at any time.

Note.—The USFWS has determined that this document does not contain a minor proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

David J. Frisque,

Acting Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

August 8, 1980.

[FR Doc. 80-25525 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

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

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541, 544, 545, 561, 563, 563c, 569a, 577, and 578

[No. 80-490]

Mutual Capital Certificates

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: The Board proposes to amend its regulations for Federal mutual associations, Federally-insured state-chartered mutual institutions, and Federal mutual savings banks to provide procedures for the issuance of mutual capital certificates. In summary, the proposed regulations set forth: (1) procedures for application to the Board for approval of the issuance of mutual capital certificates; (2) procedures for insured mutual association membership approval of the authorization for issuance of mutual capital certificates; (3) proxy solicitation and issuer disclosure requirements; (4) pre-approved charter amendments for Federal mutual associations and Federal mutual savings banks; and (5) permissible and mandatory legal attributes of mutual capital certificates issued pursuant to the Board's regulations. In addition, the proposed regulations provide that mutual capital certificates shall be deemed to constitute a part of an insured mutual association's statutory reserve and net worth accounts. The proposed regulations implement Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, providing for the creation and issuance of mutual capital certificates. The Board believes that its proposed regulations will provide an effective means whereby mutual associations may gain access to the capital markets and increase the supply of funds for housing.

DATE: Comments must be received by: October 20, 1080.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr., Associate General Counsel, (202) 377-6469, or John P. Soukenik, Attorney, (202) 377-6427, at the above address.

SUPPLEMENTARY INFORMATION: Section 407(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, 94 Stat. 132) authorizes the creation and issuance of mutual capital certificates by mutual insured institutions by amending Section 5(b) of The Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(b), and Section 403(b) of The National Housing Act of 1934 ("NHA"), 12 U.S.C. 1726(b).

Most savings and loan associations have a mutual form of organization. Unlike the capital stock base of stock associations, which is raised through the sale of nonwithdrawable equity interests, the capital of mutual associations is in the form of share or deposit accounts, which not only generally are "withdrawable" (see 12 U.S.C. 1464(b)(1), and 12 CFR 545.1, 545.1-2 and 561.3), but, in the case of deposit accounts, create a creditor-debtor relationship between the depositor and the mutual association. Thus, mutual associations by their very nature do not have a net worth capital stock account over and above their retained earnings. The size of the net worth account of insured insitutions determines, among other things, the permissible rate of deposit growth of such institutions, and the absence of a capital stock-type account may therefore have a limiting effect on the amount of mortgage funds available for residential and other lending.

Congress intended in the Depository Institutions Deregulation and Monetary Control Act of 1980 to make available to qualifying mutual savings and loan institutions an equity instrument analogous to capital stock that could be used as part of a strong capital base. In fulfilling the statutory mandate to provide rules and regulations for the issuance and sale of mutual capital certificates, the Board has sought to provide for an instrument that constitutes an equity interest in a mutual association that is marketable to investors.

Legal Attributes of Mutual Capital Certificates

It is within the Board's discretion to determine what legal attributes mutual capital certificates should have. Generally, in proposed § 563.7-4, the Board has provided that mutual capital certificates shall have certain mandatory attributes analogous to those of preferred stock, which the Board believes is the capital stock form closest to the certificates. Dividend rights may be fixed, variable, participating or cumulative (or any combination thereof), but the right to receive dividends may not constitute an obligation of the mutual association, i.e., dividends may be paid or redemptions made only at the option of the mutual institution's board of directors.

Voting rights would be restricted to two situations. First, where the institution fails to make certain dividend or redemption payments, the mutual capital certificate holders would have the right to elect representatives to the board of directors. Second, where there is proposed a voluntary merger, consolidation or reorganization, the mutual capital certificate holders would have the right to vote on the proposal as a class.

The Board has proposed conditions relative to the maintenance of the safety and soundness of the issuing insured mutual institutions. The proposed regulations would not permit dividend or redemption payments to be made if such payments would cause the insured mutual institution to fail to meet its statutory reserve requirement or its net worth requirement. Furthermore, as Congress clearly contemplated that mutual capital certificates would be analogous to capital stock, which includes stock that is redeemable only over a relatively substantial period of time, no redemption of mutual capital certificates would be permitted unless the averge redemption date of mutual capital certificates to be redeemed were at least 10 years, except in certain specified instances that preserve the character of the security. Finally, the proposal would provide that the aggregate amount of mutual capital certificates issued pursuant to the proposed regulations not exceed 20 percent of the statutory reserve

requirement. This requirement would not restrict state-chartered institutions from issuing mutual capital certificates in excess of 20 percent of their statutory reserve, except that any amount beyond the 20 percent limitation so issued would not qualify for reserve and net worth treatment. Federal mutual associations are required to follow procedures similar to those applicable to Federal stock associations issuing preferred stock and may, with Board approval, issue certificates in an amount exceeding 20 percent of the statutory reserve requirement.

While the proposed regulations would require proxy solicitation and disclosure with respect to the original authorization of the certificates, the required proxy statement is in short form relative to the Board's other proxy disclosure requirements (e.g., Form PS of Part 563b). In addition, no prior clearance by Board staff of the proxy material would be required.

Procedures for Approval and Issuance

The Board provides in its proposed regulations that, before an institution may issue mutual capital certificates qualifying for net worth and reserve treatment, it must (1) obtain the written approval of the Board, (2) obtain the approval of its members for any necessary charter amendments or other authorization pursuant to notice accompanied by proxy solicitation materials, and (3) except in a private placement, provide to investors an offering circular.

Conforming Amendments

The Board recognizes that, because mutual capital certificates have not before been issued by mutual savings and loan associations, certain conforming amendments will be required to various miscellaneous provisions in its current regulations. Conforming amendments will be set forth in the final regulations.

Accordingly, the Board hereby proposes to amend Parts 541, 544, and 545 of the Rules and Regulations for the Federal Savings and Loan System, Parts 561, 563, 563c, and 569a of the Rules and Regulations for Insurance of Accounts, and Parts 577 and 578 of the Rules and Regulations for Federal Mutual Savings Banks, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

1. Revise § 541.15 to read as follows:

§ 541.15 Net Worth.

The sum of general reserves, surplus, capital stock (including mutual capital certificates issued pursuant to § 563.7-4 of this Chapter), and any other account designated as part of net worth under this Subchapter.

PART 544—CHARTER AND BYLAWS

2. Add a new § 544.2-1 to read as follows:

§ 544.2-1 Mutual capital certificate charter amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual association shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes of the association, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of directors of any Federal mutual association of the charter amendment set forth in paragraph (b) of this section.

(b) A mutual association adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 11 and add new charter Sections 11 and 12 to read as follows:

11. *Mutual Capital Certificates.* The association may issue mutual capital certificates pursuant to the rules and regulations of the Federal Home Loan Bank Board. Subject to such rules and regulations, the board of directors of the association is authorized, without the prior approval of the members of the association and by resolution or resolutions from time to time adopted, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences, and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the association shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect ot any additional issues of mutual capital certificates.

12. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such proposal is made by the board of directors of the association, submitted to and approved by the Federal Home Loan Bank Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Federal Home Loan Bank Board, as of the date of the final approval of, or as fixed by, the members, provided, however, that holders of mutual capital certificates shall also be granted the right to vote if any amendment, addition, alteration, change, or repeal is proposed which would adversely change the specific terms of any class of mutual capital certificate that is permitted by Section 11 (or in any supplementary sections thereto). An amendment, addition, alteration, change, or repeal which (a) increases the number of authorized certificates of any class of mutual capital certificates, or (b) in a merger or consolidation substitutes the surviving association for the association and results in the net worth available for payment of each class of mutual capital certificates on liquidation being equal to or higher than that available for the payment of such class prior to merger or consolidation, shall not be considered to be an adverse changes. A majority vote of any class of outstanding mutual capital certificates shall be required before an adverse change, as defined in this section, may be effected.

PART 545—OPERATIONS

3. Add a new § 545.5-1 to read as follows:

§ 545.5-1 Issuance of mutual capital certificates.

A Federal mutual association may issue mutual capital certificates as its charter permits and in accordance with § 563.7-4 of this Chapter, or as the Board may otherwise authorize in writing.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

4. Revise the final sentence of § 561.3 to read as follows:

§ 561.3 Insured account.

* * * Mutual capital certificates, subordinated debt securities and mortgage-backed bonds issued by an insured institution are deemed not to be "accounts," and such securities are not insurable.

5. Revise the first sentence of § 561.13 to read as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, capital stock (including mutual capital certificates issued pursuant to § 563.7-4 of this Subchapter), and any nonwithdrawable accounts of an insured institution. * * *

PART 563—OPERATIONS

6. Add a new § 563.7-4 to read as follows:

§ 563.7-4 Mutual capital certificates.

(a) *General.* No insured mutual institution shall issue mutual capital certificates pursuant to this section or amend the terms of such certificates unless it has obtained written approval of the Corporation. No approval shall be granted unless issuance of the mutual capital certificates and the form and manner of filing of the application are in accordance with the provisions of this section.

(b) *Eligibility requirements.* The Corporation will consider and process an application for approval of the issuance of mutual capital certificates pursuant to this section only if the applicant meets all of the following eligibility requirements, unless one or more of such requirements is waived by the Corporation upon specific request in the case of a particular application:

(1) The issuance of mutual capital certificates is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws;

(2) Applicant's scheduled items do not exceed 2.5 percent of its specified assets;

(3) All appraised losses have been offset by specific loss reserves to the extent required by the Corporation under § 563.17-2 of this Part;

(4) The aggregate amount of all outstanding and proposed mutual capital certificates approved pursuant to this section (excluding any mutual capital certificates to be redeemed with the proceeds of the sale of proposed mutual capital certificates) does not exceed 20 percent of applicant's statutory reserve requirement as prescribed by § 563.13(a) of this Part.

(c) *Application form; supporting information.* An application for approval of the issuance of mutual capital certificates pursuant to this section shall be in the form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed issue and showing that all of the requirements of this section have been or will be met.

(d) *Membership approval.* No institution shall have authority to issue mutual capital certificates pursuant to this section unless the amendment to the institution's charter, constitution or bylaws or other actions conferring such authority shall have been approved, at a legal meeting called for that purpose, by a majority, or by such higher percentage as may be required by applicable law, of the outstanding eligible votes of the institution. Votes may be cast in person or by proxy. Only proxies solicited in accordance with this section are valid for the purpose of voting on the approval of such matters.

(1) *Eligibility and notice.* The notice and eligibility requirements of the vote by the membership of the institution shall be determined by the requirements set forth in paragraphs (b) and (c) of § 563b.6 of this Subchapter, except that any reference to "plan of conversion" in those paragraphs shall be deemed to be a reference to "authority to issue mutual capital certificates" and any reference to an eligible or supplemental account holder shall be disregarded.

(2) *Proxies; ancillary provisions.* Matters relating to the form and solicitation of proxies, and the content and distribution of the proxy statement required under this section, shall be governed by: (i) § 563b.5 of this Subchapter; (ii) Items 6, 7, and 8 of Form AR of § 563.45 of this Part; and (iii) Items 1, 2, 3, 4, 5, 9, 10, 11, and Note 3 of Item 15 of Form PS of Part 563b of this Subchapter. Any reference to a meeting held to consider a plan of conversion in the above-referenced provisions, for the purpose of this section, shall be deemed to be a reference to a meeting at which the authority to issue mutual capital certificates is considered.

(3) *Proxy filing requirements.* No later than three days after the date on which copies of any proxy statement, form of proxy, or other soliciting materials are furnished to the members of an institution, ten copies of any materials so furnished shall be filed with the Securities Division of the Office of General Counsel of the Board by the soliciting party. Notwithstanding any other provision of this section, nothing contained herein shall be construed to require prior Corporation approval of any proxy solicitation materials.

(e) *Minimum denominations of mutual capital certificates.* (1) *General rule.* The minimum denomination of a mutual capital certificate shall be $100,000.

(2) *Exceptions.* (i) There is no minimum denomination for mutual capital certificates issued in a private placement to institutional investors, as that term is defined in § 563.8(d)(3) of this Part.

(ii) There is no minimum denomination if the mutual capital certificates are not offered or sold at any office of the institution or any of its affiliates, and if

(*a*) They are not sold to more than 35 persons or offered by any advertisement, including any broadcast or written communication published in a newspaper, magazine or similar medium, or by any letter, circular, or other written communication sent, given, or communicated to more than 35 persons who prior to such communication have not indicated an interest in purchasing the securities, and any purchases by such persons are for their own account and not with a view to distribution; or

(*b*) Prior to or simultaneously with any offering, and prior to issuance, purchasers of the mutual capital certificates have been furnished a final offering circular which conforms to the requirements of § 563.8(h)(2) and (3) of this Part.

(f) *Disclosure.* No institution shall, directly or indirectly in connection with the offer, sale, or issuance of a security evidencing a mutual capital certificate pursuant to this section, make any statement that (1) is false or misleading with respect to any material fact, or (2) omits to state any material fact (i) necessary of order to make the statements made, in light of circumstances under which they were made, neither false nor misleading, or (ii) necessary to correct any earlier statement that has subsequently become false or misleading.

(g) *Filing requirements.* The application shall be publicly filed with the Board by transmitting concurrently three copies to the Principal Supervisory Agent and the original and three copies to the Securities Division of the Office of General Counsel of the Board.

(h) *Final offering circular filing requirements.* The applicant shall file with the Securities Division of the Office of General Counsel of the Board ten copies of each preliminary offering circular and 25 copies of each final offering circular required under this section. No final offering circular shall be furnished to purchasers under paragraph (e)(2) of this section unless it had been filed with Securities Division of the Board's Office of General Counsel, and declared effective.

(i) *Additional filing requirements.* An applicant whose application for issuance of mutual capital certificates has been approved pursuant to this section shall be subject to the additional filing requirements set forth in subparagraphs (1) and (2) of § 563.8(c) of this Subchapter, except that the compilation required by subparagraph (1) of § 563.8(c) may be prepared by an officer of the insured institution. Any reference to "plan of conversion" in § 563.8(c) shall be deemed to be a reference to "authority to issue mutual capital certificates" for the purposes of this section.

(j) *Supervisory objection.* No application for approval of the issuance of mutual capital certificates pursuant to this section shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant afford a basis for supervisory objection to the application.

(k) *Limitation on an offering period.* Following the date of the approval of the application by the Corporation, the institution shall have an offering period of not more than one year in which to complete the sale of the mutual capital certificates issued pursuant to this section. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any extension thereof.

(l) *Reports.* Within 30 days after completion of the sale of mutual capital certificates issued pursuant to this section, the institution shall transmit concurrently to the Supervisory Agent and to the Securities Division of the Office of General Counsel of the Board, a written report stating the number of purchasers, the total dollar amount of securities sold, and the amount of net proceeds received by the institution.

(m) *Requirements as to mutual capital certificates.* (1) *Form of certificate.* Each mutual capital certificate and any governing agreement evidencing a mutual capital certificate issued by an institution pursuant to this section:

(i) Shall bear on its face, in bold-face type, the following legend: "This security is not a savings account or a deposit and it is not insured by the Federal Savings and Loan Insurance Corporation"; and

(ii) Shall clearly state that the certificate is subject to the requirements of § 563.7–4(m).

(2) *Legal Requirements.* Mutual capital certificates issued pursuant to this section shall:

(i) Be subordinate to all claims against the institution having the same priority as savings accounts, savings certificates, debt obligations or any higher priority;

(ii) Not be eligible for use as collateral for any loan made by the issuing institution;

(iii) Constitute a claim in liquidation, not exceeding the face value plus accrued dividends of the certificates less payment in redemption, on the general reserves, surplus and undivided profits of the insured institution remaining after the payment in full of all savings accounts, savings certificates and debt obligations;

(iv) Be entitled to the payment of dividends which may be fixed, variable, participating, or cumulative, or any combination thereof, only if, when and as declared by the institution's board of directors out of funds legally available for that purpose, *provided* that no dividend may be paid without the approval of the Corporation if such payment would cause the institution to fail to meet its statutory reserve requirement or its net worth requirement under § 563.13 of this Part;

(v) (*a*) Not require mandatory payment or redemption; (*b*) not be redeemed if a redemption would cause the institution to fail to meet its statutory reserve requirement of its net worth requirement under § 563.13 of this Part; (*c*) not be redeemable on the demand or at the option of the holder; (*d*) not receive, benefit from, be credited with or otherwise be entitled to or due redemption fund payments, payments to or from a redemption fund, or payments in or for redemption except and only if, when and as appropriated by the board of directors out of funds legally available for that purpose; (*e*) not be redeemable, except in the event of an acquisition, merger, consolidation or reorganization approved by the Corporation, or where the funds for redemption are raised by the issuance of mutual capital certificates approved pursuant to this section, or where the average redemption date of the mutual capital certificates to be redeemed is ten years or more;

(vi) Not have preemptive rights;

(vii) Not have voting rights, except: (*a*) in the event an institution fails to pay dividends for a minimum of three consecutive dividend periods, or to meet any redemption schedule, or to make any redemption fund payment, then the holders of the mutual capital certificates, voting as a class, with one vote for each outstanding certificate, may elect by a majority vote one-third of the institition's board of directors or two directors, whichever is greater; (*b*) the vote of holders of a majority of all outstanding mutual capital certificates, voting as a class, with one vote for each outstanding certificate, shall be required before any merger, consolidation, or reorganization (except in a supervisory case) may be effected if the net worth of the resulting institution available for payment of any class of mutual capital certificate on liquidation is less than the net worth available for such class prior to the merger, consolidation, or reorganization;

(viii) Not constitute an obligation of the association and shall confer no rights which would give rise to any claim of or action for default;

(ix) Not be convertible into any account, security, or interest; and

(x) Provide for charging of losses after the exhaustion of all other items in the net worth account.

7. Amend § 563.13 by redesignating existing paragraph (c) thereof as paragraph (d), and adding new paragraphs (c) and (e) thereto, to read as follows:

§ 563.13 Reserve Accounts.

* * * * *

(c) *Mutual capital certificates.* Mutual capital certificates issued by insured mutual institutions and approved pursuant to § 563.7–4 of this Part shall be included in meeting the reserve and net worth requirements of paragraphs (a) and (b) of this section.

* * * * *

(e) *Charging of losses to statutory reserve.* Losses charged to the statutory reserve under paragraph (a) of this section shall exhaust all other net worth accounts in the statutory reserve before constituting a charge against mutual capital certificates.

PART 563c—ACCOUNTING REQUIREMENTS

8. Amend § 563c.1(a)(2) to read as follows:

§ 563c.1 Application of this Subpart.

(a) * * *

(2) Any offering circular or private placement memorandum required to be used in connection with the issuance of mutual capital certificates under § 563.7–4 and the issuance of debt securities under §§ 563.8 and 563.8–1 of this Subchapter.

* * * * *

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

9. Amend § 569a.7(c) to read as follows:

§ 569a.7 Priority of claims.

* * * * *

(c) In the case of institutions having nonwithdrawable accounts or mutual capital certificates outstanding, the claims specified in paragraphs (a) and (b) of this section shall have priority, in the order stated above, over any claims by the holders of mutual capital certificates or nonwithdrawable accounts. If a surplus remains after making distribution in full to prior claimants as set forth in paragraphs (a) and (b) of this section, such surplus shall be distributed to the mutual capital certificate holders and nonwithdrawable account holders, in accordance with the terms, conditions

and priorities specified in the instruments establishing their interests in the institution. If such instruments do not specify the terms, conditions and priorities for liquidation, the distribution of the surplus shall be pro rata.

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 577—CHARTER AND BYLAWS

10. Add a new § 577.1-1 to read as follows:

§ 577.1-1 Mutual capital certificate charter amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual savings bank shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes of the bank, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of trustees of any Federal mutual savings bank of the charter amendment set forth in paragraph (b) of this section.

(b) A Federal mutual savings bank adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 12 and add new charter Sections 12 and 13 as follows:

12. *Mutual capital certificates.*

The bank may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of trustees of the savings bank is authorized, without the prior approval of the members and by resolution or resolutions from time to time adopted, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the bank shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issues of mutual capital certificates.

13. *Amendment of charter.*

No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such is first proposed by the board of trustees of the bank, approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by, the members, provided, however, that holders of mutual capital certificates shall also be granted the right to vote if any amendment, addition, alteration, change, or repeal is proposed which would adversely change the specific terms of any class of mutual capital certificates that is permitted by Section 12 (or in any supplementary sections thereto). An amendment, addition, alteration, change, or repeal which (a) increases the number of authorized shares of any class of mutual capital certificates, or (b) in a merger of consolidation subsititutes the surviving mutual savings bank for the bank and results in the net worth available for payment of each class of mutual capital certificates on liquidation being equal to or higher than that available for the payment of such class prior to the merger or consolidation, shall not be considered to be an adverse change. A majority vote of any class of outstanding mutual capital certificates shall be required before an adverse change, as defined in this section, may be effected.

PART 578—OPERATIONS

11. Add a new § 578.5 to read as follows:

§ 578.5 Issuance of mutual capital certificates.

A Federal mutual savings bank may issue mutual capital certificates as its charter permits and in accordance with § 563.7-4 of this Chapter, or as the Board may otherwise authorize in writing.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs. 402, 403, 406, 48 Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-25517 Filed 8-20-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-24-AD]

Gates Learjet 23, 24, 25, 28, 29, 35 and 36 Model/Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to adopt an Airworthiness Directive (AD) that would require reworking the rudder pedals and replacing the heelplate on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 model/series airplanes. The proposed AD is needed to provide greater clearance between the rudder pedals and floorboard and thus eliminate the potential for the pilot's shoe heel becoming lodged between the pedal and heelplate.

DATES: Comments must be received on or before September 28, 1980.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 80-CE-24-AD, 601 East 12th Street, Kansas City, Missouri 64106.

The applicable Airplane Modification Kit Number AMK80-1 may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277; telephone number (316) 946-2000. A copy of the Modification Kit instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Marvin Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The possibililty of the pilot's shoe heel becoming lodged between the rudder pedal and heelplate has been reported as a potential accident causal factor. Although no evidence has been provided that unquestionably points to

this as the specific cause of any accident, it has been demonstrated during ground tests that lodging is, in fact, possible. Interference may occur after the rudder pedal is moved to the most forward position and pressure is applied to the opposite pedal, an operation that could occur during single engine operation. Heel lodging is most likely to occur with shoes having large heels similar to those used on contemporary high fashion shoes or possibly western style boots.

To eliminate this possibility, Gates Learjet has developed Airplane Modification Kit (AMK) 80-1. This kit provides instructions for modifying the rudder pedals to effect an increase in pedal to floorboard clearance by reducing the surface area of the pedal foot pad. Instructions are also given in AMK 80-1 for the replacement of the heelplate. The new heelplate is larger with significantly improved carpet to heelplate interface and floorboard attachment provisions. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the proposed AD would make compliance with the aforementioned service kit mandatory on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 model/series airplanes

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Gates Learjet: Applies to the following models or series and serial number airplanes certificated in all categories.

Note: A "series" includes all models in a number series, i.e., 25 series includes Models 25, 25A, 25B, 25C, etc.

Model or Series and Serial Numbers

23 (Model), 23-003 through 23-099.
24 (Series), 24-100 through 24-357.
25 (Series), 25-003 through 25-302.
28 (Model), 28-001 through 28-005.
29 (Model), 29-001 through 29-002.
35 (Series), 35-002 through 35-297.
36 (Series), 36-002 through 36-044.

Compliance: Required as indicated unless already accomplished.

To eliminate the possibility for the pilot's shoe heel becoming lodged between the rudder pedal and the heelplate, accomplish the following:

(A) Within the next 300 hours time-in-service after the effective date of this Airworthiness Directive (AD), rework the rudder pedal assembly and replace the heelplates with new heelplates in accordance with the instructions in Gates Learjet Corporation Airplane Modification Kit Number AMK80-1.

(B) Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421-1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.85, Federal Aviation Regulations (14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Federal Aviation Administration, Office of Regional Counsel, ACE-7, Central Region, Attn: Rules Docket Clerk, 601 East 12th Street, Kansas City, Missouri 64106; telephone 374-5446.

Issued in Kansas City, Missouri, on August 8, 1980.

Paul J. Baker,
Director, Central Region.

[FR Doc. 80-25401 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 80-AAL-15]

Alteration of Point Barrow Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Point Barrow, Alaska, Transition Area to provide additional controlled airspace to protect aircraft executing instrument approaches being developed for the Wiley Post-Will Rogers Memorial Airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80-AAL-15, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before September 17, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter the Point Barrow, Alaska, Transition Area by establishing extensions to the east and west to protect aircraft executing approaches to Wiley Post-Will Rogers Memorial Airport. The proposed action would designate an area within 4.5 miles each side of the Barrow, Alaska, ILS localizer E course extending from the localizer antenna (Lat. 71°17'09"N., Long. 156°43'54"W.) to 24.5 miles east of the localizer antenna and within 4.5 miles north and 9.5 miles south of the Barrow, Alaska, ILS localizer W course extending from the localizer antenna to 25.5 miles west of the localizer antenna. Section 71.181 of Part 71 was

republished in the Federal Register on January 2, 1980. (45 FR 445).

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried our under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by amending the Point Barrow, Alaska, Transition Area by deleting the period at the end of the description and adding a semicolon and a new clause to read as follows:

"within 4.5 miles each side of the Barrow, Alaska, ILS localizer E course extending from the localizer antenna (Lat. 71°17'09"N., Long. 156°43'54"W.) to 24.5 miles east of the localizer antenna and within 4.5 miles north and 9.5 miles south of the Barrow, Alaska, ILS localizer W course extending from the localizer antenna to 25.5 miles west of the localizer antenna."

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 14, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25396 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 80-SO-42]

Proposed Alteration of Transition Area, Somerset, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will alter the existing Somerset, Kentucky, transition area and will lower the base of controlled airspace southwest of Somerset-Pulaski County Airport from 1,200 to 700 feet AGL to accommodate instrument flight rule (IFR) operations. New instrument approach procedures have been developed for the airport, and additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

DATES: Comments must be received on or before: September 25, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Alton L. Matthews, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 25, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Somerset, Kentucky, Transition Area. This action will provide controlled airspace protection for IFR aircraft at the Somerset-Pulaski County Airport. In conjunction with the establishment of an SDF facility to serve Runway 4, the Somerset NDB has been relocated southwest of the airport and renamed Cumberland River RBN. New instrument approach procedures (NDB RWY 4 and SDF RWY 4) have been developed for

the airport, and additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

Somerset, Kentucky

All after "* * * within 3 miles * * *" is deleted and "* * * each side of the 222° bearing from the Cumberland River RBN (Lat. 36°59'48"N. Long. 84°40'51.5"W.); extending from the 8.5 mile radius area to 9 miles southwest of the RBN, excluding the portion within the Monticello, Kentucky, transition area * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

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

Issued in East Point, Ga., on August 6, 1980.

W. B. Rucker,

Acting Director, Southern Region.

[FR Doc. 80-25391 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-35]

Proposed Alteration of Transition Area: West Woodward, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at West Woodward, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the West Woodward Airport. The circumstances which created the need for the action are the realignment of the nondirectional radio beacon (NDB) approach to the West Woodward Airport and renaming the West Woodward transition area to Woodward, Oklahoma.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone; (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at West Woodward, Okla., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101. All communications received on or before September 19, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at West Woodward, Okla. The FAA believes this action will enhance IFR operations at the West Woodward Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by deleting the West Woodward, Okla., transition area and designating the following:

Woodward, Oklahoma

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Woodward Airport (latitude 36°26'10"N.; longitude 99°31'35"W.); within 3 miles each side of the NDB facility (latitude 36°26'03"N; longitude 99°31'25"W.) 008° bearing, extending from the 7-mile radius to 8.5 miles north of the NDB, and within 5 miles either side of the Gage VORTAC 072° radial, extending from the 7-mile radius southwest of Gage VORTAC; excluding the Gage, Oklahoma, control zone and transition area.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Forth Worth, Texas on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25393 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-NE-35]

Proposed Amendment of the Greenville, Maine 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Greenville, Maine, 700-foot transition area so as to provide protected airspace for aircraft executing a new NDB Runway 14, Standard Instrument Approach Procedure (SIAP) to the Greenville Municipal Airport, Greenville, Maine. This action is required as a result of the pending relocation of the Greenville NDB and the cancellation of existing approach procedures.

DATES: Comments must be received on or before September 15, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-29.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-29, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations to amend the 700-foot transition area for Greenville, Maine. The transition area, as amended, will provide protected airspace for aircraft executing on NDB Runway 14, SIAP to the Greenville Municipal airport. An SIAP, based on the pending relocation of the Greenville NDB has been established and the existing approach procedure has been cancelled.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the Greenville, Maine 700-foot transition area as follows:

Greenville, Maine

Delete the description of the Greenville, Maine, 700-foot transition area in its entirety and substitute in lieu thereof:

"That airspace extending upward from 700-foot above the surface within an 8.5 mile radius of the center (lat. 45°27'47"N, long. 69°33'21"W), Greenville Municipal Airport, Greenville, Maine, within 3.5 miles each side of a 323 M (305 T) bearing from the SQUAW, Maine NDB extending from the 8.5 mile radius area to a point 11.5 miles northwest of the SQUAW NDB."

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 11, 1980.

J. Stiglin,

Acting Director, New England Region.

[FR Doc. 80-25390 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No 80-ASW-37]

Proposed Designation of Transition Area: Chandler, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Chandler, Oklahoma. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Chandler Municipal Airport. The circumstance which created the need for this action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Chandler, Oklahoma, will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101. All communications received on or before September 19, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Chandler, Oklahoma. The FAA believes this action will enhance IFR operations at the Chandler Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by adding the following:

Chandler, Oklahoma

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chandler Municipal Airport (latitude 35°43'15"N., longitude 96°49'12"W.), and within 3 miles each side of the 352° bearing of the NDB (latitude 35°43'20"N., longitude 96°49'06"W.), extending from the 5-mile radius area to 8.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Forth Worth, Tex., on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25394 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-36]

Proposed Designation of Transition Area: Holdenville, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Holdenville, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Holdenville Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESS: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Holdenville, Okla., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 19, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtan a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communciations must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for futhre NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Holdenville, Okla. The FAA believes this action will enhance IFR operations at the Holdenville Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by designating the following:

Holdenville, Oklahoma

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Holdenville Municipal Airport, (latitude 35°05'15"N., longitude 96°25'00"W.) and within 3 miles each side of the 348° bearing of the Holdenville NDB, (latitude 35°05'07"N., longitude 96°24'47"W.), extending from the 5-mile radius area to 8.5 miles north of the Holdenville NDB.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25395 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-27]

Designation of Federal Airways, Area Low Routes Controlled Airspace and Reporting Points; Proposed Amendment To Control Zone, Martha's Vineyard Airport, Martha's Vineyard, Mass.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the control zone at Martha's Vineyard Airport, Martha's Vineyard, Massachusetts. The present control zone is described with reference to the Edgartown NDB which has been decommissioned.

DATE: Comments must be received on or before September 2, 1980.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-27. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; Telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-27, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 2, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this MPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations to amend the description of the Martha's Vineyard control zone. The amended description for the control zone will no longer make reference to the Edgartown NDB due its decommissioning.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the control zone at Martha's Vineyard Airport to read as follows:

Within a 5-mile radius of Martha's Vineyard Airport (latitute 41°23'35"N, longitude 70°36'50"W); within 4.5 miles each side of the Martha's Vineyard VOR 055° radial (070° magnetic) extending from the 5-mile radius zone to 8.5 miles NE of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 6, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-25287 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 121, 123, 127, and 135

[Docket No. 14451; Notice No. 75-13B]

Crewmember Clothing: Flammability Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: This notice reopens the period for submission of public comments relating to Notices No. 75-13 and 75-13A to close on December 16,

1980. Notice No. 75–13 solicited comments and information from interested persons to assist in establishing flammability standards for flight attendant uniforms. This action is in response to petitions indicating that persons who may be affected by the proposed rulemaking need additional time in which to prepare and submit their comments.

DATE: Comments period closes on December 16, 1980.

ADDRESS: Comments on Notices 75–13 and 13A may be mailed in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No. 14451, (AGC—204), 800 Independence Ave., SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

Persons wishing the FAA to acknowledge receipt of comments submitted in response to this notice should submit a self-addressed, stamped postcard with the following statement: "Comments to Docket No. 14451." The postcard will be dated and time stamped and returned to the commenter.

Comments delivered must be marked: Docket No. 14451.

Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA/public contact dealing with the substance of this rulemaking action will be filed in the rules docket.

FOR FURTHER INFORMATION CONTACT: Mr. Harold E. Smith, Safety Regulations Staff, AVS–24, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 755–8716.

SUPPLEMENTARY INFORMATION: In response to information supplied by the Association of Flight Attendants indicating that some items of flight attendant clothing were highly flammable when exposed to an ignition source, the FAA published Advance Notice of Proposed Rule Making (ANPRM) No. 75–13 on March 13, 1975 (40 FR 11737). That notice solicited comments and information from interested persons, including fabrics research and manufacturing sources, to assist in establishing flammability standards for flight attendant uniforms. The objective of the notice was to develop standards that would take into consideration the practical aspects of cost, wearability, comfort, and cleanability, while providing a reasonable degree of protection against heat and flame.

The comments received in response to the ANPRM, with a study conducted by the National Bureau of Standards, indicated there were numerous questions that needed to be answered before a decision on further rule making could be taken. The FAA determined that the best, most productive means of answering these questions would be at a public meeting at which each question could be fully discussed among all participants.

The comment period on Notice 75–13 was reopened to close on June 16, 1980, and a public hearing was held on May 28–29, 1980. At the hearing it was indicated that the June 16, 1980, closing date would not provide sufficient time for some of the organizations to obtain the views of the persons they represent.

A petition for extension of the comment period from June 16, 1980, to September 30, 1980, has been received from the Association of Flight Attendants (AFA). The AFA said it would take several months to research its files and survey the membership to obtain the information necessary to develop its comment.

The American Textile Manufactures Institute, Inc., (ATMI) in its comments stated: "ATMI feels that there should be a broader exchange of information between the concerned parties to more clearly define the problem and to explore the possibility of a voluntary standard. In order to facilitate this exchange, we strongly urge the FAA to extend the comment period for at least six months."

In commenting on the possible methods of reducing the danger of injury from fires, the Association of Professional Flight Attendantsd (APFA) said it would poll its membership to determine if the elimination of short sleeves, skirts, and dresses and the sacrifice of the "shirt-sleeve" cockpit environment would be an acceptable method. Although APFA did not request the comment period be extended, its comments indicated the polling of the membership would not be completed by the time the comment period closed.

The FAA has reviewed these requests and has determined that reopening of the comment period would afford the public an additional opportunity to furnish comments that should be considered in the development of the final regulations. This action is consistent with Executive Order 12044, Improving Government Regulations, and the FAA's desire to assure full public participation in its regulatory actions. The FAA concludes that the public interest would be served by granting additional time for submission of written comments.

Accordingly, the comment period for Notices 75–13 and 75–13A is reopened to close on December 16, 1980.

(Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 135(a), 1421 and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on August 15, 1980.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 80-25451 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM80–42]

Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes; Opportunity for Reply Comments

Issued: August 14, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of opportunity for reply comments.

SUMMARY: This notice gives those who filed comments to the Notice of Proposed Rulemaking in Docket No. RM80–42 regarding tax normalization an opportunity to submit reply comments.

DATES: Initial comments served on other participants by August 29, 1980. Reply comments filed with the Commission and served on other parties by September 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capital Street, NE., Washington, D.C. 20426 (202) 357–8333

Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 300–F, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8186

SUPPLEMENTARY INFORMATION: On March 31, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in Docket No. RM80–42, 45 FR 22053 (April 3, 1980). In that notice, the Commission requested comment on a proposal to amend Part 2 of its regulations by adding a new § 2.202 as a

substantive rule regarding tax normalization applicable to both the electric utility and natural gas industries.

After review of comments submitted in response to the March notice, the Commission finds that the complexity and importance of the issues presented in the Notice of Proposed Rulemaking warrant an opportunity for those who filed comments to submit reply comments. To this end, participants in Docket No. RM80-42 should serve copies of initial comments filed by them on those whose names appear on the attached service list. Such service should be made before August 29, 1980.

Those wishing to submit reply comments should file same with the Commission by September 26, 1980 and serve copies of those comments on the participants listed on the service list by the same date. An original and fourteen conformed copies of any reply comment should be submitted to the Federal Energy Regulatory Commission, Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM80-42. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. during regular business hours.

In providing proper service of initial comments and any reply comments, attention is directed to the regulations of the Commission found at 18 CFR 1.17(b) which permits service by mail.

In order that all interested parties may be promptly notified of this opportunity to submit reply comments, the Secretary shall immediately serve all parties named on the attached service list with a copy of this notice.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Service List

Parties	Representatives
Alliance for Consumer Protection, Marvin Stein, Esq., P.O. Box 1354, Pittsburg, Pa. 15230.	
Texas Gas Transmission Corp., Truman D. Barnes, Esq., Gas Transmission Service Division, 3800 Frederica St., Owensboro, Ky. 42301.	Christopher T. Boland, Esq.; Gallagher, Boland, Meiburger & Brosnan, 821 15th St. NW., Washington, D.C.
American Electric Power Service Corp., P. J. de Maris, Senior Vice President, 2 Broadway, New York, N.Y. 10004.	J. J. Cassidy, Esq.; American Electric Power Service Corp., 2 Broadway, New York, N.Y. 10004.

Service List—Continued

Parties	Representatives
Northern States Power Co., Clayton K. Larson, Executive Vice President—Finance, 414 Nicollet Mall, Minneapolis, Minn. 55401.	
Gulf Power Co., Earl V. Lee, Controller, 75 North Pace Blvd., P.O. Box 1151, Pensacola, Fla. 32520.	
Public Service Co. of Indiana, Inc., James H. Pennington, Vice President—Financial Operations, 1000 East Main St., Plainfield, Ind. 46168.	
Georgia Power Co., Warren Y. Jobe, Vice President, 270 Peach St., P.O. Box 4545, Atlanta, Ga. 30302.	
Plains Electric Generation & Transmission Cooperative, Inc., Richard N. Carpenter, Esq., Bigbee, Stephenson, Carpenter, Crout & Olmstead, P.O. Box 669, Santa Fe, N. Mex. 87501.	Donald R. Allen, Esq.; David P. Yaffe, Esq.; Duncan, Allen & Mitchell, 1575 Eye Street NW., Washington, D.C. 20005.
Pacific Gas & Electric Co., Robert Ohlbach, Esq., 77 Beale St., 31st floor, San Francisco, Calif. 94106.	
Roman L. Weil, Graduate School of Business, University of Chicago, 1101 East 58th St., Chicago, Ill. 60637.	
Deloitte Haskins & Sells, 1101 15th St. NW., Washington, D.C. 20005.	
Natural Gas Pipeline Co., of America, Ronald MacNicholas, Vice President, 122 South Michigan Ave., Chicago, Ill. 60603.	Joseph M. Wells, Esq.; Paul E. Goldstein, Esq.; Karyl M. Arnold, Esq., 122 South Michigan Ave., suite 1825, Chicago, Ill. 60603.
Public Systems	James N. Horwood, Esq.; David R. Straus, Esq.; Bonnie S. Blair, Esq.; Gary J. Newell, Esq.; Spiegel & McDiarmid, 2600 Virginia Ave. NW., Washington, D.C. 20037
Oglethorpe Power Corp., et al., Thomas J. Bolch, Esq., P.O. Box 2211, Raleigh, N.C. 27602.	Mr. J. B. Solomon, Southern Engineering Co., of Georgia, 1000 Cresent Ave. NE., Atlanta, Ga. 30309.
El Paso Natural Gas Co., Charles R. Jack, Vice President, P.O. Box 1492, El Paso, Tex. 79978.	Mr. Robert N. Harbor, The El Paso Co., 310 Suffridge Bldg., 1775 K St. NW., Washington, D.C. 20006
Detroit Edison Co., W. A. Basse, Controller, 2000 Second Ave., Detroit, Mich. 48226.	
Oklahoma Gas & Electric Co., J. G. Cartwright, Senior Vice President, 321 North Harvey, P.O. Box 321, Oklahoma City, Okla. 73101.	
Iowa-Illinois Gas & Electric Co., W. C. Morrison, Superintendent, Governmental Relations Division, Energy Planning Department, 206 East Second St., P.O. Box 4350, Davenport, Iowa 52808.	Edward J. Hartman, Vice President, Iowa-Illinois Gas & Electric Co., 206 East Second St., P.O. Box 4350, Davenport, Iowa 52808.
Southwestern Electric Power Co., William H. Snow, Vice President—Finance, P.O. Box 21106, Shreveport, La. 71156.	
Iowa Electric Light & Power Co., Steven G. Gerhart, Esq., General Office, P.O. Box 351, Cedar Rapids, Iowa 52406.	
West Texas Utilities Co., Lawrence B. Connors, Controller, General Office, P.O. Box 841, Abilene, Tex. 79604.	

Service List—Continued

Parties	Representatives
Southern California Edison Co., John R. Bury, Esq., 2244 Walnut Grove Ave., P.O. Box 800, Rosemead, Calif. 91770.	
Wisconsin Public Service Commission, F. C. Huebner, Administrator, Utility Accounts and Finance, Hill Farms State Office Building, Madison, Wis. 53702.	
Central Illinois Public Service Co., John R. Hyde, Controller, 607 East Adams, Springfield, Ill., 62701.	
Boston Edison Co., et al.	Carmon L. Gentile, Esq.; James E. Hickey, Jr., Esq.; 1201 Connecticut Ave., NW., Suite 700, Washington, D.C. 20036
Edison Electric Institute	Frederick T. Searls, Esq.; Leonard W. Belter, Esq.; Debevoise & Liberman, 1200 17th St. NW., Washington, D.C. 20036.
Illinois Cities of Altamont, et al.	Charles F. Wheatley, Jr., Esq.; Philip B. Malter, Esq.; Wheatley & Wollesen, 2600 Virginia Ave. NW., Suite 1112, Washington, D.C. 20037.
Electric Utilities	Richard M. Merriman, Esq.; James K. Mitchell, Esq.; Robert S. Waters, Esq.; Reid & Priest, 1111 19th St. NW., Washington, D.C. 20036.
Boston Edison Co., Ralph M. Kelmon, Treasurer, 800 Boylston St., Boston, Mass. 02199.	
Alabama Power Co., Dale W. Oliver, Assistant Comptroller, 600 North 18th St., P.O. Box 2641, Birmingham, Ala. 35291.	
Consumers Power Co., S. N. Spring, Vice President, 212 West Michigan Ave., Jackson, Mich. 49201.	
Wisconsin Public Service Corp., Daniel A. Bollom, Treasurer, P.O. Box 700, Green Bay, Wis. 54305.	
Public Service Co. of Oklahoma, R. O. Newman, President, P.O. Box 201, Tulsa, Okla. 74102.	
Coopers & Lybrand, 1800 M St. NW., Washington, D.C. 20036.	
Carolina Power & Light Co., Paul S. Bradshaw, Vice President, P.O. Box 1551, Raleigh, N.C. 27602.	
Commonwealth Edison Co., Ralph L. Heumann, Comptroller, P.O. Box 767, Chicago, Ill. 60690.	
Public Service Co. of Colorado, Ronald D. Stinson, Manager, Rate Accounting and Federal Rate Regulatory Services, P.O. Box 841, Denver, Colo. 80201.	
The Cincinnati Gas & Electric Co., Milton L. Van Schoik, Controller, P.O. Box 960, Cincinnati, Ohio 45201.	
Arkansas Power & Light Co., Don W. Myers, Director, Finance and Accounting, P.O. Box 551, Little Rock, Arkansas 72203.	

Pennsylvania Public Utility Commission, Susan M. Shanaman, Chairman, P.O. Box 3265, Harrisburg, Pa. 17120.
Wisconsin Electric Power Co., R. R. Piltz, Controller, 231 West Michigan, P.O. Box 2046, Milwaukee, Wis. 53201.
Portland General Electric Co., James L. Staines, Controller, 121 S. W. Salmon St., Portland, Oreg. 97204.
Arthur Andersen & Co., 69 West Washington St., Chicago, Ill. 60602.
New England Electric System, Donald E. Rose, Treasurer, 25 Research Dr., Westborough, Mass. 01581.
South Carolina Electric & Gas Co., Robert W. Stedman, Controller, P.O Box 764, Columbia, S.C. 29218.
Northern Natural Gas Co., John B. Will, Esq., 2223 Dodge St., Omaha, Nebr. 68102.
Interstate Natural Gas Association of America, Jerome J. McGrath, President, 1660 L St. NW., Suite 601, Washington, D.C. 20036.
Appalachian Power Co., et al., Edward Berlin, Esq., Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Ave., NW., Washington, D C. 20006
Potomac Electric Power Co., Edward A. Caine, Esq., 1900 Pennsylvania Ave. NW., Suite 841, Washington, D.C. 20068.
Central & South West Corp., Durwood Chalker, Chairman, 2700 One Main Place, Dallas, Tex. 75250.
Duke Power Co., William R. Stimart, Vice President—Regulatory Affairs, P.O. Box 33189, Charlotte, N.C. 28242.
Atlantic City Electric Co., J. G. Salomone, Vice President-Control, 1600 Pacific Ave., Atlantic City, N.J. 08404.
Northeast Utilities Co., W. A. Hunt, Systems Director, Revenue Requirements, P.O. Box 270, Hartford, Connecticut 06101.
Niagara Mohawk Power Corp., Herman B. Noll, Esq., 300 Erie Blvd. West, Syracuse, N.Y. 13202.
Northwest Electric Light & Power Association, Orin T. Colby, Jr., Chairman, Accounting Principles Committee, 222 S. W. Morrison St., Suite 220, Portland, Oreg. 97204.
People of the State of California and the Public Utilities Commission of the State of California, Janice E. Kerr, Esq., J. Calvin Simpson, Esq; Grechen Dumas, Esq., 5066 State Bldg., San Francisco, Calif. 94102.
Central Power & Light Co., Floyd G. Anderson, Manager—Tax Accounting, P.O. Box 2121, Corpus Christi, Tex. 78403.
Pennsylvania Power & Light Co., George F. Vanderslice, Vice President, Two North Ninth St., Allentown, Pa. 18101.
American Public Power Association, Carl Goldfield, Esq., 2600 Virginia Ave. NW., Suite 212, Washington, D C 20037
East Tennessee Group, Arnold D Berkeley, Esq., Suite 407, 1925 K St NW., Washington, D C. 20006
Municipal Electric Authority of Georgia, L. Clifford Adams, Jr., Esq., Heard, Leverett & Adams, 66 Luckie St NW., Suite 520, Atlanta, Ga. 30303
Utah Power & Light Co., Orin T Colby, Jr., Assistant Controller, 1407 West North Temple St., P O Box 899, Salt Lake City Utah 84110
Donald R Allen, Esq., David P Yaffe Esq., Duncan, Allen & Mitchell, 1575 Eye St NW., Washington, D C 20005

[FR Doc 80-25519 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Chapter I

[FHWA Docket No. 80-14]

Selection of Pavement Type

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is assessing its policy on how the type of materials used in the various pavement components of a Federal-aid project are determined. A series of technical issues are raised to assist with this assessment.

DATE: Comments must be received on or before October 20, 1980.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 80-14, Room 4205, HCC-10, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. L. M. Noel, Pavement Branch, Highway Design Division, 202-426-0327, or Thomas Holian, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Deciding the type of pavement to construct on a particular highway project is an extremely important decision because of the long-term nature and sizeable cost of the investment. Once the pavement is placed, it will serve many years as a portion of the transportation facility. The FHWA's operating policy on pavement type has evolved over many years and is intended to provide the public with a pavement that provides an acceptable level of highway service at a minimum annual cost, while permitting the use of different design details and alternate materials. To accomplish this goal, FHWA recommends that decisions regarding the type of pavement components (subbase, base, shoulders, and surfacing) be made by the selecting authority on the basis of an engineering evaluation using the factors listed in the American Association of State Highway Officials (AASHO) guidelines for Pavement Type Determination and Documentation.[1] A limited number of copies are available from Mr. Noel at the above address.

Because the methods used to determine these component types may have some impact on the energy and inflation problems currently of national concern, comments are requested to assist FHWA in assessing its current policy. Comments are specifically requested on, but should not be limited to, the following:

a. The underlying premise for considering alternate pavement types and design is equivalence—comparable service, performance, and cost over the life of the facility. Is this a valid premise to apply to pavements? If not, why; if so, how is it best applied to alternate pavement designs/systems/strategies? Pavement strategies refer to the wide variety of maintenance, restoration, rehabilitation, reconstruction, and/or stage construction options and techniques available to the operating agency for providing a pavement surface with an acceptable service throughout its life.
b. Under usual conditions, the service life (time before major rehabilitation or reconstruction work) of flexible and rigid pavements is significantly different. For flexible pavements, a service life greater than 12-15 years is seldom attained without an overlay, while the service life of a rigid pavement is generally several years longer. What value should be placed on remaining service life? How should that value be determined?
c. Compared to rigid pavements, flexible pavements lend themselves to stage construction. How should this flexibility be considered in the pavement decisionmaking process?
d. Is a determination of the type of pavement components on the basis of

[1] An Informational Guide on Project Procedures: A Guide for the Reviewing of Certain Administrative, Inspection, and Documentation Practices in use by State Highway Departments, AASHO, 1960, pp. 49-54.

life cycle or annual cost in the public's interest? When comparable designs (based on life cycle costs) can be developed, should FHWA allow the alternate bidding of these designs? Which components should be determined in this manner? Should the decision to use recycled or virgin material be made in this manner? Considering the factors cited in a, b, and c above, how should life cycle costs be determined? How should such a policy be administered?

e. Experience with the alternate bidding of pavement components has shown that design changes are often made on the basis of making design cost competitive, rather than on the basis of good design practice. How should this concern be addressed?

f. How should a policy for determining pavement component type be administered? Should factors other than those raised above be considered? If so, what are they and why should they be included?

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The anticipated impact of this proposal is so minimal as to not require preparation of a full regulatory evaluation at this time.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

(23 U.S.C. 109, 315; 49 CFR 1.48(b).)

Issued on: August 14, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-25505 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

Administrative Summonses; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to administrative summonses. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act and would affect persons who receive summonses and persons with respect to whose tax liability a summons is issued.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 20, 1980. The regulations are proposed to be effective generally with respect to summonses issued after February 28, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-164-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3828, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations would amend the Regulations on Procedure and Administration (26 CFR Part 301) under sections 7609 and 7610 of the Internal Revenue Code of 1954. These amendments are proposed under section 1205 of the Tax Reform Act of 1976 (90 Stat. 1699) and are to be issued under the authority of sections 7610(a) and 7805 of the Internal Revenue Code of 1954 (25 U.S.C. 7610(a) and 7805).

Summonses to Third-Party Recordkeeping

Generally, when a summons is served upon a third-party recordkeeper to examine records, section 7609(a) requires that notice be given of the service of the summons to the taxpayer or other person to whom the summoned records pertain (the notified person). The proposed regulations contain interpretative guidelines as to the circumstances under which notice is required to be given under section 7609(a). They also contain guidelines as to when and to what extent examination of the summoned records is restricted after such notice is given and as to the period during which the statute of limitations for civil and criminal liability may be suspended.

Fees for Witnesses

Under section 7610, the Secretary is authorized to pay witness fees and mileage when a witness is required to appear in response to a summons and authorizes the Secretary to reimburse a summoned party (other than the taxpayer or his representatives) for direct costs incurred in locating, copying and transporting any summoned records (other than records in which the taxpayer has a proprietary interest). Such payments and reimbursements are to be at rates, and subject to such conditions, as may be prescribed in regualtions. The proposed regulations prescribe the rates and conditions under which such payments and reimbursements may be paid.

Comments and Request for a Public Hearing

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

Drafting Information

The principal author of these proposed regualtions is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

Accordingly, it is proposed to revise the Regulations on Procedure and Administration (26 CFR Part 301) by the addition in the appropriate place of the following new sections:

§ 301.7609-1 Special procedures for third-party summonses.

Section 7609 requires the Internal Revenue Service to follow special procedures when summoning the records of persons defined by section 7609(a)(3) as "third-party recordkeepers." Under these special procedures, the person about whom information is being gathered must be notified in advance in many cases. If the person about whom information is being gathered has received a notice and requests the recordkeeper not to comply with the summons, the Service must obtain a court order or the consent of the person staying compliance with the summons before it can obtain the information. During the time the validity of the summons is being litigated, the statues of limitations are suspended under section 7609(e). Section 7609 does not restrict the authority under section 7602 (or under any other provision of

law) to examine records and witnesses without serving a summons and without giving notice of an examination. Sections 301.7609-1 through 301.7609-5 relate to section 7609; § 301.7609-2 discusses matters under section 7609(a)(3), relating to third-party recordkeepers; § 301.7609-3 discusses matters under section 7609(b), relating to intervention rights; § 301.7609-4 discusses matters under section 7609(c), relating to summonses excepted from the section 7609 procedures; and § 301.7609-5 discusses matters under section 7609(e), relating to the suspension of the statute of limitations. Section 7609 and its regulations are effective for summonses issued after February 28, 1977.

§ 301.7609-2 Third-party recordkeepers.

(a) *Definitions*—(1) *Accountant.* a person is an "accountant" under section 7609(a)(3)(F) for purposes of determining whether that person is a third-party recordkeeper if the person is registered, licensed, or certified under State law as an accountant.

(2) *Attorney.* A person is an "attorney" under section 7609(a)(3)(E) for purposes of determining whether that person is a third-party recordkeeper if the person is admitted to the bar of a State.

(3) *Credit cards*—(i) *Person extending credit through credit cards.* The term "person extending credit through the use of credit cards or similar devices" under section 7609(a)(3)(C) generally includes any person who issues a credit card. It does not include a seller of goods or services that honors credit cards issued by other parties but does not extend credit on the basis of credit cards or similar devices issued by itself.

(ii) *Similar devices to credit cards.* An object is a "similar device" to a credit card under section 7609(a)(3)(C) only if it is physical in nature, such as a coupon book, a charge plate, or a letter of credit. Thus, a person who extends credit by requiring credit customers to sign sales slips without requiring use of physical objects issued by that person is not a third-party recordkeeping under section 7609(a)(3)(C).

(b) *When third-party recordkeeper status arises*—(1) *In general.* A person is a "third-party recordkeeper" with respect to a given set of records only if the person made or kept the records in the person's capacity as a third-party recordkeeper. Thus, for instance, an accountant is not a third-party recordkeeper (by reason of being an accountant) with respect to the accountant's records of a sale of property by the accountant to another person. Similarly, a credit card issuer is not a third-party recordkeeper (by reason of being a person extending credit through the use of credit cards or similar devices) with respect to—

(i) Records relating to noncredit card transactions, such as a cash sale by the issuer to a holder of the issuer's credit card; or

(ii) Records relating to transactions involving the use of another issuer's credit card.

(2) *Example.* The rules of paragraph (b)(1) of this section may be illustrated by the following example:

Example. V issues a credit card (the V card) that is honored by R, a retailer. When using the V card, C signs a sales slip in triplicate. C, R, and V each retain one copy. Only the copy held by V is held by a third-party recordkeeper under section 7609(a)(3), even though R may issue its own credit card.

§ 301.7609-3 Intervention rights.

(a) *Notified person.* Under section 7609(a), the Internal Revenue Service must give a notice of summons to any person, other than the person summoned, who is identified in the description of the books and records contained in the summons in order that such person may stay compliance pending litigation of the right of the Service to examine the summoned records. Thus, if the Service issues a summons to a bank requesting checking account records of more than one person all of whom are identified in the description of the records contained in the summons, then all such persons are notified persons entitled to notice under section 7609(a). Therefore, if the Service requests the records of a joint bank account of A and B both of whom are named in the summons, then both A and B are notified persons entitled to notice under section 7609(a).

(b) *Right to stay compliance.* Section 7609(b) grants a notified person the right to stay compliance with the summons to give a court of competent jurisdiction an opportunity to rule on the right of the Service to examine the summoned records. In order to stay compliance, the notified person (or the notified person's agent, nominee, or other person acting under the direction on control of the notified person) must give to the summoned person a written notice not to comply with the summons. In addition, the notified person (or the notified person's agent, nominee, or other person acting under the direction or control of the notified person) must send a copy of that notice by registered or certified mail to the Service employee and office designated to receive that copy in the notice of summons that was given to the notified person. The notice not to comply must be given to the summoned party, and a copy of the notice not to comply must be sent by mail to the Service not later than 14 days after the notified person is given notice of the issuance of the summons. Failure to give timely notice to either the summoned party or the Service or failure to give notice in the manner described in this paragraph means that compliance is not stayed. Thus, for example, if the notified person gives a copy of the notice to stay compliance to the summoned person but not to the designated Service employee and office, compliance is not stayed. Similarly, if the notified person gives a copy of such a notice to the summoned person but, instead of sending a copy of the notice by registered or certified mail to the designated employee and office, the notified person gives the designated employee and office the notice by some other means, compliance is not stayed.

(c) *Presumption no notice has been mailed.* Section 7609(b)(2)(B) permits a notified person to stay compliance by notifying the Service and the summoned person. If the notified person does not notify the Service in the appropriate manner, the summons must be obeyed, unless there are valid legal objections for noncompliance. If the copy of the notification not to comply has not been delivered to the person and office designated to receive the notice on behalf of the Service within 3 days from the close of the 14-day period allowed for the notice, it is presumed that the notification has not been timely mailed.

§ 301.7609-4 Summonses excepted from section 7609 procedures.

(a) *In aid of the collection of certain liabilities*—(1) *In general.* Section 7609(c)(2)(B) contains an exception to the general notice requirement when a summons is issued to a third-party recordkeeper. That section excepts summonses issued in aid of the collection of the liability of any person against whom an assessment has been made or judgment rendered or the liability at law or in equity of any transferee or fiduciary of such a person.

(2) *Examples.* Examples of summonses referred to in paragraph (a)(1) of this section are—

(i) Summonses issued to determine the amount held in a bank in the name of a person against whom an assessment has been made or judgment rendered;

(ii) Summonses issued for the purpose of ascertaining responsible corporate employees or officers for the 100 percent penalty under section 6672, so as to assist in collecting the amount of withheld taxes which have been assessed against the corporation; and

(iii) Summonses issued to enforce transferee or fiduciary liability for a tax which has been assessed.

(b) *Numbered account (or similar arrangement).* Under section 7609(c)(2), a summons solely to determine the identity of a person having a numbered account (or similar arrangement) with a bank or other institution is excepted from the requirements of section 7609. A "numbered account (or similar arrangement)" under section 7609(c)(2) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name, or other device not involving the disclosure of the person's identity. A "person having a numbered account (or similar arrangement)" includes the person who opened the account and any person authorized to use the account or to receive records or statements concerning it.

§ 301.7609-5 Suspension of statutes of limitations.

(a) *Agent, nominee, etc.* Under section 7609(e), statutes of limitations are suspended if a notified person with respect to whose liability a summons is issued, or the notified person's agent, nominee, or other person acting under the direction or control of the notified person, takes any action as provided in section 7609(b). A person is a notified person's agent, nominee, or other person acting under the direction or control of a notified person for purposes of section 7609(e) if the person with respect to whose liability the summons is issued has the ability in fact or at law to cause the agent, etc., to take the actions permitted under section 7609(b). Thus, in the case of a corporation, direction or control by the notified person may exist even though less than 50 percent of the voting power of the corporation is held by the notified person.

(b) *Period during which a proceeding, etc., is pending.* Under section 7609(e), the statute of limitations may be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending. This period begins on the date the action to enforce the summons is commenced, rather than the date a notified person takes any action as provided in section 7609(b). An action to enforce the summons is commenced upon the filing of the petition or complaint to enforce the summons. The period continues until all appeals are disposed of, or until the expiration of the period in which an appeal may be taken or a request for a rehearing may be made. Full compliance, partial compliance, and noncompliance have no effect on the suspension provisions. Of course, if the notified person takes no action provided in subsection (b) of section 7609, no suspension of the statutes of limitations takes place. The periods of limitations which are suspended under section 7609(e) are those which apply to the taxable periods to which the summons relates.

(c) *Taking of action as provided in section 7609(b).* Section 7609(b) allows intervention by a notified person as a matter of right upon compliance with the Federal Rules of Civil Procedure. The phrase "takes any action as provided in subsection (b)", found in section 7609(e), includes any intervention, whether or not section 7609(b) is specifically mentioned in the order of the court allowing intervention. The phrase also includes the fulfilling of only part of the requirements of section 7609(b)(2), relating to the right of a person to stay compliance. Thus, for instance, if a notified person notifies a person who has been summoned not to comply with the summons under section 7609(b)(2)(A) but does not mail a copy of that notice to the appropriate person and office under section 7609(b)(2)(B), the notified person has taken an action under section 7609(e).

§ 301.7610-1 Fees and costs for witnesses.

(a) *Introduction.* Section 7610 provides that the Internal Revenue Service may make payments to certain persons who are asked to give information to the Service. Under section 7610 witnesses generally will not be reimbursed for actual expenses incurred but instead will be paid in accordance with the payment rates established by regulations. Paragraph (b) of this section contains elaborations of certain terms found in section 7610 and definitions of other terms used in the regulations under section 7610(a)(2); and paragraphs (c) and (d) contain rules and rates applicable to payments under section 7610. Section 7610 and its regulations are effective for summonses issued after February 28, 1977, except as otherwise provided.

(b) *Definitions*—(1) *Directly incurred costs.* Directly incurred costs are costs incurred solely, immediately, and necessarily as a consequence of searching for, reproducing, or transporting records in order to comply with a summons. They do not include a proportionate allocation of fixed costs, such as overhead, equipment depreciation, etc. However, where a third party's records are stored at an independent storage facility that charges the third party a search fee to search for, reproduce, or transport particular records requested, these fees are considered to be directly incurred by the summoned third party.

(2) *Reproduction costs.* Reproduction costs are costs incurred in making copies or duplicates of summoned documents, transcripts, and other similar material.

(3) *Search costs.* Search costs include only the total cost of personnel time directly incurred in searching for records or information and the cost of retrieving information stored by computer. Salaries of persons locating and retrieving summoned material are not includible in search costs. Also, search costs do not include salaries, fees, or similar expenditures for analysis of material or for managerial or legal advice, expertise, or research, or time spent for these activities.

(4) *Third party.* A third party is any person served with a summons, other than a person with respect to whose liability a summons is issued, or an officer, employee, agent, accountant, or attorney of that person.

(5) *Third party records.* Third party records are books, papers, records, or other data in which the person with respect to whose liability a summons is issued does not have a proprietary interest at the time the summons is served.

(6) *Transportation costs.* Transportation costs include only costs incurred to transport personnel to search for records or information requested and costs incurred solely by the need to transport the summoned material to the place of examination. These costs do not include the cost of transporting the summoned witness for appearance at the place of examination. See paragraph (c)(2) of this section for payment of travel expenses.

(c) *Conditions and rates of payments*—(1) *Basis for payment.* Payment for search, reproduction, and transportation costs will be made only to third parties served with a summons to produce third party records or information and only for material requested by the summons. Payment will be made only for these costs that are both directly incurred and reasonably necessary. Search, reproduction, and transportation costs must be considered separately in determining whether costs are reasonably necessary. No payment will be made until the third party has satisfactorily complied with the summons and has submitted an itemized bill or invoice showing specific details concerning the costs to the Internal Revenue Service employee before whom the third party was summoned. If a third party charges any other person for any cost for which the third party is seeking

payment from the Service, the amount charged to the other person must be subtracted from the amount the Internal Revenue Service may pay.

(2) *Payment rates.* The following rates are established:

(i) *Search costs.* (A) For the total amount of personnel time required to locate records or information, $5.00 per person hour.

(B) For retrieval of information stored by computer in the format in which it is normally produced, actual costs, based on computer time and necessary supplies, except that personnel time for computer search is payable only under subparagraph (2)(i)(A) of this paragraph.

(ii) *Reproductions costs.* (A) For copies of documents, $.10 per page.

(B) For photographs, films and other materials, actual cost, except that personnel time is payable only under subparagraph (2)(i)(A) of this paragraph.

(iii) *Transportation costs.* For transportation costs, actual cost, except that personnel time is payable only under subparagraph (2)(i)(A) of this paragraph.

(d) *Appearance fees and allowances*—(1) *In general.* Under section 7610(a)(1) and this paragraph, the Service shall pay a summoned person certain fees and allowances. No payments will be made until after the party summoned appears and has submitted any necessary receipts or other evidence of cost to the Service employee before whom the person was summoned. This paragraph is effective with respect to appearances made after October 26, 1978.

(2) *Attendance fees.* A summoned person shall be paid an attendance fee for each day's attendance. A summoned person shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of the attendance or at any time during the attendance. The attendance fee is the higher of $30 per day or the amount paid under 28 U.S.C. 1821(b) to witnesses in attendance at courts of the United States at the time of the summoned person's appearance.

(3) *Travel allowances.* A summoned person who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from the summoned person's residence by the shortest practical route in going to and returning from the place of attendance. Such a summoned person shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished. A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, under 5 U.S.C. 5704, for official travel of employees of the Federal Government shall be paid to each summoned person who travels by privately owned vehicle. That rate is $.20 per mile as of April 20, 1980. Computation of mileage under this paragraph shall be made on the basis of a uniform table of distances adopted by the Administrator of General Services. Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt) shall be paid in full to a summoned person incurring those expenses.

(4) *Subsistence allowances.* A subsistence allowance shall be paid to a summoned person (other than a summoned person who is incarcerated) when an overnight stay is required at the place of attendance because the place is so far removed from the residence of the summoned person as to prohibit return thereto from day to day. A subsistence allowance for a summoned person shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, under 5 U.S.C. 5702(a), for official travel in the area of attendance by employees of the Federal Government. As of April 30, 1979, that maximum per diem allowance is $35 per day. A subsistence allowance for a summoned person attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, under 5 U.S.C. 5702(c)(B), for official travel in that area by employees of the Federal Government. As of April 30, 1979, maximum rates of up to $50 per day have been prescribed by the Administrator for certain areas. An alien who has been paroled into the United States for prosecution, under section 212 (d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined under section 242(b) of that Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided for under section 7610(a)(1).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-25510 Filed 8-20-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Wyoming State Permanent Program Resubmission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Wyoming program resubmission from the Environmental Protection Agency, the Department of Agriculture and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure, with regard to the Wyoming State Permanent Program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Tower, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone (303) 837-5421.

Office of Surface Mining, Department of the Interior, Room 135, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 30 East Grinnell Street, Sheridan, Wyoming 82801.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 933 Main Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837-5921;

or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue,

NW., Washington, D.C. 20240.
Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Wyoming permanent program resubmitted by Wyoming for his review on May 30, 1980. The Secretary approved the Wyoming initial program submission in part on February 15, 1980 (45 FR 20930). The resubmission is to request the Secretary's approval of those parts of the Wyoming program that were disapproved on February 15, 1980. See 45 FR 37697 (June 4, 1980) and 45 FR 49595 (July 25, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Wyoming program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Wyoming program resubmission:

Department of Agriculture: Soil Conservation Service; Forest Service; Agriculture Stabilization and Conservation Service; Office of Environmental Policy; Science and Education Administration.
Advisory Council on Historic Preservation.
Department of Labor: Mine Safety and Health Administration.
U.S. Environmental Protection Agency.
Water Resources Council.
Department of Energy.
Department of the Interior: Bureau of Indian Affairs; Bureau of Land Management; Bureau of Mines; Heritage Conservation and Recreation Service; Bureau of Reclamation; Fish and Wildlife Service; National Park Service; U.S. Geological Survey.
Council on Environmental Quality.
U.S. Army Corps of Engineers.
Missouri River Basin Commission.

Of those agencies invited to comment, OSM received comments from the following offices: U.S. Environmental Protection Agency, Bureau of Land Management, Fish and Wildlife Service, Soil Conservation Service.

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: August 15, 1980.

Carl C. Close,

Assistant Director State and Federal Programs.

[FR Doc. 80-25351 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 174

[CGD 79-087]

Application for Certificate of Number: Change in Required Contents

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to amend its regulations on State numbering systems for vessels. Existing regulations require States that issue their own certificates of number to obtain date of birth and citizenship information from vessel owners applying for these certificates. The Guard Guard will no longer collect this information in States where it is the issuing authority for certificates of number. It is therefore proposing to relieve State issuing authorities of their obligation to collect this information as well.

DATES: Comments must be received on or before October 6, 1980.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/24)(CGD 79-087), U.S. Coast Guard Headquarters, Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Robert Dewees, Office of Boating, Public, and Consumer Affairs (G-BEL-3/43), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-4176.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 79-087) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addresses postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Robert Dewees, Project Manager, Office of Boating, Public, and Consumer Affairs, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Rule

Section 18 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1467) mandated the establishment of a standard numbering system for vessels. The Act provides that States which have a numbering system that is in accord with this standard be designated as issuing authorities for vessel numbers. In States which have not been so designated, the Coast Guard retains the authority to issue these numbers.

The application form for a certificate of number used by the Coast Guard in States where it is the vessel number issuing authority (CG-3876) was recently submitted to the Office of Management and Budget (OMB) for clearance. OMB did not approve two items on this form which required applicants to disclose their citizenship and date of birth. The absence of any apparent need for this information was cited as the basis for OMB's disapproval.

As the Coast Guard will no longer be collecting this information in its own capacity as a vessel number issuing authority, a corresponding change in the standard requirements for State issuing authorities may be in order. The Coast Guard therefore proposes to delete date of birth and citizenship from the items set forth in 33 CFR 174.17 that must be contained on a State application for a certificate of number.

In 1979 the National Association of Boating Law Administrators conducted an informal survey of its members to determine the need for collecting information on the date of birth and citizenship of vessel owners applying for certificates of number. Although the majority of States found this information unnecessary, some expressed an interest in continuing to collect it. As a consequence, this proposal would allow

States the option of retaining these items on their application forms.

If this proposal were adopted, there would be no immediate need for application forms to be reprinted by States wishing to eliminate the date of birth and citizenship items. Existing forms could be used with these items crossed out. Alternately, the forms could be issued with instructions informing applicants that these items may be left blank. This will allow the proposed changes to be reflected in these forms only when existing supplies have been exhausted and new ones must be printed. As a consequence, this proposal is not expected to have sufficient economic impact to warrant preparation of a draft evaluation under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034).

In consideration of the foregoing, the Coast Guard proposes to amend Part 174 of Title 33, Code of Federal Regulations by revising § 174.17 to read as follows:

§ 174.17 Contents of application for certificate of number.

(a) Each application form for a certificate of number must contain the following information:

(1) Name of the owner.

(2) Address of the owner, including ZIP code.

(3) State in which vessel is or will be principally used.

(4) The number previously issued by an issuing authority for the vessel, if any.

(5) Whether the application is for a new number, renewal of a number, or transfer of ownership.

(6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.

(7) Make of vessel.

(8) Year vessel was manufactured or model year.

(9) Manufacturer's hull identification number, if any.

(10) Overall length of vessel.

(11) Type of vessel (open, cabin, house, or other).

(12) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.

(13) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail and name of engine manufacturer if available.

(14) Whether the fuel is gasoline, diesel, or other.

(15) The signature of the owner.

(b) A State may elect to include the following information in each application form for a certificate of number:

(1) Date of birth of the owner.

(2) Citizenship of the owner.

(c) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 7 through 14 of paragraph (a) of this section.

(d) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 13 and 14 of paragraph (a) of this section.

Dated: August 13, 1980.

(46 U.S.C. 1467 and 1488; 49 CFR 1.46 (n)(1))

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 80-25541 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101-6

Federal Advisory Committee Management

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes to provide revised responsibilities, procedures, and guidance for managing Federal executive branch advisory committees. GSA's authority for administering the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 1, is contained in FACA and Executive Order 12024, effective November 22, 1977, entitled "Relating to the Transfer of Certain Advisory Committee Functions." Under EO 12024, the President delegated to the Administrator of General Services all the functions vested in the President by FACA, as amended, except that of reporting annually to the Congress, and redelegated to the Administrator the responsibility for the preparation of the annual report required by section 6(c) of FACA.

GSA's experience in administering FACA has shown the need for rescinding Office of Management and Budget (OMB) Circular A-63, (March 27, 1974), and A-63 Transmittal Memoranda 1, 4, and 5. Further, it is necessary to revise and redesignate 41 CFR 101-11.12 and 41 CFR 101-11.4930-248 through 250 for inclusion in the Federal Advisory Committee Management regulation. The proposed regulation is intended to meet the need for additional procedures for and guidance to Federal agencies in this area.

DATE: Comments must be received by October 20, 1980.

ADDRESSES: Comments should be submitted to the Executive Director, National Archives and Records Service (mailing address: General Services Administration (NA), Washington, DC 20408). Comments will be available for examination at the Committee Management Secretariat, Room 9403, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John F. Clancy, Jr., Director, Committee Management Secretariat (202-357-0019).

SUPPLEMENTARY INFORMATION: GSA proposes to add a new Federal Property Managment Regulation (FPMR) in 41 CFR Subpart 101-6.10, entitled "Federal Advisory Committee Management." In an advance notice of proposed rulemaking (November 22, 1979, 44 FR 66852), GSA proposed to rescind OMB Circular A-63 (dated March 24, 1974), its related Transmittal Memoranda 1, 4, and 5, and to revise and redesignate FPMR 101-11.12 and 101-11.4930-248 through 250 for inclusion in a single FPMR on Federal advisory committee managment. Three comments were received from Federal agencies during the comment period and were considered in the development of the proposed rule. One Federal agency had sent a suggestion for the proposed rule before the advance notice of proposed rulemaking was published. Its comment was also considered in the development of the proposed rule.

Discussion of the comments. The first comment, sent before the advance notice of proposed rulemaking from the Department of the Interior, suggeseted that a definition of subcommittee be considered for inclusion in the proposed FPMR, and also provided a definition of subcommittee and the conditions under which a subcommittee would require a separate charter. GSA agrees with the definition and the conditions and has included them in the proposed rule.

The Veterans Administration (VA) suggested that "balanced membership" and "full-time employee" be defined in the FPMR. GSA was not able to define "balanced membership," although guidelines to assist agencies in determining balanced membership are included in the proposed rule. "Full-time employee" was not specifically defined since GSA prefers that agencies use the Office of Personnel Management definition. VA also commented that "it is not clear how to proceed in situations . . . where the Administrator . . . does

not concur" in renewals of advisory committees. The proposed rule makes it clear that the agency cannot continue to use an advisory committee that has not been concurred in for renewal by the Administrator.

The Nuclear Regulatory Commission (NRC), in its comments, objected to the requirement that the agency head be notified at least 30 calendar days before an advisory committee meeting of an advisory committee's intent to close all or part of a meeting. The NRC believes this requirement should be eliminated from the proposed rule. GSA disagrees, and has continued this requirement in the proposed rule.

NRC suggested that GSA add a provision "stating that the pay of members of a statutorily established advisory committee shall not be decreased by federal retirement benefits if the member of such a committee is retired from a government agency other than the agency he is serving." GSA has not addressed this issue in the proposed rule, but will consider it if there is comment from other Federal agencies on the issue.

NRC also suggested some procedural changes in the section on uniform pay guidelines to include changes required by the Government in the Sunshine and Civil Service Reform Acts. GSA agrees with the suggestion and has made changes in this section.

Finally, the Maritime Administration of the Department of Commerce made detailed comments on the "need" for "definitive guidelines, standards by which an agency may judge whether activities are within the purview of the Act." The Maritime Administration wants a more specific definition of "advisory committee," other than the one contained in the Act. The Maritime Administration also wants definitive guidance on "ad hoc" and other advisory committees and a definition of "balanced membership." GSA believes that a definition of advisory committee, other than the one in FACA, would require a change in FACA. Thus, the definition in the proposed rule is the definition in FACA.

On the issue of definitive guidelines and standards to cover every possible situation, GSA believes that to attempt to issue definitive guidelines and standards would be counterproductive. The questions raised by the Maritime Administration on specific situations concerning the applicability of FACA to agency activities should be answered initially by the agency. GSA does not propose to substitute its judgment for the agency's initial judgment in specific situations rising out of an agency's activities involving FACA.

GSA has not addressed the issue of "ad hoc" committees in the proposed rule. If the comments on the proposed rule warrant it, GSA will consider the issue before a final rule is issued.

The "balanced membership" issue is considered in the guidelines.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, GSA proposes to amend Part 101-6 as follows:

PART 101-6—MISCELLANEOUS REGULATIONS

1. The table of contents for Part 101-6 is amended by adding or revising the following entries:

Subparts 101-6.3—101-6.9 [Reserved]

Subpart 101-6.10—Federal Advisory Committee Management

Sec.
101-6.1000 Scope of subpart.
101-6.1001 General provisions.
101-6.1001-1 Authority.
101-6.1001-2 Applicability.
101-6.1002 Definitions.
101-6.1003 Policy.
101-6.1004 Responsibilities.
101-6.1004-1 What are GSA's responsibilities?
101-6.1004-2 What are the agency's responsibilities?
101-6.1005 General information on advisory committees.
101-6.1005-1 Who establishes advisory committees?
101-6.1005-2 What kinds of advisory committees are there?
101-6.1006 Establishing advisory committees.
101-6.1006-1 What must an agency head do?
101-6.1006-2 What must GSA do?
101-6.1007 How to operate advisory committees.
101-6.1007-1 What must be done before an advisory committee may operate?
101-6.1007-2 What is required to hold an advisory committee meeting?
101-6.1007-3 What are the public notice requirements?
101-6.1007-4 What are the public participation requirements?
101-6.1007-5 What is required to close an advisory committee meeting?
101-6.1007-6 What are the requirements regarding the minutes of advisory committee meetings?
101-6.1008 Renewal and termination of advisory committees.
101-6.1008-1 What is required to renew an advisory committee?
101-6.1008-2 When do advisory committees terminate?
101-6.1009 Reports.
101-6.1009-1 What reports are agencies and independent PAC's required to submit to the Secretariat?
Sec.
101-6.1009-2 What is the Annual Comprehensive Review of Federal Advisory Committees?
101-6.1009-3 How do you prepare and submit the Annual Comprehensive Review?
101-6.1009-4 What is the due date of the ACR?
101-6.1009-5 What is the Annual Report on Federal Advisory committees?
101-6.1009-6 How do you prepare and submit the Annual Report?
101-6.1009-7 What is the due date of the AR?
101-6.1009-8 What other reports are agencies required to submit and to whom?
101-6.1009-9 What is a 6(b) follow-up report and how is it done?
101-6.1010 Miscellaneous provisions.
101-6.1010-1 Uniform pay guidelines.
101-6.1010-2 Committee Management Information System.

Subparts 101-6.11—101-6.48 [Reserved]

101-6.4901 Standard forms.
101-6.4901-248 Standard Form 248, Annual Report on Federal Advisory Committee.
101-6.4901-248-A Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet).
101-6.4901-249 Standard Form 249, Membership List on Federal Advisory Committee.
101-6.4901-249-A Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet).
101-6.4901-250 Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.
101-6.4901- Standard Form ——, Annual Comprehensive Review of Federal Advisory Committee.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Pub. L. 92-463, 5 U.S.C. App. 1.

Subparts 101-6.3—6.9 [Reserved]

2. Subparts 101-6.3 through 101-6.9 are reserved as follows:

3. Subpart 101-6.10 is added to read as follows:

Subpart 101-6.10—Federal Advisory Committee Management

§ 101-6.1000 Scope of subpart.

This subpart sets forth guidance, procedures, and responsibilities for managment of Federal executive branch advisory committees.

§ 101-6.1001 General provisions.

§ 101-6.1001 Authority.

The Committee Management Secretariat issues these provisions under the Federal Advisory Committee Act (FACA), Pub. L. 92-463, 5 U.S.C. App. 1, as amended by the government in the Sunshine Act, Pub. L. 94-409; and EO 12024, dated December 1, 1977, entitled "Relating to the Transper of Certain Advisory Committee Functions."

§ 101-6.1001-2 Applicability.

The regulations in this subpart apply to all Federal executive branch agencies, except the Advisory Commission on Intergovernmental Relations, the Central Intelligence Agency, and the Federal Reserve System.

§ 101-6.1002 Definitions.

(a) "Administrator" means the Administrator of General Services.

(b) "Advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is:

(1) Established by statute or reorganization plan, or

(2) Established or utilized by the President, or

(3) Established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such definition excludes any committee which is composed wholly or full-time officers or employees of the Federal Government.

(c) "Agency" means the same as it does in 5 U.S.C. 551(1).

(d) "Committee Management Officer" means the person designated by the agency head or by the chairperson of an independent Presidential advisory committee (PAC) to:

(1) Exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established or used by that agency, or of the independent PAC:

(2) Assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) Carry out, on behalf of that agency, the provisions of 5 U.S.C. 552, with respect to such reports, records, and other papers.

(e) "Designated Federal Official" means a full-time Federal employee who chairs or attends an advisory committee meeting and who represents the interests of the Federal Government.

(f) "Determination" means the action taken by an agency head or the Administrator to close or partially close and advisory committee meeting.

(g) "Establishment authority" means the authority used to create an advisory committee.

(h) "FACA" means the Federal Advisory Committee Act.

(i) "Presidential advisory committee" (PAC) means an advisory committee established by the President or by the Congress, which reports directly to the President.

(j) "Secretariat" means GSA's Committee Management Secretariat.

(k) "Subcommittee" means a subgroup of an already existing advisory committee composed wholly or partly of members of the parent advisory committee.

(l) "Substantive report" means any report made by and advisory committee to the Congress, to the President, or to the agency which establishes or uses the advisory committee.

§ 101-6.1003 Policy.

(a) *General.* In applying this subpart, it is GSA's policy to require executive branch agencies to hold open advisory committee meetings, except in circumstances specified in paragraph (b) of this section.

(1) The agency shall limit advisory committees to those that are in the public interest and for which there is a compelling need.

(2) Agencies shall fairly balance membership of advisory committees in terms of the points of view represented and the committee function to be performed.

(3) For purposes of obtaining balance, the agency shall consider for membership a cross-section of interested persons and groups.

(4) The agency shall also consider the following:

(i) The extent of representation is such that membership is adequately balances.

(ii) The agency is making or plans to make a reasonable effort to achieve adequate balance.

(5) The agency which sought the advice and which retains the authority for decisions shall consider advisory committee recommendations.

(b) *Exceptions.*

(1) The Administrator, in the case of an independent PAC, or the head of the agency to which the advisory committee reports, may close advisory committee meetings when the Administrator or the agency head determines that the "Government in the Sunshine" exemptions, 5 U.S.C. 552b, apply.

(2) When the Administrator or agency head closes an advisory committee meeting, the Administrator or agency head shall explain in writing the grounds or reasons for closing the meeting.

(3) The Administrator or agency head shall emphasize the conduct of advisory committee business as openly as possible and the free flow of information to the public.

§ 101-6.1004 Responsibilities.

§ 101-6.1004-1 What are GSA's responsibilities?

The Committee Management Secretariat of GSA/NARS assists the Administrator in carrying out his responsibilities under FACA and EO 12024.

§ 101-6.1004-2 What are the agency's responsibilities?

(a) The head of each agency that establishes or uses an advisory committee, or the chairperson of an independent PAC, shall:

(1) Comply with FACA and this regulation.

(2) Issue regulations and/or guidelines which apply to all advisory committees established or used by the agency.

(3) Designate a Committee Management Officer (CMO), who shall carry out the functions specified in this regulation.

(4) Provide the name and telephone number of the CMO to the Secretariat.

(b) The CMO shall maintain information on the nature, functions, and operations of each of the agency's advisory committees, including a complete set, in a single location, of the charters and membership lists of the agency's advisory committees, minutes of meetings, and copies of the reports of its advisory committees.

§ 101-6.1005 General information on advisory committees.

§ 101-6.1005-1 Who establishes advisory committees?

(a) The President may establish advisory committees through Executive order (EO).

(b) An agency head may establish or use an advisory committee under title 5 United States Code or through general agency authorizing statute.

(c) The Congress, by statute, may establish an advisory committee reporting to the President, or direct an agency to establish an advisory committee.

§ 101-6.1005-2 What kinds of advisory committees are there?

(a) Presidential advisory committees (PAC's) are commmittees established by the President or by the Congress, which report directly to the President.

(b) Advisory committees directed by law are committees which the Congress, by statute, directs agencies to establish.

(c) Advisory committees authorized by law are committees which the Congress, by statute, authorizes, but does not direct, agencies to establish.

(d) Agency-established committees are committees which an agency

establishes or uses under agency authority in 5 U.S.C. or other general agency authorizing statute.

§ 101-6.1006 Establishing advisory committees.

§ 101-6.1006-1 What must an agency head do?

(a) An agency head must consult with the Administrator if the agency proposes to establish or use:

(1) An advisory committee authorized by law, or

(2) An advisory committee established or used under agency authority in 5 U.S.C. or other general agency authorizing statute, or

(3) Any subcommittee of an advisory committee meeting one or more of the following criteria:

(i) Has members other than the members of the parent committee, or

(ii) Has functions other than, or different from, the parent committee, or

(iii) Functions independently of the parent committee, e.g., makes recommendations directly to the agency rather than through the parent committee.

(b) The agency head must consult with the Administrator through a letter:

(1) Describing the nature and purpose of the proposed advisory committee, and

(2) Stating why the functions of the proposed committee cannot be performed by the agency or by an existing advisory committee in the agency or in another agency, or by other means such as public hearings, and

(3) Describing the agency's plan to attain balanced membership on the proposed advisory committee.

(c) The agency head shall enclose a draft copy of the charter of the proposed advisory committee with the consultation letter.

§ 101-6.1006-2 What must GSA do?

(a) If the Secretariat does not concur that the proposed advisory committee is necessary and in the public interest, then the Secretariat will inform the agency head in writing, with the reasons for nonconcurrence, within 30 calendar days of receipt of the agency head's consultation letter.

(b) The agency head must obtain the Secretariat's concurrence before establishing or using an advisory committee as specified in 101-6.1006-1(a).

(c) If the Secretariat concurs that the agency head's proposed advisory committee is necessary and in the public interest, then the Secretariat will notify the agency head or the CMO.

§ 101-6.1007 How to operate advisory committees.

§ 101-6.1007-1 What must be done before an advisory committee may operate?

(a) No advisory committee may operate, e.g., meet or take any action, until a charter has been filed with the Secretariat, in the case of PAC's, or with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of the agency establishing or using the advisory committee.

The following table summarizes the charter filing requirements:

	File With		
Type of committee	Secretariat	Committees of the Congress	Library of Congress
Agency-established	Yes	Yes	Yes
Authorized by law	Yes	Yes	Yes
Directed by law	Yes	Yes	Yes
Presidential	Yes	No	Yes

(b) When the Secretariat concurs in an agency head's proposal to establish or use an advisory committee, the agency head shall:

(1) Certify in writing that the establishment of the advisory committee is necessary and in the public interest;

(2) Publish in the Federal Register, at least 15 calendar days before filing the advisory committee's charter, the certification and a description of the nature and purpose of the committee;

(3) File a copy of the charter of the advisory committee with the Secretariat;

(4) File the charter of the advisory committee with the standing committees of the Senate and House having legislative jurisdiction of the agency; and

(5) File a copy of the charter of the advisory committee with the Library of Congress. The copy of the charter shall be sent to:

Federal Documents Section, Exchange and Gift Division, Library of Congress, Washington, DC 20540.

(c) When an agency has an advisory committee directed by law, the agency head shall:

(1) File a copy of the charter of the advisory committee with the Secretariat;

(2) File the charter of the advisory committee with the standing committees of the Senate and House having legislative jurisdiction of the agency to which the advisory committee reports; and

(3) File a copy of the charter of the advisory committee with the Library of Congress. The address is in paragraph (b)(5) of this section.

(d) When the President, or the Congress by statute, establishes an advisory committee reporting directly to the President, the responsible agency head or the chairperson of an independent PAC shall:

(1) File the charter with the Secretariat; and

(2) File a copy of the charter with the Library of Congress. The address is in paragraph (b)(5) of this section.

§ 101-6.1007-2 What is required to hold an advisory committee meeting?

(a) For agency advisory committees (established or used by the agency, directed by law, or authorized by law) the agency head shall designate a full-time employee, or Designated Federal Official (DFO) who shall:

(1) Approve or call the meetings of an advisory committee;

(2) Approve the agenda of the advisory committee meetings;

(3) Adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest; and

(4) Attend the meetings, or chair the meetings if the agency head so determines.

(b) For independent PAC's, the Administrator shall designate a full-time Federal employee and, with the approval of the chairperson of the PAC, determine his or her role. This DFO shall:

(1) Attend the meetings;

(2) Approve or call the meetings; and

(3) Adjourn the meetings whenever he or she determines it is in the public interest.

§ 101-6.1007-3 What are the public notice requirements?

(a) The agency head, the chairperson of an independent PAC, or their designees shall publish in the Federal Register a notice of each advisory committee meeting at least 15 calendar days before the meeting.

(b) The notice must state:

(1) The name of the advisory committee;

(2) The time, place, and purpose of the meeting;

(3) A summary of the agenda; and

(4) Whether the meeting is open or closed.

(c) Less than 15-days notice may be provided in emergency situations.

The agency head or the chairperson of an independent PAC shall ensure that the reasons for the emergency exception to the 15-day notice requirement are part of the Federal Register meeting notice.

§ 101-6.1007-4 What are the public participation requirements?

The agency head, the chairperson of an independent PAC, or their designees shall ensure that:

(a) Meetings are held at a reasonable time and in a place that is reasonably accessible to the public;

(b) The size of the meeting room is sufficient to accommodate the advisory committee members, committee or agency staff, and members of the public who may wish to attend;

(c) Any member of the public may file a written statement with the committee; and

(d) Any member of the public may speak at an advisory committee meeting if the advisory committee's written procedures for conducting meetings permit such oral comment.

§ 101-6.1007-5 What is required to close an advisory committee meeting?

(a) An advisory committee chairperson who seeks to have all or part of a meeting closed to public participation on the basis of the "Government in the Sunshine" exemptions shall request from the agency head or, in the case of an independent PAC, from the Administrator, a determination to close the meeting at least 30 calendar days before the scheduled date of the meeting.

(b) The request for a determination must:

(1) Be written;

(2) Specify the reasons why all or part of the meeting should be closed; and

(3) Cite the specific exemptions of the Government in the Sunshine Act, 5 U.S.C. 552b, as the basis for closing all or part of the meeting.

(c) The agency head or the Administrator shall:

(1) Issue a determination in writing if he or she finds the request to close the meeting to be consistent with the "Government in the Sunshine" exemptions and the policy of FACA;

(2) State in the determination the specific reasons for closing all or part of the meeting, citing the exemption(s) used in the Government in the Sunshine Act, 5 U.S.C. 552b; and

(3) Make a copy of the determination available to the public on request.

(d) The agency general counsel, or in the case of independent PAC's, the GSA general counsel, must review all determinations to close meetings.

(e) The agency head or the Administrator may delegate responsibility for making determinations.

(f) The agency head, the chairperson of an independent PAC, or their designees shall ensure that the reasons for closing all or part of the meeting and the specific exemption(s) under 5 U.S.C. 552b are included in the Federal Register meeting notice.

§ 101-6.1007-6 What are the requirements regarding the minutes of advisory committee meetings?

(a) The agency head or the agency head's designee shall ensure that detailed minutes of each advisory committee meeting are kept.

(b) In the case of independent PAC's, the chairperson shall ensure that detailed minutes of each meeting are kept.

(c) The minutes must include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, and agency employees present at the meeting;

(3) A summary of matters discussed and conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements;

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

(d) The chairperson of the advisory committee shall certify to the accuracy of the minutes.

§ 101-6.1008 Renewal and termination of advisory committees.

§ 101-6.1008-1 What is required to renew an advisory committee?

(a) Renewal of agency advisory committees (agency-established or authorized by law) requires concurrence by the Secretariat.

(b) The agency head shall provide the Secretariat, by consultation letter not more than 60 calendar days or less than 30 calendar days before the committee terminates, with the following information:

(1) A statement that renewal is necessary and is in the public interest;

(2) The reasons for this statement;

(3) The agency's plan to achieve adequate balance in the membership of the committee or the basis for the view that adequate balance has been achieved; and

(4) An explanation of why the committee's functions cannot be performed by the agency, by another advisory committee, or by other means.

(c) The agency head shall enclose a draft copy of the renewal charter with the consultation letter.

(d) If the Secretariat concurs in the renewal, the Secretariat will notify the agency head or the CMO.

(e) The agency head shall:

(1) Certify in writing that the renewal of the advisory committee is necessary and in the public interest;

(2) Shall publish notice of the renewal in the Federal Register; and

(3) Shall file a new charter.

(f) If the Secretariat does not concur that renewal of the advisory committee would be in the public interest, the Secretariat will inform the agency head in writing, with the reasons for nonconcurrence, within 30 calendar days of receipt of the agency head's consultation letter requesting renewal. The agency head must obtain the Secretariat's concurrence before the advisory committee can be renewed.

(g) No renewal consultation for an agency advisory committee directed by law is required if the duration of the advisory committee is otherwise provided by statute.

(h) For advisory committees directed by law, and for which duration is provided, the agency head shall file a new charter every two years after the date of enactment of the law directing the committee to be established.

(i) Renewal of an advisory committee established by the President, for a successive two-year period requires appropriate action by the President, and the filing of a new charter.

§ 101-6.1008-2 When do advisory committees terminate?

(a) Each agency advisory committee (agency-established or authorized by law) shall terminate not later than two years after its establishment or last renewal.

(b) Each agency advisory committee directed by law shall terminate not later than two years after its establishment unless its duration is otherwise provided by statute.

(c) Each advisory committee established by the President shall terminate on the date specified by the President in Executive order, but not later than two years after its establishment, unless renewed by the President.

§ 101-6.1009 Reports.

§ 101-6.1009-1 What reports are agencies and independent PAC's required to submit to the Secretariat?

(a) Agency heads, chairpersons of independent PAC's, or their designees must submit to the Secretariat:

(1) An Annual Report (AR) by January 15 of each calendar year, on each advisory committee in existence at any time during the previous calendar year; and

(2) An Annual Comprehensive Review (ARC) by April 15 of each calendar year, on each advisory committee in existence at the end of the previous calendar year.

(b) The responsible agency head or the chairperson of an independent PAC, or their designees must submit two copies of each public report of a PAC whenever the PAC makes a public report to the President.

§ 101-6.1009-2 What is the Annual Comprehensive Review of Federal Advisory Committees?

(a) The Annual Comprehensive Review (ARC) required by FACA is a qualitative analysis of each advisory committee. This reporting requirement is being cleared in accordance with FPMR 101-11.11, and will be assigned interagency report control number——. Agencies and independent PAC's shall use the documents and procedures prescribed in § 101-6.1009-3 when preparing and submitting their ACR of Federal Advisory Committees.

(b) The ACR consists of an original and one copy of Standard Form —— (in process of being approved and printed; it will be available by the issuance of the final rule), Annual Comprehensive Review on Federal Advisory Committee. (See § 101-6.4901-——.)

§ 101-6.1009-3 How do you prepare and submit the Annual Comprehensive Review?

(a) All CMO's shall complete an original and one copy of SF —— for each advisory committee in existence at the end of the calendar year being reported.

(b) For advisory committees authorized by law, or established under agency authority which were established, reestablished or renewed from January 1 through September 30 of the calendar year being reported, all CMO's shall complete the SF —— including item 10.

(c) For advisory committees authorized by law, or established under agency authority which were established, reestablished or renewed after September 30 of the calendar year being reported, all CMO's shall complete the SF ——, except for item 10.

(d) For advisory committees authorized by law, or established under agency authority which the agency proposes to continue or terminate in the same calendar year in which the ACR is due, CMO's shall complete the SF ——, except for item 10.

(e) If the agency decides to continue the committee the Secretariat will consider the agency head's consultation letter for renewal as the equivalent of item 10 of SF ——, the justification material of the ACR.

(f) Should the agency decide to terminate the committee, and after termination, decide to reestablish the committee, the Secretariat will consider the agency head's consultation letter for reestablishment as the equivalent of item 10 of SF ——, the justification material of the ACR.

(g) A letter signed by the agency head, chairperson of an independent PAC, or their designees shall be used to transmit the ACR.

§ 101-6.1009-4 What is the due date of the ACR?

The ACR is due on or before April 15 of each calendar year. Submit the report to the Committee Management Secretariat, Office of the Executive Director, National Archives and Records Service (mailing address: General Services Administration (NAM), Washington, DC 20408).

§ 101-6.1009-5 What is the Annual Report on Federal Advisory Committees?

The Annual Report (AR) on Federal Advisory Committees is a quantitative review of the numbers and status of Federal advisory committees as of December 31 of each calendar year. This reporting requirement has been cleared in conformance with FPMR 101-11.11. This reporting requirement has been assigned interagency reports control number 1121-GSA-AN. Agencies and independent PAC's shall use the documents and procedures prescribed in § 101-6.1009-6 when preparing and submitting their Annual Report on Federal Advisory Committees.

§ 101-6.1009-6 How do you prepare and submit the Annual Report?

(a) All CMO's shall submit to the Secretariat an original and four copies of the following:

(1) Standard Form 248, Annual Report on Federal Advisory Committee, and, if applicable, Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet);

(2) Standard Form 249, Membership List on Federal Advisory Committee, and, if applicable, Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet);

(3) Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet; and

(4) A letter of transmittal for the AR, signed by the agency head, or chairperson of an independent PAC, or their designees.

(b) The head of the organizational element responsible for the support of an advisory committee shall designate a person who shall prepare the SF 248 (and SF 248-A, if appropriate), the SF 249 (and SF 249-A, if appropriate) for that advisory committee. The person responsible for the preparation of these forms shall submit them to the agency CMO.

(c) The agency CMO shall prepare the SF 250 and the agency head's letter of transmittal. The information for the SF 250 is compiled from the data on the SF 248 and SF 249. (These forms are illustrated in §§ 101-6.4901-248 through 101-6.4901-250.)

(d) The CMO of an independent PAC shall prepare the SF 248, SF 249, and SF 250, and the chairperson's letter of transmittal.

§ 101-6.1009-7 What is the due date of the AR?

The AR is due on or before January 15 of each calendar year. Submit the report to the address contained in § 101-6.1009-4.

§ 101-6.1009-8 What other reports are agencies required to submit and to whom?

Agencies are required to submit eight (8) copies of each of the substantive reports of its advisory committees, including annual reports on closed or partially closed meetings, to the Library of Congress. The address is contained § 101-6.1007-1(b)(5). Agencies shall make these reports available to the public unless exempted by 5 U.S.C. 552.

§ 101-6.1009-9 What is a 6(b) follow-up report and how is it done?

(a) Section 6(b) of FACA requires a follow-up report to the Congress, within one year after recommendations are made to the President in a public report of a Presidential advisory committee. These reports are required to state the President's proposals for action or the reasons for inaction, on recommendations made in the public report.

(b) The President or the President's delegate assigns responsibility for the preparation of the 6(b) follow-up reports. The assignee prepares the 6(b) report and submits it to the Secretariat.

(c) The Secretariat clears the report with the President or the President's

delegate, and submits the report to the Congess.

§ 101-6.1010 Miscellaneous provisions.

§ 101-6.1010-1 Uniform pay guidelines.

(a) *Applicability.* These guidelines apply to the pay of members and staff, and contract amounts for consultants of an advisory committee, except that nothing in § 101-6.1010 shall affect a rate of pay or a limitation on a rate of pay that is specifically established by statute or a rate of pay established under the General Schedule classification and pay system in chapter 51 and subchapter III of chapter 53 of title, 5, United States Code.

(b) *Pay for members of an advisory committee.*

(1) Subject to the provisions of this paragraph, an agency may fix the pay of the members of an advisory committee to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated as provided in paragraph (d) of this section.

(2) In determining an appropriate rate of pay for the members of an advisory committee, an agency shall give consideration to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the advisory committee.

(3) An agency may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15, unless the agency head has personally determined that, under the factors set forth in paragraph (b)(2) of this section, a higher rate of pay is justified and necessary. Such a determination must be reviewed by the agency head annually.

(c) *Noncompensated services of an advisory committee member.* The provisions of this section shall not prevent an agency from accepting the noncompensated services of a member of an advisory committee, or a member of the staff of an advisory committee, provided that the agency has authority to accept these services without compensation.

(d) *Pay for the staff of an advisory committee.*

(1) Subject to the provisions of paragraph (b)(2) of this section, an agency may fix the pay of each member of the staff of an advisory committee at a rate of the General Schedule, General Management Schedule, or Senior Executive Service in which the staff member's position would appropriately be placed in the General Schedule, the General Management Schedule, or the Senior Executive Service classification system in chapter 51 of title 5, United States Code, applicable to the position.

(2) An agency may not fix the pay of a member of the staff of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15, unless the agency head has determined that, under the General Schedule, General Management Schedule, or Senior Executive Service classification system, the staff member's position would appropriately be placed at a grade higher than GS-15. Such a determination must be reviewed by the agency head annually.

(e) *Consultants to an advisory committee.* An agency may contract with a consultant to an advisory committee after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The contract amount shall not exceed the maximum rate of pay which the agency may pay experts and consultants under 5 U.S.C. 3109.

(f) *Reimbursable travel expenses for advisory committee members and staff.* The members and staff of an advisory committee, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703 for persons employed intermittently in the Government service.

(g) *Exclusions.* Nothing in § 101-6.1010 shall prevent:

(1) An individual who (without regard to his or her service with an advisory committee) is a full-time employee of the United States, or

(2) An individual who immediately before his or her service with an advisory committee was such an employee, from receiving compensation at the rate at which he or she otherwise would be compensated (or was compensated) as a full-time employee of the United States.

§ 101-6.1010-2 Committee Management Information System.

The Secretariat maintains a Committee Management Information System (CMIS) on Federal executive branch advisory committees. Information concerning the CMIS is issued in GSA bulletins in the FPMR series.

4. Subparts 101-6.11 through 101-6.48 are reserved as follows:

Subparts 101-6.11—101-6.48 [Reserved]

Subpart 101-6.49—Illustrations

5. Section 101-6.4901 is added to read as follows:

§ 101-6.4901 Standard forms.

(a) Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this § 101-6.4901 may be obtained from the Secretariat upon request. The address is contained in § 101-6.1009-4.

6. Sections 101-6.4901-248 through 101-6.4901- are added to read as follows:

§ 101-6.4901-248 Standard Form 248, Annual Report on Federal Advisory Committee.

§ 101-6.4901-248-A Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet).

§ 101-6.4901-249 Standard Form 249, Membership List on Federal Advisory Committee.

§ 101-6.4901-249-A Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet).

§ 101-6.4901-250 Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.

§ 101-6.4901- ——Standard Form ——, Annual Comprehensive Review of Federal Advisory Committee.

Note.—The forms illustrated in these §§ 101-6.4901-248 through 101-6.4901 —— are filed with the original document and do not appear in this proposed rule.

Dated: August 18, 1980.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 80-25536 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 94

[PR Docket No. 79-337; RM-3241; RM-3678; FCC 80-486]

Facilitating Operation of Low Power, Limited Coverage Systems in the 22.0-23.6 GHz Band and Creating a New Class of Low Power Unlicensed Microwave Device in the 24 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The FCC proposes amendment of Part 94 of its Rules to permit the operation of low power, limited coverage, non-frequency coordinated systems in the 22,000–23,600 MHz band.

This proposed amendment will facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz band and create a new class of low power unlicensed microwave device in the 24 GHz band.

DATE: Comments must be received on or before September 26, 1980, and Reply Comments must be received on or before October 14, 1980.

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

FOR FURTHER INFORMATION CONTACT: Donald D. Campbell, Office of Science and Technology, (202) 653–8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz band, Docket No. 79–337, (RM–3241), and amendment of Part 15 of the Commission's rules to create a new class of low power unlicensed microwave device in the 24 GHz band, RM–3678. See also 45 FR 27457, April 23, 1980.

Adopted: August 1, 1980.

Released: August 19, 1980.

1. In a companion First Report and Order adopted today, the Commission amended Part 94 of its rules to provide for the operation of short haul, low cost, low power microwave communication systems in the band segments 21.8–22.0 GHz and 23.0–23.2 GHz with somewhat relaxed technical standards.[1] In taking this action, the Commission indicated that relaxed technical standards will permit the development of low cost equipment and will stimulate the use of this frequency band which is sparingly used at the present time.[2] The 22.0–23.6 GHz band is presently shared between the Government and non-Government fixed and mobile services. The only non-Government services who presently have access to the band are the common carrier and private fixed services. We are limiting our proposals contained in this document to the segment of the band primarily designated for private use.

2. During the course of this proceeding, two commenters, General Electric Company (GE) and M/A-Com, Incorporated (M/A-Com), questioned the necessity of frequency coordination for these low power devices. M/A-Com stated that the cost of frequency coordination may be considerably greater than any savings realized in relaxing the technical standards. GE stated that low power uncoordinated operations may meet the needs of some users. (However, GE indicated that other users may want coordinated, protected systems). Both GE and M/A-Com urged that Part 15 of the Rules be amended to allow operation of these devices without a license. GE also proposed that we adopt a temporary licensing program for these systems.

3. On 15 May 1980, M/A-Com Petitioned (RM–3678) the Commission to amend Rule Part 15 to accommodate the operation of low power microwave radio systems in the 24.05 to 24.25 GHz band. Part 15 of the Commission's rules provides for the operation of low power communication devices, auditory training devices, field disturbance sensors, biomedical telemetry devices, etc. The 24.05 to 24.25 GHz band is designated for Industrial, Scientific and Medical (ISM) applications under Part 18 of the Commission's Rules. GE supported M/A-Com's proposal to the extent that spectrum in the 22 to 24 GHz band would be provided to support low power, coordinated and un-coordinated radio communication systems. However, GE stated that the two proposals should be handled as separate proceedings. M/A-Com on the other hand suggested that "* * * due to the similarity of the issues presented by the two proposals, the public interest and administration convenience may well be served by consolidation of the two into a single proceeding."

4. The Commission feels that the issues involved in these proceedings (Docket 79–337 and RM–3678) are sufficiently similar to warrant their consolidation. Further, in adopting the rule changes set forth in the companion First Report and Order, the Commission will not delay the introduction of these new devices while the issues of frequency coordination and unlicensed operations are being resolved in this instant proceeding.

5. The Commission feels that there is merit in providing spectrum for a low power, non-frequency coordinated radio operation in the 22 to 24 GHz band. It is felt that these devices can meet certain needs for low cost, short-distance video, voice and data communications without the burden and expense of frequency coordination. These devices are envisioned to be highly directional and to have limited (short-range) interference potential. In addition, the devices are readily movable should interference be encountered. However, the Commission feels that such operations are not Part 15 in nature as proposed in RM–3678 and that some form of licensing is appropriate.[3]

6. In the companion First Report and Order, in this proceeding the Commission has designated four 50 MHz channel pairs in the 21.2 to 23.6 GHz band for use by low power microwave systems. The Commission is now proposing that one of these four channel pairs be designated for use without frequency coordination.[4] Thus the Commission proposes to re-allocate, on an exclusive basis, the spectrum in the 21.800–21.850 GHz and 23.000–23.050 GHz bands to licensed non-frequency coordinated operations (except within 25 kilometers of the Canadian and Mexican borders) and to impose the same technical standards set forth in § 94.91 of the Commission's rules. It should be noted that stations licensed to use either or both of these two 50 MHz segments will not be protected from any interference and will be required to cease operations if they cause interference to any other station located in Canada or Mexico or to a licensed domestic station operating outside these segments.

7. The public is invited to comment on the proposals presented herein and to specifically address the following questions:

(a) Is one 50 MHz channel pair sufficient for non-frequency coordinated operations?

(b) Should unlicensed operations of these devices be permitted? If so, under what conditions?

(c) Is there a need for temporary or point of sales licensing?

[1] FCC 2d.

[2] The Commission also indicated that the implimentation of the 1979 World Administrative Radio Conference and future growth in this band may impact these relaxed standards.

[3] Part 15 permits the operation without individual license of a variety of miniature transmitters on the condition that these devices will not cause harmful interference and that interference from other operation must be accepted. Devices included under Part 15 operate with low power and are widely distributed to the general public, such as wireless microphones, toy walkie-talkies and garage door openers. While the devices covered by this proceeding operate with low power, it does not appear that they meet the criteria of being widely distributed to the general public.

[4] The coordination referred to is the engineering analysis which is performed by the applicant to assure that his system will not cause/receive excessive interference. It does not refer to the process wherein the FCC and the Executive Branch perform a similar analysis with regard to systems of government agencies. Since the subject band is shared by government and private sectors, the Commission will perform such coordination.

(d) Should these devices be subject to different technical standards then proposed herein?

(e) Is there a need to permit mobile operation and if so, what would the implication be on Fixed operations?

8. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before September 26, 1980, and reply comments on or before October 14, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. For further information concerning this Notice, contact Donald D. Campbell, FCC, Office of Science and Technology, Spectrum Planning Branch, Washington, D.C. 20554, telephone (202) 653-8176. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to members of the Federal Communications Commission in this proceeding must be disclosed in the public docket file. A summary of the Commission's procedure governing *ex parte* contacts in rulemaking proceedings is available from the Commission's Consumer Assistance Office, FCC Washington, D.C. 20554, (202) 532-2700.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25484 Filed 8-20-80; 8:45 am]

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47 CFR Part 63

[CC Docket No. 78-72; FCC 80-463]

MTS and WATS Markets Structure; Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Report and third supplemental notice of inquiry and proposed rulemaking.

SUMMARY: The Commission concludes that it should not adopt rules restricting the provision of interstate telecommunications services that are functionally equivalent to MTS or WATS in the nation as a whole. The record does not support allegations of detrimental effects of competition in the MTS and WATS market; an open entry for MTS/WATS is expected to produce benefits for the public. The Commission invites further comments with respect to the adoption of such rules for the Alaska submarket.

DATES: Supplemental comments of Alascom, Inc. must be received on or before October 17, 1980; reply comments on or before November 17, 1980.

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

FOR FURTHER INFORMATION CONTACT: Carl D. Lawson, Common Carrier Bureau (202) 632-9342.

Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking

Adopted: August 1, 1980.

Released: August 25, 1980.

In the matter of MTS and WATS market structure. CC Docket No. 78-72.

By the Commission: Commissioners Ferris, Chairman; Washburn and Fogarty issuing separate statements; Commissioner Quello concurring in the result.

I. Introduction

1. This proceeding was instituted in February 1978 in order to determine "whether the public interest requires that . . . MTS and/or WATS, or their functional equivalents, should be provided on a sole source basis (i.e., free from direct competition)." *Notice of Inquiry and Proposed Rulemaking* ("*Initial Notice*") 67 FCC 2d 757 (1978). The *Initial Notice* advised interested persons that we will also examine some related questions in this proceeding.

2. We subsequently issued a *Supplemental Notice of Inquiry and Proposed Rulemaking* ("*Supplemental Notice*"), 73 F.C.C. 2d 222 (1979), which invited interested persons to submit comments describing an optimal industry structure for the MTS-WATS market including an entry policy and other related regulatory policies which in combination will be most likely to produce results that further the goals of the Communications Act. Participants were encouraged to describe policies this Commission should adopt with respect to each of the following:

(1) Entry Policy for the MTS-WATS Market.

(2) Accounting Practices.

(3) Allocations of Investments and Expenses Among Jurisdictions.

(4) Contractual Arrangements Among Carriers for the Distribution of Interstate Revenues.

(5) Charges to Carriers for the Use of Facilities of Other Carriers.

(6) Other Forms of Tariff Regulation.

3. The *Supplemental Notice* did not restrict the regulatory policy section of the industry model comments to those six topics. The industry model comments do discuss some topics, such as planning and physical access arrangements, which may not be encompassed within that list.

4. After the industry model comments were filed, we concluded that certain questions relating to the compensation of local exchange carriers for the origination and termination of interstate telecommunications and the allocation of exchange plant investment and associated expenses between interstate and intrastate services should be resolved as soon as possible. We accordingly issued a *Second Supplemental Notice of Inquiry and Proposed Rulemaking* ("*Second Supplemental Notice*") (FCC 80-198, released April 16, 1980) which invited interested persons to comment upon a tentative plan for prescribed access charges and instituted a separate rulemaking proceeding (CC Docket 80-286), *Notice of Proposed Rulemaking and Order Establishing Joint Board* (FCC 80-339, released June 12, 1980), to amend jurisdictional separations rules.

5. This *Report and Third Supplemental Notice* will address the entry policy question and discuss other policy questions discussed in the industry model comments that have not been addressed in either the *Second Supplemental Notice* or the CC Docket 80-286 *Notice*. Part II of this Notice will address entry policy with respect to the MTS-WATS market generally. Part III will address entry policy questions

relating to the Alaska submarket. Part IV will discuss regulatory policy questions other than entry policy, access charges, and jurisdictional separations.

II. General Entry Policy

A. Prior Developments

6. Entry policy questions rarely arose in domestic telecommunications markets during the first 30 years of regulation under the Communications Act of 1934. The telephone companies enjoyed a *de facto* monopoly with respect to most interstate voice communications at the time this Commission was created. Although hundreds of different telephone companies participated in the provision of long distance telephone services, each participating company provided all of the facilities within its territory and the through services were offered to the public at joint rates in which all the telephone companies concurred.

7. Western Union and the Postal Telegraph Co. were engaged in direct competition at the time this Commission was created, but that competition also disappeared when those companies merged in the 1940's. For the next several years competition in interstate telecommunications was largely confined to markets in which Western Union and telephone company services overlapped. This Commission was not obliged to determine whether additional competitors would or would not be desirable because we did not receive any applications for authority to construct or acquire facilities from potential new entrants.

8. In 1964 Microwave Communications, Inc. (MCI) filed an application with this Commission pursuant to Section 214 of the Communications Act, 47 U.S.C. 214, and pursuant to Title III of that Act for authority to construct a line of microwave towers between St. Louis and Chicago for the purpose of offering point-to-point private line services as a common carrier. That application was opposed by existing carriers that provided similar services. After extensive proceedings this Commission determined that the public interest would be served by granting the application. *Microwave Communications, Inc.*, 18 FCC 2d 953 (1969).

9. In 1970 this Commission issued a notice of proposed rulemaking instituting a proceeding to formulate a general policy with respect to the authorization of facilities for new common carriers. *Specialized Common Carrier Services*, 24 FCC 2d 318 (1970). It is apparent from that Notice that this Commission assumed the new entrants would concentrate upon meeting the needs of users who have special requirements that cannot be satisfied through telephone or telegraph services that are designed for the general public. This Commission noted that existing carriers had been somewhat sluggish in meeting the needs of persons who use telecommunications services in connection with data processing activities and observed that new entrants would probably be able to find a niche in the rapidly expanding data communications market. That *Notice* indicates that this Commission did not anticipate that such new entrants would have the ability to offer services that are directly competitive with telephone company services such as MTS or WATS.

10. This Commission subsequently determined that the public interest would be served by authorizing entities other than telephone or telegraph companies to construct facilities to enable such entities to offer "specialized" telecommunications services as common carriers. *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971), *affirmed sub nom. Washington Utilities and Transportation Comm'n* v. *FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975). The Commission opinion did not define "specialized" services.

11. Competition in interstate interexchange services did not develop in precisely the manner which this Commission anticipated in 1970 and 1971. The new entrants did not succeed in finding a secure niche in a "specialized" market, but some of them did succeed in developing services that are comparable to MTS or WATS. Datran's digital service was probably most representative of this Commission's 1971 conception of a specialized service that was tailored to emerging new communications requirements. Datran subsequently declared bankruptcy. New entrants such as MCI that offered services which are more comparable to telephone company services that have traditionally been described as "private line" also failed to realize significant profits as long as they confined their activities to such services.

12. In 1975 MCI offered a new service known as Execuent which this Commission found to be a functional equivalent of MTS and WATS. *MCI Telecommunications Corp.*, 60 FCC 2d 25 (1976), *reversed on other grounds, MCI Telecommunications Corp.* v. *FCC ("Execuent I")*, 561 F. 2d 265 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978). Southern Pacific Communications Company and United States Transmissions Systems, Inc. have subsequently introduced similar services known as Sprint and City-Call. Western Union recently introduced a service called Metro-Call that is also similar to Execunet. Execunet and similar services have been more successful in generating revenues and profits. Those services have expanded at a relatively rapid rate during the more than two years that have elapsed since we instituted this proceeding.

13. In *MCI Telecommunications Corp., supra*, this Commission rejected the MCI tariff for Execunet because we concluded that MCI had not been authorized to offer any service that is functionally equivalent to MTS or WATS. The Court of Appeals for the District of Columbia Circuit reversed that decision. *Execunet I, supra*. That Court held that this Commission's prior actions did not preclude MCI or other "specialized" carriers from offering services which this Commission did not anticipate at the time those carriers were authorized to construct facilities. The Court said that this Commission could restrict future service offerings in a Section 214 facility authorization by imposing conditions pursuant to Section 214(c) if we found that "the public convenience and necessity" requires such a restriction. However, that Court concluded that the *Specialized Common Carrier Services* decision does not contain such a finding. The Court concluded that although this Commission may not have anticipated that new entrants would offer services that are directly competitive with MTS or WATS, this Commission did not make any "affirmative determination of public interest need for restrictions" (561 F. 2d at 379) on MCI service offerings.

14. This Commission's *Specialized Common Carrier Services* opinion reveals that several of the participants in that proceeding did contend that the introduction of services that are competitive with MTS or WATS would produce effects which they claimed would be contrary to the public interest. That opinion also reveals that this Commission neither accepted nor rejected those claims because we did not anticipate that the new entrants would be offering such services. For example, AT&T claimed that new entry would deprive the public of the benefits of economies of scale by delaying the installation of large capacity facilities on high density routes. 29 FCC 2d at 910. This Commission concluded that competition "in the specialized field" would not be likely to have an impact on the "installation of high capacity

systems to meet the growing communications requirements of all kinds." *Id.* at 912.

15. Our *Specialized Common Carrier Services* decision rejected claims of independent telephone companies that new entry could impair such companies' ability to provide service to their customers for essentially the same reasons. That opinion noted that the independents "participate in interstate services primarily by providing local distribution facilities and do not, with minor exceptions, furnish intercity facilities" and concluded that their business might increase because new entrants would be using their local distribution facilities. *Id.* at 914. We noted (fn. 37) that USITA claimed that reduced settlements for local distribution of services offered by the telephone companies might offset such increased revenues from the new entrants, but concluded that this concern was "groundless" because there was no reason to anticipate a substantial diversion of AT&T revenues.

16. Finally, we rejected an AT&T claim that new entry would undermine the nationally-averaged rate structure. We said that the uniform rate structure for interstate MTS and WATS "would not appear to be in jeopardy since those services are not being challenged competitively to any substantial degree by the services proposed to be offered by the aspiring new entrants." *Id.* at 915.

17. If this Commission had anticipated that the new entrants would be providing services that challenge MTS and WATS competitively to a substantial degree, we undoubtedly would have resolved questions with respect to the effect of such competition upon facilities development, local distribution revenues of independent telephone companies, and averaging of MTS rates in *Specialized Common Carrier Services.* This proceeding was designed in part to give the opponents of competition in interstate services another opportunity to present arguments which were not considered in 1971.

B. Comments of Participants

18. The industry model comments that were filed on March 3, 1980, indicate that most telephone companies have elected to forego that opportunity. Some telephone companies such as GTE, Rochester Telephone Corporation, and United Telecom Service, Inc. state that they now believe that competition in all interstate interexchange services will be beneficial to the public. Other telephone industry participants such as USITA indicate that they still believe such competition will produce some detrimental effects, but do not make any systematic effort to demonstrate that such effects will occur.[1] Although AT&T has presented an industry model that is based on the premise that all interstate interexchange services will be open to competition, the AT&T comments do not state whether or not it believes the net effects of interexchange competition will be beneficial to the public. Alascom, Inc. does contend that interstate interexchange competition in the Alaska submarket would produce detrimental effects that warrant service restrictions upon other carriers, but Alascom has not attempted to demonstrate any detrimental effects with respect to the nation as a whole. In these circumstances, it might be appropriate to confine the entry policy aspect of this inquiry to the Alaska submarket. However, we believe our obligations to the public require that we assess the likelihood that MTS–WATS competition will produce effects that have been suggested in the past.

19. Such an assessment is also warranted because some participants who advocate or accept competition apparently do believe that such competition will produce some of the effects that have been alleged in the past. For example, AT&T, GTE and Rochester Telephone apparently believe that a competitive environment will lead to a relative increase in local rates and a relative decrease in interstate MTS–WATS rates, GTE and USITA expect some de-averaging of interstate MTS rates, and United Telecom believes that some economies of scale will not be realized. Most of these participants apparently either believe such alleged effects will not be detrimental to the public in the long run or that such effects are outweighed by other effects of MTS–WATS competition that will be beneficial to the public.

20. Some of the industry model comments observe that MTS and WATS services would not be insulated from competition even if this Commission decided to preclude the new entrants from offering services such as Execunet which have been classified as functional equivalents of MTS or WATS. AT&T says that many services offered by the telephone companies and the new entrants that have traditionally been described as "private line" services, including FX, CCSA and point-to-point private line services, are in fact close substitutes for MTS or WATS and are used interchangeably with MTS, WATS, and Execunet-type services by many customers of interstate telecommunications services. AT&T observes that the traditional distinction between private line and message services has become obsolete with the development of electronic PBXs that will automatically route a particular call over point-to-point, FX, WATS, MTS or Execunet-type lines in order to enable a particular user to obtain the least costly combination of interexchange services to meet its needs. The use of such equipment in this manner indicates that most interexchange services, or at least services that can be used for voice communications are viewed as interchangeable by many customers.

21. Similar observations are contained in the comments of several other participants. MCI says that the MTS–WATS market is not a meaningful market because other services are highly cross-elastic. Southern Pacific says that MTS–WATS services are not readily distinguishable from other interexchange services. GTE says that the markets are converging. SBS says that neither MTS nor WATS exists as a separate and distinct market.

22. These observations do indicate that the MTS and WATS services of the telephone companies would not be insulated from competition if the newer entrants were confined to the type of services that such entrants offered prior to the introduction of MCI's Execunet service. Some participants may be suggesting that we should abandon the effort to establish an entry policy for an MTS–WATS market because a sole source policy for the MTS–WATS market described in our prior notices would not be effective. Such suggestions assume that it would be impossible to turn the clock back to a pre-1969 era by eliminating all interstate interexchange competition.

23. The *Initial Notice* in this proceeding did state that we do not propose "to reexamine in this proceeding those services which have been the subject of affirmative public interest findings as to industry structure, e.g. specialized interstate services including private line services, video transmission, switched data services, resale services, etc." 67 F.C.C. 2d at 758 (footnote omitted). However, our initial decision to limit the scope of this proceeding would not foreclose a broader reexamination of interstate interexchange competition in view of the evidence that prior assumptions with respect to the existence of meaningful market boundaries are obsolete or erroneous. If evidence has been

[1] The Rural Telephone Coalition also expresses concern that MTS–WATS competition will lead to higher interstate and local rates for persons who subscribe to the services of its members in the absence of Commission action to offset the effects of competition.

presented in this proceeding that demonstrated that the net effects of competition with MTS and WATS services will be detrimental to the public interest, this Commission could take appropriate steps to restrict competition in all interstate interexchange services.

24. Although it would not be practical to eliminate the new entrants or their facilities, it would be possible to eliminate competition without eliminating the existing competitors. The new entrants and their facilities could be integrated into a shared monopoly industry structure if such a result would serve the public interest. We have decided not to create a shared monopoly in interstate interexchange services because we are convinced, for reasons discussed in this *Report and Notice*, that competition in all interstate interexchange services is in the public interest and will further the goals of the Communications Act of 1934.

25. The conclusion rests in part upon an appraisal of the likely effects of competition with MTS and WATS that leads us to conclude that such competition is not likely to produce effects that could be characterized as detrimental.

C. Development of Optimal Facilities

26. As previously noted, AT&T contended in the *Specialized Common Carrier Services* proceeding that the introduction of competition could preclude or discourage the development of new high volume facilities and deprive the public of resulting efficiency benefits. This Commission concluded that competition in specialized services would not have sufficient impact to affect the development of telephone company facilities.

27. This Commission subsequently instituted a broad inquiry to appraise the economic effects of competition in both interstate private line services and terminal equipment. *Notice of Inquiry*, (Docket 20003), 46 FCC 2d 214 (1974). During the course of that inquiry this Commission examined telephone industry claims that economies of scale exist with respect to interexchange telecommunications generally that would not be realized in a competitive environment. We concluded that none of the studies presented in that inquiry demonstrate that significant economies of scale exist. See *First Report*, 61 FCC 2d 766 (1976), *Second Report*, 75 FCC 2d 506 (1980).[2]

28. Although the industry model comments indicate that some participants still believe that economies of scale exist with respect to interexchange services generally that will not be realized if interexchange competition is permitted, no new studies have been presented for our consideration. In view of the deficiencies in the Docket 20003 studies that are described in the First and Second Reports in that proceeding, we could not conclude that nationwide service restrictions are warranted in order to preserve the benefits of economies of scale.

29. Some initial comments in this proceeding expressed a concern that interstate interexchange competition will lead to inadequate telecommunications facilities rather than excessive facilities. The *Supplemental Notice* observed (73 FCC 2d at 227): "Although some opponents of competitive entry assert that competition may lead to wasteful duplication, many of the opponents of competitive entry in the MTS-WATS market assert that a competitive market structure may not produce sufficient facilities redundancies to satisfy the nation's communications needs."

30. The industry model comments of AT&T and the Secretary of Defense[3] reiterate that concern. AT&T states that the public switched network has been configured "to maintain service during periods of natural or military disaster" through special features such as "redundant facilities, spare channels and protective switching." (AT&T industry model comments, p. 202.) It states that other provisions may be necessary in a competitive environment.

31. The Secretary's comments also state that competition may cause carriers to construct facilities at the lowest possible cost and that this could result in the elimination of features that are designed "to improve survivability" in the event of a natural disaster or a military attack. (Secretary of Defense Comments, p. 84). This would presumably be the case because the telephone companies could not remain competitive if they attempted to recover the cost of facilities which are not required to meet the normal peakload demands of commercial users from rates charged to all users.

32. Neither AT&T nor the Secretary of Defense contends that competition must be restricted in order to maintain an adequate national defense. AT&T says (Comments p. 203); "Future pricing policies will require that costs be borne directly by those causing them." The Secretary of Defense suggests that this Commission takes steps to assure that carriers do develop facilities that are adequate for emergency needs. The Secretary contends that such action would be approriate because Section 1 of the Communications Act, 47 U.S.C. § 151, states that the Act was enacted in part "for the purpose of the national defense" and "for the purpose of promoting safety of life and property."

33. We do not believe that it will be necessary to restrict competition or to impose special design requirements upon the carriers in order to meet national defense or other emergency needs. Any or all of the carriers in competitive markets will presumably be able and willing to provide any national defense facilities which the taxpayers are willing to finance.

34. In any event the record does not demonstrate that unrestricted competition in interstate interexchange services will produce any detrimental effect upon the national defense or the safety of life and property.

35. Perfect competition theoretically should produce optimal facilities in the long run. Although there is no guarantee that the competition that open entry is likely to produce in interstate telecommunications services will result in an optimal mix of facilities at all points at any given time, there is good reason to believe that such competition is more likely to result in an efficient allocation of resources than a monopoly industry structure. The discipline of the marketplace creates an incentive to engage in accurate forecasting which is not present in a monopoly environment. Therefore, we conclude that competition with MTS and WATS services is more likely to lead to an optimal mix of telecommunications facilities.

D. Effects Upon Independent Telephone Companies and Local Rates

36. The observation in the *Specialized Common Carrier Services* decision that the independent telephone companies are engaged primarily in local distribution is still true for the most part. The "minor exceptions" do, of course, include Alascom, Inc. Alascom is almost exclusively an interexchange carrier. A separate analysis must be performed to determine the possible impact of MTS and WATS competition upon Alascom.

37. Competition among interexchange carriers that use the same monopoly local exchange facilities cannot pose any substantial threat to local exchange carriers if each competitor pays comparable compensation for the use of

[2] Those Reports noted reasons for concluding that private line competition will produce economically desirable results even if some economies of scale do exist. Those reasons are also applicable to MTS-WATS competition.

[3] The Secretary of Defense has filed comments as Executive Agent for the National Communications System.

local exchange facilities. The access services compensation questions are, of course, being addressed separately in another phase of this proceeding. Any access charges which are prescribed in that phase probably will not produce identical compensation for MTS and competing services of the telephone companies or "other" carriers because such charges must reflect differences in access arrangements to some extent. However, the aggregate compensation which exchange carriers receive for the origination and termination of all interstate services will be comparable to the aggregate access compensation such carriers would have received under existing access compensation mechanisms. There is accordingly no reason to expect that any of the present service offerings of carriers such as MCI, Southern Pacific or USTS will have a significant impact upon the revenues or profits of independent telephone companies that are primarily engaged in local exchange operations.

38. An entry policy which permits such competition could provide some of the independents with an opportunity to realize additional revenues and profits by offering interstate interexchange services outside the partnership arrangements in competition with the partnership and the existing new entrants. Most of the independents probably could not acquire the necessary capital to become independent factors in interstate interexchange markets, but some of the larger independents would appear to be prime entry candidates.

39. The independent telephone companies may, of course, be concerned about the possibility that the introduction of competition in interstate interexchange services could lead to a reduction in aggregate access service compensation. This Commission could not prescribe charges which reduce aggregate access service compensation in the absence of changes in the *Separations Manual.*[4] Our *Second Supplemental Notice* in this proceeding said (para. 53):

> Total interstate access charge revenue requirements for all interstate or foreign telecommunications services must be based upon the aggregate exchange plant costs allocated to interstate or foreign services through the jurisdictional separations process. Any other procedure would either permit carriers to recover the same costs in two different jurisdictions or preclude them from recovering some costs in any jurisdiction.

40. AT&T has asserted that the introduction of competition in interstate interexchange services will require changes in the jurisdictional allocation of exchange plant investment and associated expenses which will necessarily result in lower interstate costs and lower interstate access charges for all interexchange carriers including AT&T. Some other participants, including MCI, apparently concur with that view.

41. If competition did result in lower interstate access charges as a result of changes in separations allocations, the total revenues of independent telephone companies probably would not be reduced. Such a change would increase intrastate investment and expenses which state Commissions take into account in determining aggregate intrastate revenue requirements. The state Commissions would presumably revise intrastate rates to enable carriers to realize the same rate of return upon a revised intrastate rate base. The constitutional requirement that rates be fixed at a compensatory level might preclude the state commissions from following any other course. See, e.g., *Smyth* v. *Ames*, 169 U.S. 466 (1898).

42. An increase in intrastate rates might be viewed as an effect that is detrimental to the public interest. The participants that expect such a result to occur apparently view such an effect as beneficial. They claim that the present allocation of costs and the resulting relative rates do not produce results that promote economic efficiency.

43. We need not resolve that public interest question in this proceeding unless we have reason to believe that the introduction of competition is likely to cause a realignment of relative rates. Our *Initial Notice* expressed a preliminary view that questions relating to charges that "should be levied on interstate services to support local exchange services" and "the industry structure question for MTS and WATS . . . can be independently resolved." 67 F.C.C. 2d at 759. We still believe that our preliminary conclusion that the "subsidy" and entry policy questions are not inextricably linked is correct.

44. Persons who claim that interstate services subsidize local exchange services really mean that the present allocation of exchange plant investments and expenses between interstate and intrastate services produces a larger allocation to interstate services than some other allocation would produce. The "subsidy" represents the difference between local exchange service revenue requirements calculated under the present allocation formula and the revenue requirements which would be calculated under some hypothetical formula that allocates a smaller portion of the costs to interstate services.

45. The allocation of exchange plant investment will be reexamined by a Joint Board composed of federal and state commissioners in CC Docket 80-286 and that reexamination may result in an increase or a decrease in the interstate allocation or the adoption of a new formula or formulae which produce about the same aggregate result as the methods which are currently used to allocate exchange plant investment and associated expenses. However, it would not be accurate to say that the presence of competing interexchange carriers that use the same monopoly exchange facilities to originate or terminate interstate interexchange services caused any result that may emerge in CC Docket 80-286. The presence of such competition does not affect this Commission's discretion to establish and maintain an allocation that is fair, just, equitable and lawful.

46. New entrants do, of course, have an incentive to present arguments to the Docket 80-286 Joint Board, this Commission and any reviewing court that would support an allocation formula that results in lower access charges. If their arguments are ultimately found to be valid, one might say that interstate interexchange competition indirectly caused an increase in local exchange rates. However, such a result could not be described as contrary to the public interest if it is based upon a determination that justice, equity or the applicable law requires that a larger portion of exchange plant costs be allocated to intrastate services.

47. Moreover, it would probably be inaccurate to assign much of the credit or blame for any changes that may result from the CC Docket 80-286 proceeding to the new entrants that compete with MTS or WATS. AT&T and GTE also advocate changes in the *Separations Manual* that could lead to higher local exchange rates. Those carriers might take the same position if MTS-WATS competition did not exist. A separations change that reduces the allocation to interstate services and increases the allocation to intrastate services would enable AT&T to reduce rates for services that have a relatively more elastic demand and to increase rates for services that have a relatively less elastic demand.

[4] A decision to reduce the allowable rate of return for access services would, of course, reduce access service compensation without changes in the *Separations Manual.* The *Separations Manual,* which has been adopted as Part 67 of this Commission's Rules, establishes rules for the allocation of investment, expenses and revenues between interstate and intrastate services. See the *CC Docket 80-286 Notice, supra.*

48. CC Docket 80-286 would probably have been initiated at about the same time if the new interexchange carriers did not exist. The reexamination of exchange plant allocations was prompted in part by our recent decision to deregulate customer premises terminal equipment. See our Final Decision in the *Second Computer Inquiry* (F.C.C. 80-189, released May 2, 1980). That decision resulted from the emergence of competition in terminal equipment markets. Although terminal equipment competition and interstate interexchange service competition developed at about the same time, these developments are the product of a series of changes in technology and court and Commission decisions that are largely independent of each other.

49. Inasmuch as interexchange competition is not likely to impair the ability of independent telephone companies to provide service to their subscribers and will not cause an increase in local exchange or other intrastate rates, a restriction upon interstate interexchange competition could not be justified in order to prevent such effects.

E. Effects Upon Interstate MTS Rates

50. As previously noted, our *Specialized Common Carrier Services* opinion dismissed AT&T's claim that interexchange competition would lead to the abandonment of the averaged uniform rate structure for MTS because we found that the kind of services the new entrants would be providing could not affect MTS rates. The introduction of Execunet and similar services obviously casts doubt upon that finding. The *Initial Notice* accordingly advised interested persons that we have decided to examine claims that unrestricted interexchange competition will undermine the averaged rate structure for MTS.

51. The *Initial Notice* stated that this Commission has never "approved or prescribed any particular rate structure for MTS" and that a determination that the public interest requires a uniform rate structure for some kind of MTS service would "possibly foreclose competitive offerings of the same kind of MTS services." 67 FCC 2d at 759-760. In other words, we assumed that this Commission has not established any policy with respect to MTS rate averaging and that a decision that MTS rate averaging should be preserved would probably foreclose MTS competition.

52. The *Supplemental Notice* elaborated somewhat upon the nature of the rate averaging question. That *Notice* said (73 F.C.C. 2d at 227-228):

> Many participants apparently agree that we should examine telephone industry claims that the MTS rate structure is and should be based upon rate averaging which has been alleged to equalize rates for low cost and high cost routes. Proponents of a sole source market structure have asserted that new entrants will inevitably limit their services to low cost, high density, routes and that such "cream skimming" will compel the former sole source providers of MTS service to adopt a de-averaged rate structure which will result in increased rates for high cost, low density, routes. Some proponents of a multiple source market structure question whether deviations from cost of service pricing do or should exist.

53. Some of the industry model comments question both of the preliminary assumptions expressed in the *Initial Notice*. Some participants claim that the existing interstate MTS rate structure does reflect a national policy that such rates should be averaged. Some participants claim that the introduction of competitive offerings will not affect the interstate MTS rate structure.

54. If competition will not affect the MTS structure, it would not be necessary for us to determine whether we have adopted or should adopt a policy in favor of rate averaging. Nonetheless, we believe a historical review of the evolution of rate averaging would be helpful. Such a historical review is particularly relevant to questions relating to the Alaska submarket that will be addressed in Part III.

55. The Rural Telephone Coalition relies primarily upon three orders to support its contention that a national policy in favor of averaged MTS rates has already been established—a 1918 order of the Postmaster-General, a 1941 decision of this Commission, and a 1976 decision of this Commission. Other participants have cited some of the same actions.

56. The Postmaster-General's 1918 order first established uniform rates for interstate long distance calls of comparable distance. That action clearly represented a form of governmental coercion and probably represented a policy determination upon his part that the public interest would be served by making telephone companies more like the Post Office. However, his action does not have the same status as a regulatory decision to prescribe a uniform rate structure. The Postmaster-General was really acting in a managerial capacity under special wartime powers. The regulatory powers which this Commission inherited were vested in the Interstate Commerce Commission. The ICC apparently did not take any action to prescribe or prohibit averaged rates. The carriers were free to retain or eliminate averaged rates after control of the telephone companies was returned to the owners. See *AT&T* v. *FCC*, 487 F. 2d 864 (1973). Either decision would have been subject to challenge under the Interstate Commerce Act (or the Communications Act after 1934) in the same manner that any other uninvestigated carrier-made tariff provision is subject to challenge at any time.

57. The Long Lines Division of AT&T did elect to retain averaged interstate rates after the wartime controls terminated. Bell Operating Companies (BOCs) and independent telephone companies concurred in the Long Lines tariffs. At that time Long Lines tariffs were limited to calls between points in areas served by different BOCs. BOCs that operated in more than one state filed their own interstate tariffs for calls between points in states in which they operated. The BOCs initially adopted the Long Lines mileage rates for their areas, but Pacific Telephone and Telegraph Co. departed from the industry pattern in 1926 and maintained higher interstate rates for the Pacific territory (California, Nevada, Oregon, Washington and northern Idaho) during most of the period from 1926 to 1941. Pacific Telephone published two interstate rate schedules during that period—an "interstate Pacific" schedule for calls between points in the Pacific territory and an "other interstate" schedule for calls to other points.

58. In 1941 this Commission ordered Pacific Telephone to reduce its "interstate Pacific" rates to the same level as its "other interstate" rates. *Dept. of Pub. Svc. of Wash.* v. *Pacific Tel & Tel. Co.*, 8 FCC 342 (1941). The *Pacific Telephone* decision was not based upon a determination that all interstate rates should be averaged regardless of differences in costs. This Commission concluded that Pacific Telephone had violated Section 202(a) of the Communications Act, 47 U.S.C. § 202(a), by adopting different rates for calls of the same distance which were not justified by differences in costs. The record demonstrated that Pacific Telephone's decision to adopt two different rate schedules were not based upon cost considerations and the record did not demonstrate that per mile costs within the Pacific territory differed from per mile costs to other points.

59. We believe *Pacific Telephone* should be interpreted as enforcing the Section 202(a) prohibition of unreasonable discrimination and preferences by establishing the principle that different rates for comparable

distances cannot be established in the absence of evidence that the rate differentials reflect cost differentials. *Pacific Telephone* does not hold that rates must be uniform notwithstanding proven cost differentials. That issue was not presented in *Pacific Telephone* and has not been squarely presented in any subsequent case.

60. We did address rate averaging questions again in the Second Report and Order in the Domestic Communications Satellite Facilities proceeding (*"DOMSAT II"*), 35 FCC 2d 844 (1972).[5] Although interstate MTS is sometimes described as a service that is offered nationwide at uniform rates, interstate MTS is not and never has been offered at uniform rates to all domestic points. The "uniform" rate schedules which AT&T filed after the *Pacific Telephone* decision were limited to the then 48 states and the District of Columbia. That territory corresponds with the area in which AT&T does business. AT&T established joint rate arrangements with carriers that operated at other domestic points such as Alaska, Hawaii and Puerto Rico which generally established higher rates for comparable distances.

61. In *DOMSAT II* this Commission decided that any Section 214 authorizations to use satellite facilities to serve Alaska, Hawaii or Puerto Rico would be subject to a Section 214(c) condition that the applicant submit and implement a proposal for the revision of domestic rates to those points.[6] This Commission said:

> In case of message telephone service (MTT), any such proposal shall give maximum effect to the elimination of overall distance as a major cost factor and should be designed, in specified time phases if necessary, to integrate these three United States points into the uniform mileage rate pattern that now obtains for the contiguous states, with all that such approach implies in terms of nationwide cost averaging and equalizations for interstate rate making purposes. 35 F.C.C. 2d at 857 (footnote omitted).[7]

62. *DOMSAT II* did not explain precisely what that "approach" does imply. That statement conceivably could be interpreted to mean that this Commission has determined that nationwide rate averaging for MTS is in the public interest and has accordingly prescribed that existing averaging shall continue and that the unaveraged points be integrated into the system. However, it would not be reasonable to suppose that this Commission would decide a question that had remained open for over 50 years in such an offhand manner. Moreover, such an interpretation would be somewhat inconsistent with the actions we took in *DOMSAT II*. We did not order the immediate elimination of the rate disparities and we indicated that we might permit some disparities to continue.

63. *DOMSAT II* should be interpreted as implicitly recognizing that a rate structure which averages rates in 48 states and de-averages rates in 2 states may subject the residents of those two states to an unreasonable prejudice or disadvantage within the meaning of Section 202(a). Our decision does not preclude the carriers from de-averaging rates to all points including Alaska and Hawaii. We have not decided that averaging is preferable to de-averaging. We have decided that a rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a). We have accordingly required carriers to take appropriate steps to eliminate partial or selective de-averaging in an orderly manner.

64. Inasmuch as the prior decisions of this Commission do not prohibit route-by-route pricing of MTS that is based upon actual cost differentials, we must consider the possibility that interexchange competition will cause the carriers that provide MTS to adopt such a rate structure. For reasons explained hereafter, we find that assertions that interexchange competition will lead to such de-averaged MTS rates are probably unfounded.

65. Although Execunet and similar services have expanded considerably since we issued the *Initial Notice* in this proceeding, the growth of such services has not led to the filing of de-averaged MTS tariffs. AT&T's industry model comments state that it has no present plans to file a de-averaged MTS tariff if this Commission refrains from restricting services that are competitive with MTS. However, the AT&T comments do state that such competition might lead to de-averaged MTS rates at some point in the more distant future.

66. This experience and AT&T's statement provide some basis for finding that de-averaging is not imminent. Other reasons exist for concluding that MTS rates are not likely to be de-averaged in the more distant future unless this Commission concludes that de-averaging will serve the public interest. If we reach such a conclusion in a subsequent proceeding, de-averaging will not be caused by the mere presence of competition in interstate interexchange markets.

67. De-averaging could theoretically reflect differences in exchange costs or differences in interexchange costs or differences in both exchange and interexchange costs. This Commission has tentatively decided that prescribed access charges based upon nationwide average costs for the use of local exchange facilities should be used in computing interstate MTS rates. See *Second Supplemental Notice, supra*. If the final access charge plan is based upon that approach, any de-averaging of interstate MTS rates will necessarily be limited to differences in interexchange transmission costs. Our tentative decision was not based upon a determination that rate averaging should be preserved. We concluded that prescribed access charges should be in place as soon as possible and that it would be necessary to base the initial charges upon nationwide averages in order to achieve that goal. We might prescribe de-averaged access charges at some future time. However, we can and will examine all of the possible consequences before we make such a decision. Any indirect effects upon the MTS rate structure will not be forced upon us by the presence of competition in interstate interexchange services.

68. It seems unlikely that interstate interexchange competition will provoke the filing of an MTS tariff that reflects differences in transmission costs between local exchange switches. Rochester Telephone's industry model comments note that competition does not inevitably lead to de-averaged prices. Sellers do charge averaged prices in many other industries that are quite competitive. They do so in order to avoid the administrative costs of computing de-averaged prices. That cost would be substantial in pricing a service such as MTS.

69. The assertion that competition will lead to de-averaging in the telecommunications industry is based upon a scenario that assumes competition will be confined to a few high density routes with below average costs. That scenario also assumes that such competition will cause the telephone companies to lower rates on the high density routes and to increase rates on low density monopoly routes. The telephone companies have never presented concrete evidence that the costs are lower in the major metropolitan markets. Even if such costs are lower, it seems doubtful that the

[5] The 1976 order cited by the Rural Telephone Coalition summarizes the portion of the *DOMSAT II* order relating to rate averaging.

[6] The same requirement was subsequently applied to carriers serving the Virgin Islands.

[7] MTS was often called MTT at that time.

telephone companies would choose to incur the administrative costs of de-averaging and to sacrifice profits from the highest volume routes for the service which yields the greatest revenues to the telephone companies unless the new entrants diverted a very substantial portion of the MTS traffic on such routes. Sellers in near monopoly markets usually do not forego high profits in order to meet prices of rivals that serve only a small fraction of the market. The new entrants would have to increase their market penetration considerably in order to have a major impact upon the MTS revenues of the telephone companies on any route.

70. MCI claims that the scenario which the telephone companies have advanced in the past is incorrect for another reason. That scenario assumes new entrants will follow a marketing strategy that will not serve their best interests. Although the high density routes may be relatively more profitable from the telephone companies' perspective, MCI claims that it cannot maximize its own profits by limiting its service to a few routes with very dense traffic. It has apparently discovered that there is more demand for relatively universal services than for services of limited geographic scope and that the addition of another city produces revenues that exceed the additional costs of extending its service. MCI indicates that it accordingly plans to continue to expand the geographic coverage of its service as rapidly as possible.

71. The MCI scenario is plausible. It is also consistent with the course that all of the new entrants have been following. The new entrants have already expanded beyond the major metropolitan markets. This does not mean that any of the new entrants will be offering a truly universal service in the near future. There may be a point of diminishing returns at which the thinnest routes will not yield sufficient revenue to induce new entrants to extend their services to those points. However, it seems likely that the expansion of the new entrants will be sufficiently rapid and pervasive to preclude the telephone companies from recouping all lost revenues on competitive routes from increased rates on monopoly routes. The remaining traffic upon monopoly routes will not be sufficient to make such a pricing strategy attractive to the telephone companies. Substantial rate increases on the thinnest routes would produce a net loss in revenues and profits.

72. Of course, the MCI scenario may not be correct or AT&T may still believe in the telephone company scenario even if the MCI scenario is correct or the telephone companies might conclude that de-averaging in a fully competitive market would serve their interests. Therefore, we cannot exclude the possibility that the telephone companies will elect to de-average MTS rates in the absence of regulatory restraint.

73. Any analysis of the likelihood of de-averaging must take regulatory restraints into account. Although we have not prohibited de-averaging, our *Pacific Telephone* decision does establish a rule that a carrier that chooses to adopt non-uniform rates must present adequate evidence of cost differences in order to justify such rates.

74. *National Small Ship. Traf. Conf.* v. *United States*, 321 F. Supp. 500 (S.D.N.Y. 1970), is illustrative of the difficulties carriers would be likely to encounter in justifying rate increases resulting from MTS de-averaging. A motor carrier rate bureau attempted to revise its rate structure for less than truckload shipments by filing a tariff with the Interstate Commerce Commission that increased rates in the 101–499 lb. categories and decreased rates in the 1000 lb. and over categories. Although the court acknowledged that the data indicated that shipments in the 101–499 lb. categories were relatively underpriced (*id.* at 510), the court held that the ICC had erred in accepting the rates as lawful on the basis of the cost studies the rate bureau had presented to justify those particular rate increases. The court concluded that the cost studies were not sufficient to satisfy the carrier's burden of proof under Section 216(g) of the Interstate Commerce Act, 49 U.S.C. 316(g).[8]

75. Inasmuch as Section 216(g) of the Interstate Commerce Act is closely analogous to Section 204 of the Communications Act, the telephone companies would necessarily be subject to equally onerous cost justification burdens if they elected to raise MTS rates upon some routes as part of a general de-averaging. They could not rely upon "common knowledge" that costs are generally higher upon low density routes. They would have to demonstrate that the increased rates for particular routes accurately reflect the costs for those particular routes.

76. The telephone companies did not succeed in meeting that burden when they elected to de-average private line rates. AT&T has never succeeded in demonstrating that the Hi-Lo tariff or the replacement MPL tariff produces just and reasonable rates for all routes. See *AT&T Co.* (Docket 20814), 74 F.C.C. 2d (1979). Cost data submitted by AT&T in its Central Submissions indicate that cost information on a route-by-route basis is not now available to it for MTS or any other service.

77. Thus, MTS de-averaging will not occur unless the telephone companies elect to de-average and succeed in establishing that the particular de-averaged rates they have selected are just and reasonable. The record in this proceeding does not establish that such an occurence is very likely. Therefore, even if MTS de-averaging were deemed to be a detrimental effect, the record would not support the imposition of service restrictions in order to avoid that effect.

78. Moreover, the record in this proceeding would not be sufficient to justify a conclusion that MTS de-averaging would be contrary to the public interest. Rate averaging is arguably discriminatory because users with different costs pay the same rate. De-averaging that accurately reflects costs to every point conceivably might impose a substantial hardship upon users at points with exceptionally high costs. However, some recent legislative proposals have included subsidy schemes to alleviate such hardships. Although the present Act might not give this Commission sufficient discretion to adopt such a scheme, we are confident that Congress would enact any necessary enabling legislation if users in sparsely populated areas are ever subjected to rate increases that would produce a severe hardship for them.[9]

79. Neither the record in this proceeding nor our experience in the regulation of the telecommunications industry provides any basis for concluding that any form of interstate interexchange competition is likely to produce any allegedly detrimental effect upon the development of optimal facilities, the viability of independent telephone companies, or rates for any intrastate or interstate service that would warrant any service restrictions with respect to the nation as a whole.

[8] Seven years later the Court of Appeals for the District of Columbia Circuit concluded that new cost studies presented in ICC proceedings that followed the remand in *National Small Shipments I* were also deficient. See *National Small Shipments, etc.* v. *I.C.C. (National Small Shipments III)*, 590 F.2d 345 (1978), for an explanation of the decision without opinion in *National Small Shipments Traffic Conference, Inc.* v. *ICC (National Small Shipments II)*, 564 F.2d 600 (1977).

[9] Basic theorems of welfare economics might suggest that direct subsidies are preferable to pricing distortions.

III. Alaska Entry Policy

A. Detrimental Effects

80. Alascom's comments present essentially the same arguments for restricing interstate competition between points in Alaska and points in other states as were presented for restricting competition generally. Alascom claims that such competition will result in a wasteful duplication of facilities, will impair Alascom's ability to provide essential services to Alaska residents, will lead to increases in local exchange rates in Alaska, and will lead to a de-averaging of interstate rates to and from Alaska points which will impose a substantial hardship upon Alaskans who do not reside within the Anchorage exchange area.

81. It appears likely that any carrier that is permitted to offer interstate interexchange services in the Alaska submarket in competition with Alascom will choose to lease Alascom facilities. If this is the case, then any question with respect to the duplication of facilities will be academic.

82. If any new entrants in the Alaska interstate submarket use facilities that have been leased from Alascom, Alascom's intrastate toll rates presumably would not be affected. If the present *Separations Manual* formula is applied to Alaska, interexchange plant investment would be allocated between interstate and intrastate services on the basis of usage and distance factors. Those factors presumably would not change if the end user obtained the service from a carrier that leased facilities from Alascom instead of obtaining the service directly from Alascom. Therefore, Alascom's intrastate rate base and expenses would not be affected.

83. This Commission has not yet determined whether Alaska separations should be based upon the same allocations that are used in the contiguous states. However, AT&T and Alascom have recently agreed to recommend that Alaska separations be computed in that manner. For purposes of assessing the likely effects of competition, it would be reasonable to assume that this recommendation will be followed. If some formula were adopted which is less favorable to Alaska intrastate users, the effects would not be attributable to competition.

84. Diversion of MTS business to an Alascom competitor that used Alascom facilities could, of course, have an effect upon Alascom's profits. Alascom might not receive as much profit from leasing facilities as it derives from providing MTS. However, Alascom's assertion that it would be required to raise intrastate toll rates if it lost some of the "support" which its interstate settlements revenue provides for intrastate services (Alascom comments, pp. 131, 135) is incorrect. Alascom's intrastate rates are regulated by the state. The United States Supreme Court has held that state regulators may not consider interstate profits or losses in establishing intrastate rates. *Smyth* v. *Ames, supra.* The Court said (169) U.S. at 541): "The state cannot justify unreasonably low rates for domestic transportation considered alone, upon the ground that the carrier is earning large profits on its interstate business over which, so far as rates are concerned, the state has no control. Nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business."

85. Alascom also claims that competition would be detrimental because Alascom would be required to increase its interstate rates to points other than Anchorage to offset the loss of revenues in the Anchorage market. Alascom comments, p. 135. That claim is also illusory because Alascom does not have discretion to increase such rates. As previously noted, all Section 214 authorizations for the use of satellite facilities to serve Alaska have been subject to a Section 214(c) condition that the carrier devise and implement a plan for integrating Alaska interstate rates with the uniform rate structure in the contiguous states. Alascom has received such authorizations and has agreed to eliminate the rate disparities between Alaska rates and other rates. Although the final step has been deferred, any tariff filing that increases the rate disparity to any or all Alaska points would clearly violate the Section 214(c) condition Alascom has accepted and would accordingly be rejected in the absence of a Commission decision to waive that condition. In view of our policy against partial or selective de-averaging, it is difficult to envision any circumstances that would induce us to grant such a waiver.

86. Inasmuch as any reduction in Alascom's profits from interexchange services between Anchorage and other domestic interstate points will not be recouped from increased intrastate rates or increased interstate charges at other Alaska points, we must consider whether such competition could produce a reduction in profits of sufficient magnitude to impair Alascom's ability to provide interstate and intrastate services. If it could produce such a result, we must also assess the possibility that the needs of Alascom's customers would be met by others.

87. Competition conceivably may have a different impact upon Alascom than it does upon independent telephone companies because Alascom is essentially an interexchange carrier. However, service restrictions in the Alaska submarket cannot be justified by Alascom's assertions that such competition could have a crippling effect on Alascom. Alascom's industry model comments do not contain the kind of quantitative analysis which paragraph 42 of the *Supplemental Notice* (73 FCC 2d at 243–44) states will be necessary to support a detrimental effect finding. Nevertheless, we will not terminate the inquiry with respect to Alaska entry policy. Alascom will be afforded one more opportunity to perform the required analysis because it probably would have been difficult to perform such an analysis at the time the industry model comments were filed. It would be necessary to make some assumptions with respect to separations, settlements and rates in order to perform any quantitative analysis of the possible effects of competition upon Alascom revenues or profits. All of those things were very much in flux at the time the industry model comments were filed.

88. Alascom and AT&T have subsequently entered into an agreement with respect to those subjects. The agreement is contingent upon adoption of their recommendation with respect to separations and this Commission's approval of their agreement with respect to rates and settlements. We have not yet acted upon either proposal.

89. Nevertheless, we believe it would be appropriate to assess the possible effects of competition with MTS and WATS in the interstate Alaska submarket on the assumption that those proposals will be adopted. If the evidence demonstrates that competition would produce detrimental effects under those circumstances, we can weigh the costs and benefits of imposing service restrictions or modifying the agreement to offset those effects.

90. Our further inquiry with respect to entry policy will accordingly be limited to a particular submarket. If Alascom does not choose to file Supplemental Comments or fails to make a threshold showing that the competitive offering of voice services will have a crippling effect upon Alascom which will impair the availability or quality of services available in Alaska, we will terminate the entry policy inquiry. If Alascom does make such a threshold showing, we will weigh such effects in determining whether service restrictions in the

Alaska submarket would serve the public interest.

B. Beneficial Effects Are Not Required

91. We have noted Alascom's contention that other carriers that propose to offer competing interstate services in the Alaska submarket should be required to make a showing that competition will produce beneficial effects before we weigh the costs and benefits of competition. We do not find that contention persuasive.

92. Alascom's contention is apparently based on the premise that any carrier that seeks a Section 214(a) certificate in order to compete in a new market must demonstrate that competition is desirable in order to obtain the right to compete even though a finding of detrimental effects would be necessary to impose a Section 214(c) condition restricting service offerings of a carrier that has received a Section 214(a) certificate. Alascom notes that the *Execunet I* opinion was based upon an analysis of Section 214(c) and that no carrier other than Alascom has received a Section 214(a) certificate to construct, acquire or operate a line betwen Alaska and other states. Alascom declares (Alascom comments, p. 109): "Until the Commission can make findings that the public interest will be affirmatively served by additional entry, it may not authorize competition either in response to particular [Section 214(a)] applications or as a general rule or policy."

93. The assumption that the second and subsequent entrants must demonstrate that competition is likely to produce affirmative benefits in order to obtain a Section 214(a) certificate appears to be based upon Alascom's interpretation of *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86 (1953). *RCA Communications* did hold that this Commission erred in granting a Section 214(a) certificate authorizing a carrier to construct facilities to provide radiotelegraph services on two routes that were already served by another carrier without warranting that the Commission believed the additional competition would produce any benefits for the public. However, *RCA Communications* did not hold that such a warranty is required whenever this Commission grants a Section 214(a) certificate. The Commission had granted a certificate in *RCA Communications* even though it found that additional capacity would not be needed to meet expected demand on the affected routes and that the second carrier's entry would not be likely to result in new or better services or lower prices. The Commission said that it was granting the certificate to further the national policy of competition. The Supreme Court concluded that a national policy of competition is not sufficient, in and of itself, to justify a determination that the creation of excess capacity will serve the public interest. The Court remanded the proceeding to the Commission to permit the Commission to determine whether the introduction of competition on those particular routes would be likely to produce benefits that would outweigh the detrimental effect of creating excess capacity.

94. The Court clearly did not hold that the Communications Act creates a presumption against competition. It did not even conclude that the Act is neutral with respect to monopoly or competition. Although the Court said that encouraging competition is not the single or controlling factor in a public interest determination, the Court also said that a regulatory agency may draw "on competition for complementary or auxiliary support." *Id.* at 93. In other words, an increase in competition is an affirmative benefit which may be weighed against detrimental effects in making a public interest determination. The regulatory agency has considerable discretion in weighing such costs and benefits, but it cannot assume that any increase in competition will outweigh any detrimental effect.

95. Subsequent Supreme Court decisions indicate that a regulatory agency must give substantial weight to competitive effects in making any determination under a public interest standard in a regulatory statute. Although some of the language in the *RCA Communications* opinion indicates that a majority of the Court then believed that competition in regulated industries is a minor benefit, more recent Supreme Court opinions indicate that their successors do not share that belief. In *U.S.* v. *Philadelphia Nat. Bank*, 374 U.S. 321, 372 (1963) the Court declared "that competition is our fundamental national economic policy" and concluded that extensive regulation does not exempt the banking industry from that fundamental economic policy. See also *Carnation Co.* v. *Pacific Conference*, 383 U.S. 213, 218 (1966). The Court said in *Philadelphia Nat. Bank* (374 U.S. at 732): "The fact that banking is a highly regulated industry critical to the Nation's welfare makes the play of competition not less important but more so."

96. Although the statements in the *Philadelphia Nat. Bank* and *Carnation* opinions were made in the course of rejecting claims that members of regulated industries enjoyed some implicit immunity from the antitrust laws, the Court has also stressed the importance of the fundamental national economic policy in reviewing regulatory decisions pursuant to a public interest standard in a regulatory statute. In *Gulf States Utilities Co.* v. *FPC*, 411 U.S. 747 (1973), the Court held that the Federal Power Commission erred in failing to consider competitive consequences in making such a public interest detemination. That decision appears to change the rule that competition may be considered in public interest determinations by a regulatory agency into a requirement that it must be considered.

97. The Court's decision in *FMC* v. *Svenska Amerika Linien*, 390 U.S. 238 (1968), indicates that considerable weight should be attached to competitive factors in any public interest determination. The Court held that the Federal Maritime Commission properly required a showing that carrier agreements that violate antitrust policy are "required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose" in order to gain approval under the public interest standard of the Shipping Act. *Svenska* could be interpreted to mean that any action that prevents or lessens competition is deemed to be contrary to the public interest in the absence of a showing that the action is necessary to avoid evils the regulatory statute was designed to prevent or to produce results the regulatory statute was designed to achieve. *Svenska* at least holds that regulatory agencies have discretion to adopt that approach if they choose to do so.

98. We do choose to adopt the *Svenska* approach for purposes of determining whether the public interest will be served by granting Section 214(a) certificates that will create additional competition in some telecommunications service markets. We will not deny such an application by a qualified applicant unless we have some basis for believing that a decision to grant the application is likely to produce results that conflict with the goals of the Communications Act.

99. The approach we have chosen to adopt recognizes that the 1934 Act does create a presumption in favor of competition. In view of the *Svenska* and *Gulf States* decisions the public interest standard in all regulatory statutes must be interpreted as creating a presumption in favor of competition unless the language or history of the statute demonstrates a Congressional purpose

to restrict competition. The language and history of the 1934 Act does not demonstrate such a purpose. Indeed the *RCA Communications* opinion interprets the 1934 Act as establishing a presumption in favor of competition since that opinion does say that an increase in competition is an affirmative benefit that may be given some weight in a public interest determination.

100. If MTS competition in the Alaska submarket would in fact force Alascom to abandon or curtail its services and if such services would not be provided from any other source, then such competition would produce results that conflict with the goals of the Act. Section 1 of the Act states that the Communications Act was enacted for the purpose of making wire and radio communications service available to all the people of the United States. However, we cannot assume that competition in the Alaska submarket will adversely affect the availability of service merely because Alascom alleges that such results will occur. We will require Alascom to make an adequate showing before we weigh benefits of competition.

101. *Hawaiian Telephone Company* v. *FCC*, 498 F.2d 771 (D.C. Cir. 1974), does not conflict with our interpretation of the applicable Supreme Court precedents. That Court reversed a Commission decision to grant a Section 214(a) certificate to construct new facilities because the Court concluded that this Commission committed the same error described in *RCA Communications* by authorizing new facilities to create competition without finding the facilities were needed or warranting that this Commission expected any tangible benefits to the public from the increased competition. The Court did not hold that this Commission would have been required to examine the benefits of competition if we had found that the additional facilities would be needed to meet anticipated demand.[10]

102. Alascom notes (Alascom comments, p. 111) that the *Hawaiian Telephone* opinion contains a statement that the FCC must first determine whether "the public convenience and necessity requires more or better service" and if it determines that more service "would be in the public interest, then it can consider how much added service is necessary, and finally to whom the opportunity for providing service should be awarded." 498 F.2d 776. Alascom would apparently infer from that statement that the Commission must determine whether a competing service is needed before it authorizes a carrier to offer one. The *Execunet I* opinion, which was joined by the author of *Hawaiian Telephone*, rejected that interpretation. The Court explained that it really meant "facilities" when it said "services." 561 F.2d at 938. Thus, *Hawaiian Telephone* merely means that this Commission should determine whether additional facilities are needed when it acts upon an application for authority to construct additional facilities.

103. Therefore, our decision to refrain from requiring new entrants to demonstrate beneficial effects of competition in the absence of a showing that competition will produce detrimental effects is not inconsistent with *RCA Communications* or *Hawaiian Telephone*.

C. Competition Will Produce Beneficial Effects

104. Assuming *arguendo* that this Commission would be required to find that competition will be of some benefit in the Alaska submarket or in the country as a whole, our experience with the effects of competition in a variety of telecommunications service and equipment markets does provide an adequate basis for such a finding. Therefore, we could and would require Alascom to demonstrate some detrimental effects that outweigh the benefits of competition even if we accepted Alascom's interpretations of *RCA Communications* and *Hawaiian Telephone*.

105. Many of the comments have observed that competition is beneficial because it will spur innovation and efficiency and lead to lower prices and more and better services. Our regulatory experience tends to confirm this, we believe that competition is feasible in the provision of MTS-WATS service. Morever, our experience with an increasingly competitive domestic telecommunications industry over the past two decades, and the record amassed in this proceeding support our reasoned expectation that competition and the elimination of barriers to entry here will ultimately result in the provision of telecommunications service at the lowest possible cost; in the reduction or elimination of waste; in making carriers more responsive to the needs and desires of consumers; and, in making carriers respond more rapidly and efficiently to technological change and innovation.

106. These insights are not unique, of course. The benefits of competition have been observed in a great variety of markets through centuries of experience. We ourselves have observed such tangible benefits in telecommunications equipment markets after our *Carterfone* decision [11] effectively opened such markets to competition. In Docket No. 20003—a broad fact-finding inquiry into the economic implications and relationships arising from regulatory policies and pricing practices for telecommunications services and facilities subject to competition—we concluded that "consumer interconnection has benefited the general public by speeding innovation and meeting needs that were unmet prior to the introduction of customer provided equipment." 75 FCC 2d 506, 562 (1980).

107. We are hopeful that the benefits of free entry will become apparent in other areas as competition for the provision of telecommunications services—which is still in its infancy—takes hold and spreads. In the almost 6 years since the first MTS-WATS equivalent services were introduced, we have observed no untoward effect upon AT&T as a result of competition. There has been no impairment of its ability to provide service, no meaningful dimunition of its profits, and no apparent retardation in the substantial rate of growth for MTS-WATS services.

108. Although we have not as yet observed clear evidence that MTS-WATS competition has produced tangible benefits for most MTS-WATS customers, we have every reason to expect that such benefits will be realized as new entrants achieve increasing penetration in the MTS-WATS markets. Certainly the growth from zero to approximately $110 million annually indicates the public places some value on the availability of competitively supplied MTS-WATS equivalents. Of course, there is no guarantee that extensive penetration can, in fact, be achieved and we intend to provide no such guarantee either by requiring unreasonable pricing policies to be maintained or otherwise. However, effective competition in the MTS-WATS market obviously cannot develop if this Commission forecloses all competition. The potential benefits of effective competition are certainly sufficient to warrant a conclusion that the public interest will be served by preserving the possibility of effective competition in the MTS-WATS market. Significant detrimental effects would be required to justify a decision to foreclose that possibility, and, as we

[10] The *RCA Communications* and *Hawaiian Telephone* cases involved atypical situations. This Commission usually does find that new facilities will be needed when it grants a Section 214(a) certificate to construct new facilities.

[11] *Carterfone*, 13 FCC 2d 420, *recon. den.*, 14 FCC 2d 571 (1968).

have already noted, they do not exist here.

109. During the last several decades, the FCC has conducted a series of proceedings to determine in various markets whether a policy of open entry would be consistent with the public interest. In the *"Above 890"* decision (27 FCC 2d 359 (1959), recon. 29 FCC 825 (1960)), the *Carterfone* decision (see note 11), the *Domsat* decisions (35 FCC 2d 844 (1972) and 22 FCC 2d 86 (1970)), the *Specialized Common Carrier Decision, supra,* the *Resale and Shared Use* decision (60 FCC 261 (1976)) and the *Other Common Carrier Interconnection* decision (47 FCC 2d 660 (1974)), we have repeatedly found that competitive markets with reduced barriers to entry are in the public interest.

110. Our decision here, declaring MTS-WATS competition to be in the public interest, is simply a further (perhaps the last) step in our efforts to remove entry barriers and insure the benefits of competition in the provision of telecommunications service. This is the only realistic course open here. It would be completely incongruous for the Commission to now attempt to turn back the clock and to carve out a separate MTS-WATS enclave which alone would be the perserve of "monopoly carriers." The public interest burden on the proponent of such a position could be great, and, perhaps in recognition of this, no carrier has advocated that the Commission adopt such a position for the nation as a whole. As we have already noted, parties to this proceeding have pointed out that the march of technology has blurred the distinction between switched services such as MTS-WATS and so called private line service. Similarly, the impact of cross-elasticity among services has blurred any economic distinction between MTS-WATS and other services. In a very real sense, there is no separate or separable MTS-WATS market and it makes little sense to attempt to create a separate policy for such a market. We fully expect the benefits of competition for private line and specialized services recited in our *Specialized Common Carrier Services* case to be equally likely in the provision of message services. Thus, the benefits of competition in securing innovative service, low prices, and responsiveness to consumer choice should be the same regardless of whether we are dealing with private line services or message services or terminal equipment.

111. Moreover any analysis of the potential benefits of competition in an MTS-WATS market should not be confined to that market alone. Competition in specialized services might have been more effective if we had declared that all service markets were open to competition in 1971. If a new entrant is free to shift to the other markets if an established multi-market firm reacts by pricing its product or service in a particular market to contain or expel competition, the established firm is less likely to follow such a pricing strategy. Inasmuch as many telecommunications facilities can be used interchangeably for a variety of services, it should be possible for a nimble entrant to shift from one interstate interexchange market to any other.

112. We do not perceive any reason for concluding that preserving the possibility of effective competition is not equally beneficial in the Alaska submarket. A decision to designate the Alaska submarket as a protected enclave for some services would be a departure from our general policy. We do not intend to depart from that general policy in the absence of clear and convincing evidence that the creation of a protected enclave is required in order to avoid evils the Communications Act was designed to prevent. We will permit Alascom to file supplemental comments in this proceeding for the purpose of presenting such evidence.

IV. Other Issues

A. Supplemental Notice Topics

113. Many of the industry model comments have discussed the five regulatory policy subjects other than entry policy which were listed in the *Supplemental Notice* and many of the comments have offered specific proposals to adapt existing policies to a competitive environment. We will not attempt to describe those proposals in this Report and Notice because those subjects are either being addressed in the access charge phase of this proceeding or in other dockets. We do recognize that a competitive environment does require a reevaluation of policies and practices that evolved in an environment in which competition was largely confined to markets that are of lesser significance in terms of total dollar volume. The comments which have been presented in this proceeding will be of great assistance to us in reevaluating regulatory policies in other proceedings.

114. The *Supplemental Notice* invited interested persons to discuss accounting practices which would be appropriate under any proposed industry structure including any "changes in treatment of depreciation expenses by the telephone companies. . . ." 73 F.C.C. 2d at 239. This Commission had already instituted a rulemaking proceeding to revise the Uniform System of Accounts. See *Notice of Proposed Rulemaking,* 70 FCC 2d 719 (1978); *First Supplemental Notice of Proposed Rulemaking* (FCC 79-479, released August 9, 1979). The effects of a competitive environment upon accounting practices can and will be considered in the context of that proceeding.

115. The *USOA* proceeding presumably will not resolve all policy questions relating to depreciation practices. As several of the comments have noted, the existence of competition may have some effect upon the selection of useful lives for depreciation purposes. This Commission does reevaluate useful life prescriptions on a continuing basis through procedures that have been designed for that purpose. The effects of competition can be taken into account in those proceedings. We have decided that it would not be appropriate for us to attempt to formulate a general policy with respect to the prescription of useful lives in this particular docket.

116. The next three regulatory policy topics listed in the *Supplemental Notice* (73 F.C.C. 2d at 240) relate primarily to separations and access charges. As previously noted, those topics have already been designated for separate treatment. The access charge phase of this proceeding may not encompass all of the issues with respect to settlements that have been raised in the industry model comments. Although access charges will replace the present settlements system to a substantial extent under the tentative plan described in the *Second Supplemental Notice,* that plan would not disturb the existing contractual arrangements for the division of interstate revenues insofar as those arrangements compensate carriers for the use of interexchange facilities. We have tentatively concluded that changes in those arrangements would not be necessary to solve the problems described in the *Second Supplemental Notice.* The industry model comments indicate that some of the new entrants believe that the present settlements arrangement creates other problems that should be addressed. This topic may warrant further inquiry.

117. We have decided to refrain from inviting further comments in this particular docket with respect to settlements arrangements relating to interexchange facilities. That topic is not ripe for rulemaking at this time. We might institute a separate inquiry on this subject. However, we are inclined to believe that it would be preferable to

encourage any persons who believe that the interexchange settlements arrangements are incompatible with a competitive environment to file a petition for rulemaking which sets forth concrete proposals for changes in those arrangements and a clear explanation of the nature of their concerns.

118. The last regulatory policy topic listed in the *Supplemental Notice* related to other forms of tariff regulation. Many of the industry model comments do discuss tariff procedures and rules relating to rate structures, rates of return, resale restrictions, etc. which would be appropriate in a competitive environment. All of the tariff policy topics discussed in the comments appear to overlap with ongoing proceedings of this Commission and will accordingly not be discussed in this Notice. Those ongoing proceedings include the *Competitive Common Carrier Services* rulemaking (Docket 79-252),[12] the *MTS-WATS Resale* proceeding (Docket 80-84),[13] and the *Cost Allocation Manual* proceeding (Docket 79-295).[14]

B. Joint Planning

119. The *Supplemental Notice* did not preclude participants from including regulatory policy elements in their industry model comments that were not included in our list. Some of the comments have suggested other subjects which may require our attention in a more competitive environment. Several participants, particularly AT&T and the Secretary of Defense, have suggested that it may be necessary to develop new mechanisms or new rules for joint planning among unaffiliated carriers.

120. AT&T's concerns appear to relate primarily to planning activities within the telephone company segment of the telecommunications industry. AT&T observes that the present settlements system for division of revenues from interstate services that are jointly offered by all telephone companies provides common financial incentivies which make it easier to obtain cooperation in the development of adequate facilities for the provision of joint services, the adoption of compatible design criteria, etc. AT&T believes that the removal of that incentive could result in less cooperation.

121. The tentative access charge plan described in the *Second Supplemental Notice* could produce some changes in existing relationships among telephone companies. The access compensation that an independent telephone company received would be based upon AT&T's allowed rate of return rather than AT&T's achieved rate of return. Thus, an independent that did not own a significant amount of interexchange facilities would not have a direct stake in the success of the interexchange partnership. It would be affected by changes in usage, but would not be affected by changes in the profitability of partnership or non-partnership services.

122. This change in the relationship should not lead any exchange carrier to fail to provide facilities that any interexchange carrier may need to provide interstate interexchange services. Under our tentative access charge plan an exchange carrier would be compensated for any reasonable investment it makes in order to provide interstate access service to any interexchange carrier. An exchange carrier will accordingly have an incentive to make such investments. Therefore, we do not believe it will be necessary to abandon the access charge plan in order to assure that all exhange carriers continue to cooperate with the interexchange partnership that offers interstate MTS.

123. Nevertheless, AT&T has identified a potential problem that might require regulatory action in the future. This Commission's power to prescribe interconnection under Section 201(a) necessarily includes the power to require a local exchange carrier to acquire facilities and to adopt design criteria that will make interconnection effective. We can exercise those powers if the need arises. However, any problems among the telephone companies are too hypothetical to warrant the adoption of any rules in this proceeding.

124. The Secretary of Defense, as Executive Agent for the National Communications System (NCS), emphasized the need for effective planning among all carriers to meet emergency needs and observed that the presence of campeting carriers may make such planning more difficult. Such emergencies could range from a nuclear attack that destroys a substantial portion of the nation's telecommunications facilities to a localized natural disaster or equipment failure. Planning activities include the development of alternative facilities before an emergency arises, design criteria to assure interconnection and interoperability of competing networks, and rules establishing priorities for the restoration of service after an emergency.

125. The Secretary's concerns with respect to the development of adequate facilities have been addressed in Part II(C). We concluded that a competitive environment is not likely to result in inadequate facilities. Joint planning among carriers would not appear to be required to determine the quantity of facilities that will be needed for national defense or emergency requirements. Government agencies that are charged with responsibility for defense or emergency planning presumably can make that determination.

126. Joint planning might be useful in determining the manner in which networks, or unimpaired portions of networks, of different carriers will be used if an emergency does arise. The Secretary's comments recommend that a joint industry/government organization be established to develop plans for the restoration of telecommunications in time of natural disaster or national emergency and to develop industry interoperability criteria. Such an organization would also provide a vehicle for centralized management of telecommunications in time of national emergency.

127. This Commission has already adopted some rules with respect to the restoration of service in an emergency. See *Amendment of Part 64 of the Commission's Rules to Provide for a New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service* (Docket No. 19308), 77 F.C.C. 2d 14 (1980). Additional rules may be warranted. However, it probably would not be necessary for us to create a planning mechanism in order to develop such rules. NCS, the Federal Emergency Management Agency and other governmental bodies that are charged with the responsibility for developing plans to meet emergencies are in the best position to formulate proposed rules and presumably can obtain such advice from carriers as they may desire. If such proposals are presented to us in a petition for rulemaking, we could obtain additional input from carriers or others in response to such a petition. we encourage NCS or other agencies to file such petitions if they believe the present rules will not be adequate.

128. Interconnected networks presumably will be interoperable. Some of the comments question whether planning to permit facilities of different carriers to operate together will be a serious problem with or without new competition. For example, Southern Pacific states that to date there is no evidence that the interconnection of

[12] See *Notice of Inquiry and Proposed rulemaking* (FCC 79-599, released November 2, 1979).

[13] See *Notice of Proposed Rulemaking*, 77 F.C.C. 2d 274 (1980).

[14] See *Notice of Proposed Rulemaking*, (FCC 80-371, released June 26, 1980).

numerous independent telephone companies, the interconnection of international carriers, or the interconnection of private networks has had an adverse impact upon the management of a nationwide network. It notes that technical standards have long been set and procedures established for network interconnection. Procedures for demand forecasting, demand commitments and advanced notice of need have made possible long range facility planning as well as day-to-day traffic management for the aggregate demands of many entities. Southern Pacific says that only minimal cooperation and negotiation among firms acting in good faith is required for a smoothly functioning nationwide network.

129. It appears doubtful that new mechanisms will be required to resolve design or other technical problems associated with the interconnection of networks operated by different entities. The telephone companies have resolved such problems among themselves for decades. The telephone companies and the new entrants that have interconnected in order to enable new entrants to provide interstate interexchange services have also developed a mechanism for resolving such problems which appears to be working. This Commission hosts periodic meetings pursuant to paragraph 16 of the settlement agreement which this Commission approved in *AT&T* (Docket 20099), 52 F.C.C. 2d 727 (1975). These meetings are held to resolve any interconnection difficulties that may have arisen in implementing that agreement with respect to interconnection arrangements. If problems arise in the future that cannot be resolved through existing mechanisms, this Commission can invoke its statutory power to prescribe any arrangements that may be necessary for the provision of through services.

C. Access Arrangements for Execunet and Similar Services.

130. Some problems with respect to interconnection arrangements for the new entrants have arisen which probably cannot be resolved within the mechanism created by the 1975 settlement agreement. That settlement agreement established interconnection arrangements to enable the new entrants to provide FX and CCSA services. The interim compensation arrangements and the physical access arrangements were apparently designed to provide FX customers of the new entrants with access that is equivalent to the access received by customers of the FX service offered by the telephone companies. The periodic meetings pursuant to the 1975 settlement agreement provide a mechanism for resolving problems in the implementation of that particular agreement. Such meetings were not designed as a forum for the negotiation of additional agreements to provide alternative forms of access for other services.

131. MCI's Execunet service was designed to fit the access arrangements that MCI happened to have. When Southern Pacific and USTS decided to offer similar services, they also utilized the access arrangements that were provided under the 1975 settlement agreement. This somewhat accidental arrangement has not satisfied either the telephone companies or the new entrants. The telephone companies have maintained that they should not be required to accept compensation for MTS equivalent access that they agreed to accept for FX access. The new entrants have insisted that they should be provided with access for MTS equivalent services that is equivalent to the access which the telephone companies provide to themselves for their own MTS service.

132. The compensation dispute erupted first and led to the ENFIA agreement described in the *Supplemental Notice*. That agreement resulted from a series of meetings hosted by this Commission. This Commission subsequently hosted a second series of meetings, commonly known as the ENFIA II negotiations, to explore alternative means of providing access to local exchange facilities for Execunet and similar services. Those meetings focused primarily upon alternative access arrangements that could be implemented within a short period of time. Those meetings continued from October 1979 until January 1980 and adjourned without agreement.

133. The new entrants have apparently concluded that the present access arrangement precludes them from making their services as equivalent to MTS as they would like them to be. Under the present arrangement carriers such as MCI, Southern Pacific or USTS are connected with the local exchange in much the same way that ordinary customers are connected. Those carriers lease lines from the telephone companies that terminate on the "line side" of the local exchange or Class 5 switch at one end and terminate in the carrier's switch at the other end. A subscriber to Exeunet, Sprint or City-Call normally use the carrier's seven digit local number to reach the carrier's switch. If the subscriber is not served by the same Class 5 office as the carrier, the call will be routed through two or more switches before it reaches the carrier's switch in the originating city. After receiving a second dial tone, the subscriber must supply a personal identification number of five or more digits, followed by the three digit area code and seven digit local number of the called party. Because the additional digits must pass through the voice band, a touch telephone is required, or a tone generator must be used with a rotary dial telephone. The call will be routed to the interexchange carrier's switch in another city over intercity transmission facilities that are owned or leased by that carrier. It will then be routed through one or more additional switches at the distant city before it reaches the called party.

134. An ordinary MTS call which is not billed to a credit card number can be placed from either a rotary dial or a push button telephone by dialing or pushing ten digits. In some exchanges it is also necessary to dial "1" in order to place a long distance call. Such a call will be switched from the line side to the trunk side of the Class 5 switch that serves the calling party and will be transmitted by a toll connecting trunk to the Class 4 toll switch. MTS calls normally are not routed through more than two Class 5 offices—one in the originating city and one in the terminating city.

135. The industry model comments were filed shortly after the ENFIA II negotiations adjourned. Several carriers that participated in the ENFIA II negotiations have discussed the physical access problem in their industry model comments. MCI, Southern Pacific and USTS describe deficiencies which they perceive in the present access arrangements. AT&T has included a specific proposal for revised access arrangements in its industry model comments. The comments of those carriers also set forth principles which each believes should be followed in resolving questions relating to physical access arrangements.

136. MCI suggests that access compensation and access arrangements problems be resolved by decreeing that "[a]ll intercity carriers should have access to the facilities of a local exchange carrier on an identical basis and should pay identical charges. . . ." (MCI comments, p. 36). MCI also states that the most important implementing policy for open entry is that local telephone companies provide nondiscriminatory interconnection to all

authorized inter-city carriers. It states that this comprehensive requirement was set forth by this Commission clearly and emphatically in *Bell System Tariff Offerings* [15] and clearly extends to nondiscriminatory interconnection for switched voice services like Execunet.[16] MCi also suggests that the Commission periodically convene industry conferences to develop and implement telephone numbering plans that do not impair fair competition.

137. Southern Pacific states that the current method of interconnection is highly anticompetitive in that new entrants pay the same rates as AT&T even though the method of interconnection available to the new entrants is inferior to that obtained by AT&T Long Lines. Southern Pacific notes the following disadvantages of the Interconnection available to it: its customers must dial twenty-four digits as compared to ten digits for Long Lines; the seven digit access code required to reach its network differs from city-to-city; unpredictable transmission losses occasioned by needless routing through inter-office networks forces Southern Pacific to invest in special equipment which still does not eliminate the transmission inferiority: greater blockage occurs which reduces its call completion ratio; Southern Pacific is unable to offer services to customers who do not have touch tone or tone generator capabilities; Southern Pacific must collect its own billing information while AT&T's billing information is collected automatically; and Southern Pacific does not obtain answer supervision which produces difficulties in administering its network. Southern Pacific states that to remedy these defects the Commission must adopt a policy requiring all intercity carriers to receive identical interconnection arrangements with the monopoly local distribution facilities of telephone operating companies. Southern Pacific suggests that interconnection occur at the Class 4 office, that functionally equivalent interconnection must be maintained, and that functional equivalency requires an end to the practice of engineering and operating local exchanges in such a way that the customer automatically chooses Long Lines unless he goes through an arduous procedure to select an alternative.

138. United States Transmissions Systems (USTS) asserts that the additional switching involved in making a connection results in a degradation of the quality of service offered by the new entrants as compared to that offered by the telephone companies. Furthermore, because a line side termination is accorded the new entrants rather than a trunk side termination, the new entrants cannot provide answer supervision, automatic number identification, nationwide abbreviated access numbers, or signalling from rotary dial telephones. USTS states that if the Commission finds that competition in the MTS/WATS market is in the public interest, carriers with monopoly control over essential facilities must provide such facilities to all carriers on equal terms and conditions. It suggests that trunk side terminations be required at Class 4 or 5 offices. USTS also believes that equal access requires equal dialing access.

139. AT&T's industry model comments are based upon a dichotomy between "basic services" which include MTS, WATS and other unspecified services that will be jointly offered by the telephone companies and "nonbasic services" which include all services offered by carriers other than telephone companies and certain service offerings of telephone companies including AT&T that will be offered outside the pool arrangement. AT&T submitted a specific proposal for an interconnection arrangement for services it describes as "nonbasic." [17] AT&T has also outlined several principles which it says should govern future efforts to develop new access arrangements. It states that local telephone companies should make available to the suppliers of "nonbasic" telephone service local access arrangements by which callers may originate and terminate calls over "nonbasic" service networks, customers of "basic" services should not experience any adverse impact on the quality of service or bear any additional cost as a result of the provision of local access arrangements for "nonbasic" services, local access arrangements need not include capabilities which the suppliers of "nonbasic" services can be reasonably expected to provide for themselves, local access arrangements should be implemented through well defined interfaces which permit "basic" service and "nonbasic" service suppliers to design, implement, and operate their networks with minimal need for operational interaction, and local access arrangements should be available to all suppliers of "nonbasic" services on an equal basis pursuant to tariff.

140. The suggestion that all of the access problems can be resolved by requiring identical access at identical charges is probably too simplistic. If carriers are afforded freedom to offer any service that fits into a particular carrier's marketing strategy at a particular time, different carriers will probably need different facilities and services from the operators of the local exchange and the same carrier may require different access arrangements for different services. We are concerned that any effort to establish a single arrangement at a single charge for all access to the local exchange might create a regulatory straight-jacket that would tend to inhibit the innovation and service diversity our open entry policy is designed to promote. Even generic categories such as MTS–WATS equivalent or nonbasic services may also tend to obscure differences within such categories. The MTS–WATS offerings of the telephone companies include several variations of a switched service. Execunet, Sprint and City-Call are not precisely the same as any of them. The carriers that offer the latter services may utlimately replace or supplement them with other MTS–WATS services that are less analogous to a credit card service. Such services might have access requirements that differ from Execunet-type services.

141. We have accordingly concluded that we should not prescribe a single access arrangement or a single access charge. A flexible approach is necessary which encourages the carriers to adapt access arrangements to the service provided. Under such an approach it will probably be necessary to prescribe access charges for several different access arrangements and to revise the charges from time to time to fit new access arrangements. However, we do underscore the basic principle that there should be equal charges for equal facilities.

142. The *Second Supplemental Notice* expresses our present intention to follow such a flexible approach in prescribing access charges. We said that we have tentatively decided to prescribe initial access charges for the access arrangements that happen to exist at this time. However, we also said (para. 56):

> Any functional access service categories will necessarily have to be changed from time to time to reflect changes in the use of exchange plant facilities. The access charge scheme should not force access services into a particular mold, it should reflect the mold that happens to exist at a particular time.

[15] 46 FCC 2d 413 (1974), *aff'd sub nom. Bell Telephone Company of Pennsylvania* v. *FCC, 503 F.2d 1250, (3d Cir. 1974), cert. denied* 422 U.S. 1026 *reh. denied,* 423 U.S. 886 (1975).

[16] MCI cites *MCI Telecommunications Corp.* v. *FCC ("Execunet II"),* 580 F.2d 590, *cert. denied,* 58 L. Ed 2d 651 (1978).

[17] We have not described that plan in this Notice inasmuch as we are not endorsing or rejecting any particular access arrangement plan at this time.

143. A conclusion that a flexible approach is required for access arrangements generally does not, of course, solve the problem of designing a mold for Execunet, Sprint and City-Call. Nor does it determine the role this Commission should play in designing the mold for those services or any other service.

144. In *Specialized Common Carrier Services* this Commission decreed "that established carriers with exchange facilities should, upon request, permit interconnection or leased channel arrangements on reasonable terms and conditions to be negotiated with the new carriers, . . ." 29 F.C.C. 2d at 940. Thus, we determined that all exchange carriers must respond to reasonable requests for access services and we required the telephone companies and the new entrants to negotiate with each other in order to determine the precise access arrangements that would be provided. We do not see any reasons to depart from that approach at this time. Although we may have to invoke our Section 201(a) powers to prescribe a particular set of arrangements for a particular service at some point in the future if the carriers cannot devise a negotiated solution, we do not believe it would be necessary or desirable to make prescription of physical access arrangements the norm.

145. The adjournment of the ENFIA II negotiations does not appear to be the kind of impasse which warrants the commencement of a proceeding to prescribe an access arrangement. The negotating meetings were adjourned because the participants did not appear to be ready to proceed further until this Commission resolved some unresolved questions including the entry policy with respect to the MTS-WATS market. We are confident that the carriers will proceed in good faith to examine both short-term and long-term solutions to access arrangement problems in light of the decisions we have reached. If that confidence proves to be unwarranted, this Commission will institute appropriate proceedings.

V. Further Proceedings and Ordering Clauses

146. In view of the conclusions we have reached, further proceedings in this docket will be limited to access charges and the Alaska entry question. Questions which are not directly related to access charges or entry in the Alaska interstate market will no longer be deemed to be a part of this proceeding.

147. Inasmuch as the unresolved entry policy questions are confined to particular services in a particular market, it will no longer be necessary to include conditions in Section 214 certificates which state that the authorization is subject to any rules that may be adopted in this proceeding.[18] Such conditions will be included in certificates authorizing the construction, purchase, lease or operation of facilities that can be used to provide voice communications between Alaska and other states until we have reached a final decision with respect to the provision of voice telecommunications services in the Alaska interstate submarket.

148. In order to avoid confusion we request that reply comments filed pursuant to the *Second Supplemental Notice* and any other pleadings relating to access charges be labelled "CC Docket No. 78–72, Phase 1." We also request that comments and pleadings relating to the Alaska entry policy question be labelled "CC Docket No. 78–72, Phase 2".

149. Accordingly, IT IS ORDERED that ALASCOM, INC. may file supplemental comments relating to the provision of voice telcommunications services between Alaska and other states by carriers other than Alascom, Inc. on or before October 17, 1980, and any interested person may file reply comments relating to that subject on or before November 17, 1980. Pursuant to the procedures set forth in Section 1.419(b) of this Commission's Rules (47 C.F.R. § 1.419(b)), an original and five (5) copies of all filings shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

Federal Communications Commission *

William J. Tricarico,

Secretary.

August 1, 1980

Separate Statement of Chairman Charles D. Ferris

Re MTS/WATS Inquiry

The last remaining regulatory barrier to entry into interstate telecommunications markets has been removed by today's action. With the exception of the Alaska market, where we are giving the monopoly carrier one last chance to show that the public is better off with one rather than many choices, anyone who wishes to compete with the established telephone companies in the home or business long distance market may now do so.

Because of our prior policy of granting entry requests to companies pending the outcome of this proceeding, individual and corporate consumers already have the choice of using Execunet, Sprint, City-Call and Metro-1. Today's decision will encourage the introduction of even more new services.

This proceeding was begun to establish whether the public interest requires a monopoly in the MTS/WATS market. We previously rejected monopoly for terminal equipment, specialized communications services, and satellite communications. Now we reject monopoly for the largest interstate telecommunications market, with revenues of over 10 billion dollars in 1979.

We now have firmly committed ourselves to the proposition that competition, and the choices it brings for consumers, is in the public interest in *all* the markets we regulate. The interstate telecommunications market should not be excepted from our national policy in favor of competition.

Much of the credit for this outcome belongs to the *Execunet* court for forcing us to abandon a narrow view of the MTS/WATS markets. Credit is also due to many of the members of the established interstate telephone industry, who have accepted not only the inevitability, but in some cases the desirability, of competition. Finally, credit should be given to the Congressional committees whose tireless work has helped form the broad consensus for competition.

Separate Statement of Commissioner Abbott Washburn

Re MTS/WATS Market Structure D. 78–72

Today's MTS/WATS report will mean little more than a fleeting headline unless it is closely followed by important implementational actions by the Commission.

How much longer, for example, must we wait before a joint board is designated to resolve the question of *access charges?*

How long must we wait for any action on *accelerated depreciation policy?* (The Commission has had on file since September 28, 1973 a request to reevaluate depreciation policy.)

How long will it be before the resale of WATS becomes a reality?

Decisions of this nature must be addressed before the policy of open entry can have significant meaning in the dynamics of the marketplace.

Concurring Statement of Commissioner Joseph R. Fogarty

In Re MTS/WATS Market Structure

I concur generally with the thrust of this *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking.* However, I do not believe that adequate attention has been paid to an assessment of the timing and the magnitude of disruptive effects which could arise from the adoption of an open entry policy in the provision of MTS and WATS services. I refer specifically to the effects upon: (1) the optimal development of nationwide telephone facilities; (2) local rates; and (3) interstate rates.

The rationale for approving an open entry policy is based upon the following observations:

(1) No participant has demonstrated detrimental effects;

[18] We have already modified the former practice of including such conditions in all certificates for all kinds of facilities. See *Standard Telephone Company* (FCC 80–363, released July 1, 1980).

* See attached Separate Statements of Chairman Ferris and Commissioners Washburn and Fogarty.

(2) Any potential "detrimental" effects (such as higher state rates or the de-averaging of interstate rates) are either unlikely in the near future or are more likely to be beneficial because of economic efficiency considerations;

(3) Generally beneficial results are anticipated from competition.

Although I favor open entry in this market, I am very uneasy about the way we get there. We presume certain benefits from competition without attempting to quantify them. We presume that certain effects—such as de-averaging or higher state rates—will either never happen or will happen only in the distant future. We do not know how distant that future is; nor can we guess what the magnitude of the rate changes or the extent of de-averaging will be if and when these economic events do occur. I think we may be cavalier in dismissing the concerns of those users who could be adversely affected when we simply tell them in advance that any and all harm they may suffer will be suffered in the interest of economic efficiency.

In approaching the issue of the optimal development of nationwide facilities, I am not sure that our hands-off approach is wise. I agree that the development of a survival capability for military emergencies should be approached on an *ad hoc* basis and paid for by those who would incur the costs. I concur, therefore, with the statement in Paragraph 33 of the *Report:*

"We do not believe that it will be necessary to restrict competition or to impose special design requirements upon the carriers in order to meet national defense or other emergency needs. Any or all of the carriers in competitive markets will presumably be able and willing to provide any national defense facilities which the taxpayers [via DOD] are willing to finance."

On the other hand I am not certain that other statutory goals, contained in Section 1 of the Communications Act, pertaining to "rapid, efficient, Nationwide . . . wire and radio communications service" will necessarily be met with the approach advocated by this *Report.* For example, I am not convinced that random interconnection of several independent sub-networks will result in a more efficient communication system than one arrived at by central planning—either by a monopolist or by a consortium of competitors operating subject to a statement of Commission-promulgated policies and goals. I think that we should do better than the hands-off approach recommended in the item and consider, perhaps, one which encompasses an *ad hoc* industry-government committee. That committee would specify our interpretation of Section 1 of the Act within the context of modern technology and the new competitive environment. If desirable, it could be allowed to self-destruct after a suitable transition period.

It is worth noting in this regard that Section 1 of the Act addresses the matter of the execution of the statutory goals contained therein with the statement: "[F]or the purpose of securing a more effective execution of the policy by *centralizing authority* heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the 'Federal Communications Commission.'" (Emphasis added)

With regard to effects upon local rates, the *Report* quite correctly points out that the likelihood of upward rate pressures due to competition will be low if we adopt an access charge proposal similar to that set forth in our *Second Supplemental Notice* [1]—since the full local exchange revenue requirement will always be recovered under that scheme. I also agree with the *Report's* conclusion that entry policy and subsidy questions are not necessarily linked. However, the *Report* also suggests that a future Joint Board proceeding may change separations procedures and thereby effect (a) higher rates and (b) better public policy. While it is quite conceivable that the first result may occur, I believe that it is quite premature to indicate that this would necessarily be better public policy.

In considering the effect upon long distance rates, I do not feel very assured by the arguments in the *Report* which lead to the conclusion that de-averaging will not be a problem. The reasons given are:

(1) AT&T has indicated in its comments that it does not plan to immediately file de-averaged MTS tariffs if open entry is allowed; however, it may do so in the future;

(2) The administrative inconvenience and high costs associated with de-averaging may preclude AT&T from that course;

(3) There is no evidence that costs are lower in the major metropolitan markets and therefore there may not be a pressure to de-average;

(4) Bell's presence in the high density intercity routes is so predominant that there will be no immediate pressure to forego the lower revenues resulting from de-averaged rates.

I think that we should take this opportunity to observe that although we are taking this step based upon these hypotheses—and they are precisely that—we are also very concerned about the possible scope of de-averaging in the future, and about its public interest implications. In the short run, I do find the reasoning of the *Report* plausible. The long run results are the one which should be of continuous concern.

[FR Doc. 80-25521 Filed 8-20-80; 8:45 am]
BILLING CODE 6712-01-M

[1] 77 FCC 2d 224 (1980).

Notices

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

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

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Land and Resource Management Plans; Revised Notice of Intent To Prepare an Environmental Impact Statement

This notice revises the date of availability of the following Forest Land and Resource Management Plan Draft and Final Environmental Impact Statements:

National forest	Location	Previously published in FEDERAL REGISTER	New availability date	
			DEIA	FEIS
Colville	Washington: Ferry, Pend Oreille, and Stevens Counties.	Vol. 44, No. 208, 10/25/79 DEIS-12/82, FEIS-12/83	May 1983	May 1984.
Deschutes	Oregon: Deschutes, Jefferson, Klamath, and Lake Counties.	Vol. 44, No. 13, 1/18/79 DEIS-1/80, FEIS-9/80	Jan. 1981	Nov. 1981.
Okanogan	Washington: Chelan, Skagit, Okanogan, and Whatcom Counties.	Vol. 44, No. 249, 12/27/79 DEIS-12/82, FEIS-6/83	Dec. 1981	Sept. 1982.
Wenatchee	Washington: Chelan, Douglas, Kittitas, and Yakima Counties.	Vol. 44, No. 114, 6/12/79 DEIS-12/81, FEIS-12/82	Apr. 1982	Dec. 1982.
In addition, the dates of availability for the Pacific Northwest Region, Regional plan have been revised as follows:				
Regional plan	Oregon, Washington	Vol. 44, No. 159, 8/15/79 DEIA-6/80, FEIS-12/80	Dec. 1980	Sept. 1981

James F. Torrence,
Acting Regional Forester.
August 14, 1980.
[FR Doc. 80-25469 Filed 8-20-80; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Cost Comparison Reviews Scheduled for Service Contracts and Commercial or Industrial Activities Performed by Government Personnel in the Economic Development Administration

Notice is hereby given that pursuant to the Office of Management and Budget (OMB) Circular A-76 and Department of Commerce Administrative Order 201-41, the Economic Development Administration intends to conduct cost comparisons of the following service contracts and commercial or industrial activities performed by Government personnel in the Economic Development Administration. The Economic Development Administration intends to issue an invitation for bids or request for proposals after the start date scheduled for each review.

Each invitation for bids or request for proposals will be announced in the Commerce Business Daily.

A contract or contracts may or may not result from the cost comparison of each activity. Results of the cost comparison of an activity will be made available to responding bidders or offerors, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Henry C. Kramer, Management Analysis Division, Economic Development Administration, Department of Commerce, Washington, D.C. 20230 (202-377-2157).

Description of activity	Location	Review start	Review completion
Information systems operations	Washington, D.C	Nov. 1, 1980	Aug. 31, 1981.
Progamming systems analysis	Washington, D.C	Nov. 1, 1980	Aug. 31, 1981.

Description of contract	Expiration date	Review start	Review completion
Rental and maintenance of computer equipment (4 contracts).	Sept. 30, 1980	Nov. 31, 1980	Aug. 31, 1981.

Dated: August 18, 1980.
H. W. Williams,
Deputy Assistant Secretary for Economic Development.
[FR Doc. 80-25501 Filed 8-20-80; 8:45 am]
BILLING CODE 3510-24-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) JNL Industries, Inc., 9459 Washburn Road, Downey, California 90242, producer of cabinet catches and electronic dials (accepted July 31, 1980); (2) Hyland Electronics, Inc., 7250 Commerce Drive, Unit P, Mentor, Ohio 44060, producer of amplifiers and public address systems (accepted July 31, 1980); (3) Taylor Cedar Products, P.O. Box 653, Copalis Crossing, Washington 98536, producer of cedar shakes, shingles and ridges (accepted August 1, 1980); (4) Roppolo Flowers, Inc., P.O. Box 1159, Marlin, Texas 76661, producer of artificial floral arrangements (accepted August 4, 1980); (5) Chief Apparel, Inc., 10 W. 33rd Street, New York, New York 10001, producer of men's suits, sportcoats and slacks (accepted August 4, 1980); (6) Mickey Madann Handbags, Inc., 21 Cove Street, New Bedford, Massachusetts 02744, producer of handbags (accepted August 4, 1980); (7) Scheller Brothers Lumber Company, 1900 93rd Avenue, SW., Olympia, Washington 98502, producer of cedar lumber (accepted August 4, 1980); (8) Lowe Knits, Inc., 2429 E. Olympic Boulevard, Los Angeles, California 90021, producer of women's sweaters, pants; and knit fabrics (accepted August 5, 1980); (9) Clark Copy International Corporation, 6100 Madison Court, Morton Grove, Illinois 60053, producer of photocopy machines, accessories and supplies (accepted August 6, 1980); (10) F. B. Rogers Silver Company, Inc., 414 West Water Street, Taunton, Massachusetts 02780, producer of silver-plated holloware (accepted August 6, 1980); (11) Displays, Inc., P.O. Box 6 AAA, R.D. #4, Lewistown, Pennsylvania 17044, producer of electronic digital displays (accepted August 7, 1980); (12) Car Flite Manufacturing Company, Inc., 6 Willow Street, Moonachie, New Jersey 07074, producer of automotive starter drives and alternator rotors (accepted August 7, 1980); (13) Cyrus W. Scott Manufacturing Company, Inc., 3401

Kemp Boulevard, Wichita Falls, Texas 76308, producer of men's trousers (accepted August 7, 1980); (14) American Bio-Synthetics Corporation, 710 W. National Avenue, Milwaukee, Wisconsin 53204, producer of heliotropin & other chemicals (accepted August 8, 1980); (15) L & W Engineering Company, Inc., 6771 Haggerty Road, Belleville, Michigan 48111, producer of automotive metal stampings and welded assemblies (accepted August 8, 1980); (16) Orofino Fine Jewelers, Inc., 17177 Ventura Boulevard, Encino, California 91316, producer of jewelry (accepted August 11, 1980); (17) Osan Manufacturing Company, Inc., 320 S. Washington Street, Boyertown, Pennsylvania 19512, producer of men's pants (accepted August 11, 1980); (18) Alison Ayres, Inc., 1400 Broadway, New York, New York 10018, Producer of women's dresses, (accepted August 11, 1980); (19) Dexter Arnold, Box 71, Hockessin, Delaware 19707, producer of mushrooms (accepted August 11, 1980); (20) Mr. Hanger, Inc., 20 Jones Street, New Rochelle, New York 10802, producer of plastic coat hangers (accepted August 12, 1980); (21) Original Knitting, Inc., 285 King Street, Perth Amboy, New Jersey 08861, producer of knit fabrics (accepted August 13, 1980); (22) Gare Fashions, Inc., 512 Seventh Avenue, New York, New York 10018, producer of women's suits, jackets, coats, skirts, pants and blouses (accepted August 13, 1980); Sanitary Creamery Company, Inc., 712 Wisconsin Avenue, Boscobel, Wisconsin 53805 (accepted August 13, 1980); (23) Willoform Manufacturing Company, Inc., 6 East 32nd Street, New York, New York 10016, producer of girdles and brassieres (accepted August 13, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-25414 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Hendrix Electronics; Order

The Office of Export Administration, International Trade Administration, United States Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. sec. 2401, *et seq.*) (the "Act") against Hendrix Electronics ("Hendrix"), based on allegations that Hendrix violated Sections 387.2, 387.4 and 387.6 of the Export Administration Regulations [15 C.F.R. Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. sec. 2401 *et seq.* (1976 and Supp. I 1977)]; and

The Department and Hendrix having entered into a Consent Agreement whereby Hendrix has agreed to settle this matter by payment of a civil penalty in the amount of $12,000 and by undertaking certain corrective measures to ensure compliance with the Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Hendrix, within 20 days of the service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $12,000;

Second, that Hendrix shall take the measures specified in the Consent Agreement, incorporated herein by reference, to ensure future compliance;

Third, that the proposed Charging Letter, the Consent Agreement and this Order be made available to the public; and

Fourth, that Hendrix submit a report to the Director, Compliance Division, Office of Export Administration, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective measures specified in the Consent Agreement.

Entered this date August 13, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25438 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Milton Snedeker Corp.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.)* (the Act) against Milton Snedeker Corporation (Milton Snedeker) based on allegations that Milton Snedeker violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) (the Regulations) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)); and

The Department and Milton Snedeker having entered into a Consent Agreement whereby Milton Snedeker has agreed to settle this matter by payment of a civil penalty in the amount of $1,000 and to undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Milton Snedeker, within 20 days of the date of service of this Order, pay to the Department, pursuant to section 11(c)(1) of the Act, a civil penalty in the amount of $1,000;

Second, that Milton Snedeker, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Milton Snedeker agrees that it will promptly issue to all of its employees, agents, and representatives involved

with its international freight forwarding business, information to acquaint them with Part 369 of the Regulations, and written instructions directing strict compliance with such regulations, and will promptly, thereafter, provide these persons with notice of all material changes and interpretations which may be issued by the Department with respect to such regulations.

(b) Milton Snedeker shall conduct unannounced inspections of documents to ensure that the proper procedures have been implemented and are being followed. Such inspections shall take place at least once a calendar quarter for one year following the date of the order entered pursuant to this agreement.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that Milton Snedeker submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date August 14, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25426 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Pace Co. Consultants and Engineers, Inc.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against The Pace Company Consultants and Engineers, Inc. (Pace) based on allegations that Pace violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)); and

The Department and Pace having entered into a Consent Agreement whereby Pace has agreed to settle this matter by payment of a civil penalty in the amount of $5,000 and to undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Pace, within 20 days of the date of service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $5,000;

Second, that Pace, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Pace agrees that it will promptly issue to all of its employees, agents, and representatives involved in the international sale or marketing of surveys, information to acquaint them with Part 369 of the Regulations, and written instructions directing strict compliance with such Regulations, and will promptly thereafter provide these persons with notice of all material changes and interpretations which may be issued by the Department with respect to such regulations.

(b) Pace shall establish a final review procedure for all documents to customers in boycotting countries prior to mailing. Such review shall be conducted by one person who has been instructed about the requirements of the Act and Regulations and who will receive internal communications regarding compliance procedures.

(c) Pace shall promptly institute an internal reporting system and educate its employees as to the importance of following designated procedures with respect to reporting of all reportable requests to the Department and with respect to taking appropriate exception to requests, compliance with which is prohibited, and which may occur on orders, letters of credit, requests for quotations, instructions from customers, correspondence, etc.

(d) Pace shall conduct unannounced inspections of documents to ensure that the proper procedures have been implemented and are being followed. Such inspections shall take place at least once a calendar quarter for one year following the date of the order entered pursuant to this agreement.

Third, that the proposed Charging Letter, the Consent Agreement, and this Order be made public; and

Fourth, that Pace submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date, August 7, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25424 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Executive Committee of the President's Export Council will be held on Monday, September 15 at 2:00 p.m., in room B339, Rayburn House Office Building, Washington, D.C. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy.

The agenda for the meeting will be as follows:

—Welcoming remarks and brief introduction
—Remarks by Cabinet level attendees, Senators and Congressmen
—Reports from the Chairmen of the Subcommittees on:
  GATT and the MTN
  East-West Trade
  Export Promotion
  Export Expansion
  Export Administration
  Agriculture
—Discussion
—Other organizational business, announcements and plans for next meeting.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes or Ms. Elizabeth Ruskin, room 4015B, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

Dated: August 18, 1980.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 80-25466 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Rue Forwarding Co.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401 *et seq.*) (the Act) against Rue Forwarding Company (Rue) based on allegations that Rue violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) (the Regulations) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401 *et seq.* (1976 and Supp. I 1977)); and

The Department and Rue having entered into a Consent Agreement whereby Rue has agreed to settle this matter by payment of a civil penalty in the amount of $3,000 and to undertake certain corrective measures to insure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Rue pay to the Department, pursuant to Section 11(c)(1) of the Act, the civil penalty in the amount of $3,000. Payment shall be as follows: The initial payment shall be $500, payable within 20 days of the service of this order; subsequent payments of $500 each, shall be made on September 30, 1980; December 31, 1980; March 31, 1981; June 30, 1981; and September 30, 1981. Failure to make a payment on a specified date shall consistute a violation of this Order.

Second, that Rue, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Rue shall establish a final review procedure for all shipping documents to customers in boycotting countries.

(b) Rue shall verify proper distribution of memoranda and other communications regarding antiboycott compliance measures by identification of appropriate recipients and acknowledgement of receipt by the designated recipients.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that Rue submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date July 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25425 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Tally Corp.; Order

The Office of Export Administration, United States Department of Commerce, having initiated administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979, (Pub. L. 96-72, to be codified at 50 U.S.C. app. sec. 2401, *et seq.*) (the "Act") and the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] (the "Regulations") against Tally Corporation ("Tally"), based on allegations that Tally violated §§ 387.2, 387.4 and 387.6 of the Regulations; and

The Department and Mannesmann Tally Corporation, the successor corporation to Tally, having entered into a Consent Agreement whereby the successor has agreed to settle this matter (1) by payment of a civil penalty in the amount of $50,000, (2) by a denial of all validated export license privileges for a 30 day period terminating on September 13, 1980, and (3) by undertaking certain corrective measures to ensure compliance with the Regulations; and

The terms of the Consent Agreement having been approved by me, Now, Therefore, pursuant to the authority vested in me, 15 CFR, Part 388,

It Is Ordered,

I. A civil penalty in the sum of $50,000 is assessed against respondent;

II. Any and all validated export licenses which have been issued or which may be issued to Tally or its successor corporation shall be and are suspended for the period ending on September 13, 1980;

III. Mannesmann Tally, within 30 days of the service of this Order, shall pay to the Department, a civil penalty in the amount of $35,000;

IV. Payment of the remaining $15,000 shall be suspended for a period of 18 months and will be waived at the end of the period provided that respondent and its successor corporation are in full compliance with the Regulations and all terms of the Order and that Mannesmann Tally has undertaken the corrective measures specified in the Consent Agreement.

This Order is effective immediately.

Entered this 15th day of August, 1980.

Bertram Freedman,

Hearing Commissioner.

[FR Doc. 80-25457 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss status of fishery management plans, foreign fishing applications, and other fishery management and administrative matters.

DATES: The meeting, which is open to the public, will convene on Wednesday, September 10, 1980, at approximately 1 p.m., and adjourn on Friday, September 12, 1980, at approximately 1 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Quality Inn Airport, 20th Street and Penrose Avenue, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: August 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25471 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council's Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation

and Management Act of 1976 (Pub. L. 94-265), has established an Advisory Panel, which will meet to review draft of Spiny Lobster Fishery Management Plan, environmental impact statement, regulatory analysis, and draft regulations.

DATES: The meeting, which is open to the public, will convene on Friday, September 5, 1980, at approximately 9 a.m., and will adjourn at approximately 1 p.m.

ADDRESS: The meeting will take place at Council Headquarters Office, 1164 Bishop Street, Room 1608, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: August 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25470 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Department Organization Order 21-3; Transmittal 501]

Office of Regulatory Policy; Functions

Effective Date: July 29, 1980.

Subject: This order effective July 29, 1980 supersedes the material appearing at 43 FR 38614 of August 29, 1978.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions of the Office of Regulatory Policy.

.02 The purpose of this revision is to: change the title of the Office; designate the Director as the Deputy Assistant Secretary for Regulatory Policy; and incorporate certain regulatory policy functions transferred to the Office from ITA, environmental affairs functions transferred to the Office from the former Office of Science and Technology, and functions under Executive Orders 12044 and 12174.

Section 2. Status and Line of Authority.

The Office of Regulatory Policy, a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy. The Director shall also be designated as the Deputy Assistant Secretary for Regulatory Policy. The Director shall be assisted by a Deputy Director who shall be the Director's principal assistant and who shall assume the duties of the Director during the Director's absence. The Director shall represent the Assistant Secretary for Policy on most interagency groups dealing with regulatory issues.

Section 3. Functions.

The Office of Regulatory Policy shall provide overall policy guidance and coordination for the Department's internal rulemaking and regulatory review activities. In coordination with the Commerce Regulatory Council, it shall provide leadership and direction for the Department's participation in Governmentwide regulatory reform efforts. The Office shall assure timely analysis and development of positions and policies on selected regulatory issues in response to the needs and interests of the Secretary, and as directed by the Assistant Secretary for Policy and the Commerce Regulatory Council. The principal responsibilities of the Office shall include: Coordination, analysis, and review of Departmental regulatory issues and actions; identification of impacts on the national economy and its sectors of potential or actual regulatory actions; identification of alternative means of achieving national goals in ways minimizing adverse economic consequences; review and analysis of issues relating to environmental quality and standards; and representing the Assistant Secretary for Policy as the alternate member of the Water Resources Council. The Office shall serve as a central administrative and procedural compliance unit for the Department on regulatory matters. In performing these functions, the Office shall:

a. Provide staff support to the Commerce Regulatory Council. This shall include developing detailed agenda for Council meetings, providing follow-up to Council directives, arranging supporting analyses, and performing other staff services related to the work of the Council.

b. Provide assistance to senior Departmental officials who represent the Department in regulatory improvement activities, including the Department's representatives on the Regulatory Council, the Regulatory Analysis Review Group, and similar interagency programs.

c. Review and coordinate development of regulatory policy positions of major concern to the Department. These activities shall be undertaken in cooperation with other Departmental units, and the results shall be used for interagency discussions, development of legislative comments, or for input through other appropriate policy channels.

d. Review plans, procedures, and actions within the Department for complying with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related Executive Orders as appropriate. With the assistance of affected operating units, analyze the environmental and economic impact of actions proposed by other agencies in statements required by Section 102(2)(c) of the Act and referred to the Department for comments, and assist in formulating Department positions on these actions; and coordinate preparation of those impact statements required for Departmental programs or actions.

e. Conduct substantive reviews of Departmental in-house and contractual studies that deal with regulations and regulatory matters. Review study plans, studies in progress, and final reports for adequacy of the methodology and the relationship of the methodology to findings, recommendations, and policy implications.

f. Analyze the implications for the economy of proposed major new legislation, regulations, programs, or other actions; and the elimination or modification of existing statutes, regulations, programs, or other actions.

g. Develop and direct, in cooperation with other Departmental units, a program of regulatory research. The program's goals shall be to improve the process used in reaching decisions on regulatory issues, and to develop sound bases for long-term improvements in the regulatory system. The program shall utilize the full range of Departmental scientific, economic, industrial, and statistical expertise in addressing regulatory improvement issues.

h. Coordinate the preparation of technical and economic analyses and responses to selected regulations and, when appropriate, perform the review and analysis directly.

i. Conduct analyses, as directed, that will improve data essential for regulatory assessments; provide factual information and data essential to Departmental policy positions; and improve the methodology for assessing costs and benefits of regulatory actions.

j. Provide coordination and guidance for departmental programs relating to national and international environmental quality issues. In this capacity, the Office shall serve as the Department's principal contact with all public and private organizations on environmental matters of concern to the department as a whole. The Office shall also review proposed environmental standards that significantly affect business and industry, and prepare

comments or studies to assist in formulating Departmental positions.

k. Monitor and ensure full compliance with Executive Order 12044, including activities relating to agenda preparation, use of plain English, public participation, sunset reviews, and the quality of regulatory analysis.

l. Prepare and implement the Department's paperwork budget under Executive Order 12174 and recommend improvements when necessary and appropriate.

Section 4. Organization.

The Office of Regulatory Policy shall consist of:

a. The Office of the Director which shall provide direction, supervision, and guidance for carrying out the responsibilities of the Office. The Director shall serve as Executive Secretary of the Commerce Regulatory Council, and shall provide administrative support for the Council and coordinate staffing of council issues within the Office of the Assistant Secretary for Policy. Necessary staff support for Water Resources Council activities shall be maintained in the Office of the Director. The Office of the Director shall coordinate the preparation of analyses of regulations based on priorities established by the Commerce Regulatory Council and develop recommended Departmental positions on major issues or proposed rules on the basis of the analyses.

b. The *Regulatory Economics and Management Division* shall be headed by a Chief, and shall be responsible for: monitoring compliance with Executive Order 12044; monitoring other administrative and procedural compliance requirements, as specified and directed; maintaining an inventory of all Department regulations, and monitoring activities to ensure that Departmental units conduct thorough reviews of significant regulations; ensuring the quality and timelineness of the Departmental review process; developing short and long-term regulatory research agenda, as guided by the Commerce Regulatory Council; coordinating the implementation of the agenda with other Departmental units; conducting analyses and research on regulatory improvement projects; providing economic analysis assistance to other units in the Department in conducting regulatory reviews; and developing policies to reduce the cost of paperwork as they relate to regulatory issues.

c. The *Environmental and Technical Evaluation Division* shall be headed by a Chief, and shall be responsible for: overseeing the Department's activities relating to environmental issues; serving as the lead unit for insuring the application of scientific and technical expertise to regulatory problems, focusing on current rulemaking activities and issues; reviewing and consolidating analyses provided by other Departmental units; and fulfilling the NEPA responsibilties for the Office.

Savings Provision.

All Department Orders referring to the Office of Environmental Affairs, the Deputy Assistant Secretary for Environmental Affairs, or the Office of Regulatory Economics and Policy are constructively amended to refer to the Office of Regulatory Policy and the Deputy Assistant Secretary for Regulatory Policy, as appropriate.

Jerry J. Jasinowski,
Assistant Secretary for Policy.

Approved:

Elsa A. Porter,
Assistant Secretary for Administration.

Guy W. Chamberlin, Jr.,
Deputy Assistant Secretary for Administration.

[FR Doc. 80-75442 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-17-M

Travel Service

Travel Advisory Board; Meeting

On July 11, 1980, notice was given in the Federal Register (45 FR, Page 46841), that the Travel Advisory Board would meet on August 26, 1980. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:00 a.m. in Room 6802 of the Main Commerce Building, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows:

1. Pacific Basin Development Conference—Final Report on Kuilima, Hawaii Conference.
2. Internationale Tourismus Buerse—ITB.
3. Research Activity.
4. State/City Day Meeting, Los Angeles, California.
5. International Pow Wow, Los Angeles, California.
6. General Report on USTS Activities.
7. Reports of TAB Members.
8. World Tourism Organization Conference.
9. New Business.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washinton, D.C. 20230, (telephone (202) 377-4752) will respond to public requests for information about the meeting.

Jeanne Westphal,
Acting Assistant Secretary for Tourism.

[FR Doc. 80-25341 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-11-M

COMMUNITY SERVICES ADMINISTRATION

Income Disregard When Determining Eligibility for CSA Funded Programs

AGENCY: Community Services Administration.

ACTION: Notice of income disregard when determining eligibility for CSA funded programs.

SUMMARY: The Community Services Administration is issuing a notice to all its grantees and delegate agencies to disregard as income, when determining program eligibility for all CSA funded programs using the Income Poverty Guideline as criteria of eligibility, a one-time lump-sum payment received by potential or present program beneficiaries in settlement of class-action litigation brought against the U.S. Department of Housing and Urban Development by low-income tenants residing in HUD Section 236 projects nationwide. This notice is necessary because CSA's definition of "Income" which accompanies the Income Poverty Guideline found at 45 CFR 1060.2 does not specifically exclude such one-time lump-sum payments from income. The nature of the litigation and subsequent settlement indicate that whatever financial settlement is received should not be counted as income, as such a settlement is in the nature of restitution for past financial injury suffered by the plaintiffs due to the failure of HUD to provide the required subsidies for the benefit of plaintiffs to offset increases in real estate taxes and utilities in Section 236 housing. Such payments would not have been included as income to plaintiffs had the provisions of 12 U.S.C. § 17152-1(f)(3) & (g) been carried out by HUD. The purpose of this notice is to insure continued program eligibility for

potential and present beneficiaries of CSA's programs who are entitled to settlement under the terms of *Dubose* v. *Harris*, 82 FRD 582 (D. Conn. 1979).

EFFECTIVE DATE: This notice is effective September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Roger Schwartz, Assistant General Counsel, Community Services Administration, Rm. 538, 1200 19th St. NW., Washington, D.C. 20506. Telephone (202) 653-7520; teletypwriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: In 1974, Congress enacted the Housing and Community Development Act to be administered by the Department of Housing and Urban Development. The Act required HUD to provide a tax and utility subsidy to the owners of Section 236 rental units in order to compensate them for the cost of utilities and local property taxes which exceeded the initial operating expenses level of these projects (12 U.S.C. § 17152-1(f)(3) and (g)). The purpose of this subsidy was to enable project owners to meet their expenses and still provide housing for low-income residents which would not exceed 25% of their incomes. HUD's failure to provide said subsidy, however, resulted in some Section 236 project owners increasing rents in order to compensate for increased property taxes and utilities, thereby forcing some low-income tenants to pay in excess of 30% of their incomes for rent. Class-action lawsuits were brought on behalf of those tenants and the settlement agreement, styled *Dubose* v. *Harris* and found at 82 FRD 582 (D. Conn. 1979), provides that those tenants so harmed will be compensated by HUD to the extent of the financial loss suffered. The settlement from HUD to each plaintiff will come in the form of a one-time lump-sum payment.

CSA has decided to exclude these payments as income when determining program eligibility on two bases: (1) the income received by potential or present program beneficiaries as a result of settlement by HUD would not have been considered as income to those beneficiaries at the time it was legally to have been paid, as the subsidy as provided in 12 U.S.C. & 17152-1(f)(3) and (g) was to have gone to project owners on behalf of eligible tenants. The settlement comes to plaintiffs instead of project owners to compensate them for the financial injuries suffered as a result of HUD's failure to so provide such subsidies. (2) VSA's definition of income under the "Income Poverty Guidelines" provides for "one-time insurance payments or compensation for injury" to be disregarded as income. (45 CFR 1060.2(d)(1)). In addition, CSA, as a matter of policy, desires to honor the terms and intent of the settlement found in *Dubose* v. *Harris Id.*, at p. 599, which provides, in its relevant part, that any payments made pursuant to the settlement may not be included as income under any HUD program where eligibility is determined by family income.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942).

William W. Allison,

Acting Director.

[FR Doc. 80-25140 Filed 8-20-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Environmental Statements; Intent To Prepare a DEIS For Supersonic Flying Operations Over Utah-Nevada Within the Gandy Range Extension

August 15, 1980.

The United States Air Force proposes to conduct selected types of supersonic flying operations down to 5000 feet above ground level over Utah-Nevada within the existing Gandy Range Extension Military Operations Area/Air Traffic Controlled Assigned Airspace Area (MOA/ATCAA). Subsonic training is currently conducted in this MOA/ATCAA which overlies western portions of Tooele, Juab, and Millard Counties in Utah and eastern portions of Elko and White Pine Counties in Nevada. In addition, certain supersonic flights are already permitted there, but only above FL 300 (approximately 30,000 feet mean sea level). It is estimated that ultimately 850 to 1050 aircraft per month would go supersonic within the area.

The environmental analysis will consider, but not be limited to: air quality and aircraft emissions; the noise environment; airspace availability; sonic boom impacts on humans, structures, domesticated animals, and wildlife; secondary impacts on land use and land values; and mitigation measures.

The Draft Environmental Impact Statement (DEIS) will also discuss the following alternatives: no action; use of other training areas; relocation of the 388th Tactical Fighter Wing; and changing the geographical or vertical limits of the existing Gandy Range extension.

The Air Force will, for the next 30 days, scope the issues to be addressed in the DEIS. The Air Force invites participation in this process by interested Federal, state, and local agencies, private organizations, and individuals. Interested parties are requested to inform the Air Force in writing, within 30 days of this announcement, of issues which they believe should be addressed in the DEIS. Local press releases will be made to further publicize this request for information. Because the Air Force has prepared DEISs on similar proposals elsewhere and has already discussed this proposal with various local, state, and Federal agencies, the Air Force has decided that scoping meetings are not necessary to insure the identification of significant issues.

All replies to this request for information, as well as any questions concerning the proposed action, its alternatives, and the DEIS, can be directed to Mr. Keith Davis, Environmental Planning Unit, 2849 ABG/DEEXX, Hill Air Force Base, Utah 84056, (801) 777-2065 or Autovon 458-2065.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-25404 Filed 8-20-80; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

August 19, 1980.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Manufacturing Technology (MANTECH) Program will meet at Wright-Patterson AFB, Ohio on September 9 and 10, 1980. The purpose of the meeting is to review the management and cost effectiveness of the MANTECH Program. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

This meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

[FR Doc. 80-25534 Filed 8-20-80; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

August 19, 1980.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group meeting published in the Federal Register, Volume 45, No. 81, Thursday, April 24, 1980, and the rescheduling notice for August 21 and 22, 1980 have been cancelled. No new dates have been scheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

[FR Doc. 80-25535 Filed 8-20-80; 8:45 am]
BILLING CODE 3910-01-M

Department of the Army

Delta Manufacturing and Sales, Inc.; Grant of Limited Exclusive Patent License

On June 8, 1980, the Department of the Army granted to Delta Manufacturing and Sales, Inc., Arlington, Texas, a limited exclusive license in the United States for the manufacture, use, and sale of the invention embodies in U.S. Patent 3,757,806, "Pulsating Hydrojet Lavage Device," issued September 11, 1973. The license is for all fields of use of the invention and is effective until April 30, 1985, unless sooner revoked.

William G. Gapcynski,
Chief, Intellectual Property Division.

[FR Doc. 80-25465 Filed 8-20-80; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Erosion Shoreline Damage, Lorain County, Ohio; Intent To Prepare Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

In the matter of intent to prepare a Draft Environmental Impact Statement (DEIS) for mitigation of shoreline erosion damages at Lorain County, Ohio under Section 111 of the River and Harbor Act of 1968.

Proposed Action: The proposed action is to mitigate for shoreline erosion damages that may be attributed to the U.S. Diked disposal Area located near the mouth of the Black River in Lorain, Ohio.

Alternatives Considered: Preliminary studies have identified 5 possible alternatives for possible implementation. These alternatives are:

a. No Federal Action—This alternative provides for no Federal action to address the shoreline erosion problem.

b. Revetments—This alternative provides for a rubble revetment along the 2,500 feet of shore easterly of the diked disposal structure.

c. Groins—This alternative provides for construction of a sand beach and groin compartmentation scheme along the 2,500 feet of shore, east of the diked disposal area.

d. Beach Fill—This alternative involves the periodic placement of sand in the form of a stockpile on the shore approximately 2,300 feet east of Colorado Avenue.

e. Permanent Evacuation—This alternative involves purchasing lands along the 2,500 feet of shoreline east of Colorado Avenue.

Public Involvement: Early purlic involvement has consisted primarily of identifying which homeowners' properties along the Lake Erie shoreline to the east of the U.S. Diked Disposal Area are being endangered by shoreline erosion that could be attributed to the diked disposal area. In addition, a public workshop was held on 31 March 1980 and a public meeting will be held on 16 September 1980 in the Lorain, Ohio area. The study progress has been closely coordinated with all concerned State, Federal and local agencies. The final selection of a plan for mitigation will be based upon discussions with the relevant agencies and individuals, results of public meetings, and appropriate engineering, economic, and environmental studies.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the selected plan and any reasonable alternatives might positively or negatively impact upon the human and natural environment, including fish and wildlife habitats, water quality, aesthetic nature of the area, cultural resources and social/economic considerations.

Scoping Meeting: No scoping meeting will be held due to the extensive coordination already conducted and the public meetings planned in the near future.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about 15 December 1980.

Address: Questions about the proposed action and DEIS can be addressed to Philip E. Berkeley, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207. Phone (716) 876-5454.

Dated: August 12, 1980.

George P. Johnson,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-25366 Filed 8-20-80; 8:45 am]
BILLING CODE 3710-GP-M

Environmental Statements; Intent To Prepare A (DEIS) for the Swatara Creek Flood Control Study, Pennsylvania

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The Pine Grove Borough, located in Schuylkill County, Pennsylvania, is experiencing flood problems caused by high flood stages on Swatara Creek. The present study is considering alternate means of providing protection from significant damages to the flood prone section of the Borough which is located between Outwood Street and East Wood Street.

2. The most efficient means of providing protection to the community is to widen Swatara Creek, including realignment of the channel between the Route 443 highway bridge and the downstream end of the PennDye Plant.

3. Preliminary studies of Pine Grove Borough flood protection needs were conducted pursuant to a formal application by the Schuylkill County Commissioners under the provisions of Section 205 of the Flood Control Act of 1948, as amended. The results of these preliminary studies were presented in a Reconnaissance Report dated 10 May 1977. It was determined that flood damage reduction measures for Pine Grove were needed and two plans, channel improvement and a levee system, appeared justified by reduction in flood damages. The Reconnaissance Report recommended further investigation and preparation of a Detailed Project Report.

The current study, which is a Detailed Project Report (DPR) for the Swatara Creek, is being conducted under the Section 205 Authority and has examined a full range of structural and non-structural solutions to the flooding problem at Pine Grove.

The DPR was initiated in January 1978. Coordination with agencies and local interests was initiated by correspondence in April 1978. Continuing coordination has been maintained with the U.S. Fish and Wildlife Service, the Pennsylvania Fish Commission, and the Pennsylvania Department of Environmental Resources. Public involvement has included several meetings with representatives of Pine Grove Borough and the Schuylkill County Commissioners. During January 1980, a public information fact sheet containing a discussion of the Pine Grove Study was widely distributed. Further

participation is invited from any interested parties.

4. The significant issues which have been identified to date through this process and which will be addressed in the EIS include the impact on existing homes and businesses and the impact on potential fishery resources from stream channelization. Additional scoping meetings are not anticipated, however, any additional definition of issues can be expressed directly to the Corps of Engineers at the address given in paragraph 5.

5. The draft EIS will be available to the public by September 1980. Address: Questions about the proposed action and DEIS may be referred to Mr. Norman Edwards, Study Manager, Baltimore District, Corps of Engineers, P.O. Box 1715, Baltimore, Maryland 21203. Telephone (301) 962-2558.

James W. Peck,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-35444 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-41-M

Notice of Intent; Environmental Statements; Intent To Prepare DEIS for the Whitewater River Basin Flood Control Project, Coachella Valley, Calif.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: *1. Proposed Action.* The following plans for flood control and recreational development along the Whitewater River main stem and the tributaries of Dead Indian Creek and Deep Canyon in Coachella Valley, California, are under study during Stage 2 planning:

a. Main Stem of the Whitewater River.

(1) A dam on the San Gorgonio River near Cabazon and a dam on the Whitewater River in Whitewater Canyon, and structures to restrain blowsand and create habitat for the Coachella Valley fringe-toed lizard.

(2) A dam at Windy Point and structures to restrain blowsand and create habitat for the Coachella Valley fringe-toed lizard.

(3) An earth-bottom channel from Windy Point to the Salton Sea.

(4) An earth-bottom channel from Point Happy to the Salton Sea.

(5) A flood plain management plan.

b. For Dead Indian Creek (Palm Desert).

(1) A debris basin at the mouth of Dead Indian Creek and a concrete channel to the Whitewater River.

(2) A flood plain management plan.

c. For Deep Canyon (Indian Wells).

(1) A grass-lined channel.

(2) A flood plain management plan.

Mitigation measures are under study and will be finalized during the planning process. Possible mitigation plans include sand dune preserves for the Coachella Valley fringe-toed lizard and associated ecosystem; transplanting of trees and native plants; enhancement through transplanting or revegetation using natural plants; flagging and avoidance of natural areas not directly impacted by construction to reduce indirect construction impacts; and enhancement of the marsh at Salton Sea.

2. Alternatives. Alternatives considered during preliminary planning included a dam at Garnet; a series of dams at Whitewater Canyon, Stubbe Canyon, Jenson Creek, and Cabazon; bridge modifications; floodproofing for the main stem; a dam and a concrete channel at the mouth of Dead Indian Creek; a debris basin and grass-lined channel for Deep Canyon; a concrete channel for Deep Canyon; a partially covered channel along Cook Street; a debris basin and a diversion channel along Cook Street incorporating the existing channel along Deep Canyon channel; and zoning for both tributaries. These alternatives were removed from further consideration because they were either not economically justified, were environmentally unacceptable, or did not provide the necessary degree of flood protection. A selected plan has not been identified at this planning stage. The combination of two dams, Whitewater Canyon and Cabazon, and the Windy Point dam were both under consideration as the National Economic Development Plan. The earth-bottom channel from Point Happy to the Salton Sea with potential marsh enhancement has been identified as the Environmental Quality Plan.

3. Scoping Process. The overall study will be conducted in three planning stages. They are: Stage 1—reconnaissance study (completed in June 1978); Stage 2—development of intermediate plans (presented herein); and Stage 3—development of detailed plans. This draft EIS will be updated upon the completion of Stage 3 studies. An extensive public involvement program was initiated during the Stage 2 studies and will be continued throughout the planning process. This program included a series of public workshops held throughout the Coachella Valley, information pamphlets, tours, and newsletters. A bus tour of the project sites was conducted in November, 1979. A public meeting was held in December, 1979 to discuss the remaining plans and receive public input to select a plan for the main stem, Dead Indian Creek and Deep Canyon. Coordination with the U.S. Fish and Wildlife Service and the California Department of Fish and Game has included a number of briefings and meetings to discuss potential environmental problems and mitigation plans.

4. Future Meetings. A final public meeting will be held in March, 1981.

5. Publication of DEIS. The draft environmental impact statement is expected to be available to concerned agencies and the interested public for review and comment by February, 1981.

ADDRESS: Comments about the proposed action and draft environmental impact statement can be answered by Mr. Dionicio Gonzales, Water Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053, (telephone (213) 688-2932).

Dated: August 14, 1980.

Gwynn A. Teague,

Colonel, CE, District Engineer.

[FR Doc. 80-25443 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-KF-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 27, 1980, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular August business meeting which is open to the public. Both the hearing and the meeting will be held at the Goddard Conference Room, at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be an application for approval of the following project:

Citizens Utilities Home Water Company (D-73-14 CP Rev.). A well water supply project to augment public water supplies in Royersford Borough and portions of Upper Providence and Limerick Townships in Montgomery County, and Spring City Borough and portions of East Vincent and East Pikeland Townships in Chester County. The applicant has completed a program to monitor the effect of Well No. 4 on surface streams and nearby wells, as directed by the Commission, and now proposes to increase the rate of withdrawal from Well No. 4 to a maximum not to exceed 30 million gallons during any 30-day period (the existing maximum is 23 million gallons

over a 30-day period). Pumping would be cut back whenever streamflow in Pigeon Creek falls below specified levels, or if drawdown of ground water in Well No. 4 exceeds a specified amount.

Documents relating to the above-listing project may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

August 13, 1980.

[FR Doc. 80-25467 Filed 8-20-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Postsecondary Education Office; Federal Advisory Panel; Meeting

AGENCY: Department of Education, Office of Postsecondary Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of a Federal Advisory Panel. The general public is hereby notified of its opportunity to attend and participate in the meeting, which will be held in order to review petitions from accrediting and State approval agencies for recognition by the Secretary of Education.

DATES: September 8, 1980, 9:00 a.m. to 5:30 p.m., local time and September 9, 1980 9:00 a.m. to 12:00 noon. Requests for oral presentations before the panel must be received on or before September 3, 1980. All written materials which a party wishes to file may be submitted at any time, and will be considered by the panel.

ADDRESS: Marquette Room, Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, Room 3030, ROB 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202/245-9873).

Dr. Albert H. Bowker, Assistant Secretary for Postsecondary Education, established the Federal Advisory Panel as an interim procedure to obtain advice on the recognition of certain nationally recognized accrediting agencies and State approval agencies, and on the requests of three institutions for determinations of satisfactory assurance that they will meet accrediting standards of a nationally recognized accrediting agency within a reasonable period of time. The five-member panel is composed of representatives of Federal agencies affected by accreditation decisions. The panel is created solely to advise the Assistant Secretary for Postsecondary Education and the Secretary of Education on the April 1980 recommendations of the Petition Review Subcommittee of the Advisory Committee on Accreditation and Institutional Eligibility, and on the requests of the three above-mentioned institutions. The panel will review the following agencies and institutions:

- Accrediting Bureau of Health Education Schools (petition for renewal of recognition for accreditation of private medical assistant education institutions and programs, and schools and programs for the medical laboratory technician)
- American Assembly of Collegiate Schools of Business, Accreditation Council (petition for renewal of recognition for accreditation of baccalaureate and graduate degree programs in business and management)
- American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family therepy Education (petition for renewal of recognition for accreditation of graduate degree and clinical training programs in marriage and family counseling, and clarification of scope of recognition to substitute marriage and family therapy for marriage and family counseling)
- American Physical Therapy Association, Committee on Accreditation in Education (petition for renewal of recognition for accreditation of professional programs for the physical therapist and programs for the physical therapist assistant)
- American Speech-Language-Hearing Association, Council on Professional Standards in Speech-Language Pathology and Audiology (petition for renewal of recognition for accreditation of master's degree programs, and for transfer of recognition from the American Boards of Examiners in Speech Pathology and Audiology to the Council on Professional Standards in Speech-Language Pathology and Audiology)
- East Coast Bible College, Charlotte, North Carolina (request for a determination of satisfactory assurance that the college will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)
- Florida School of Psychology, Miami, Florida (request for a determination of satisfactory assurance that the school will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)
- Liaison Committee on Medical Education (petition for renewal of recognition for accreditation, and preaccreditation as "Reasonable Assurance" and "Provisional Accreditation," of programs leading to the M.D. degree)
- Minnesota State Board for Vocational-Technical Education (petition for renewal of recognition as a State agency for the approval of public postsecondary vocational education)
- National Home Study Council, Accrediting Commission (petition for renewal of recognition for accreditation of home study schools and petition for extension of scope of recognition to include accreditation of degree granting programs)
- New York State Board of Regents (petition for renewal of recognition as a nationally recognized accrediting agency, for registration [accreditation] of collegiate degree-granting programs or curriculums offered by institutions of higher education; and petition for renewal of recognition as a State agency for the approval of public postsecondary vocational education)
- New York State Board of Regents (Nursing Education Unit) (petition for renewal of recognition as a State agency for the approval of nurse education)
- Savannah College of Art and Design, Savannah, Georgia (request for a determination of satisfactory assurance that the college will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)

The Federal Advisory Panel will review the April recommendations concerning these agencies, together with petitions and materials pertaining to those recommendations. Agencies and interested third parties having substantial new information to submit may do so in writing, or may request a hearing before the panel. Requests for hearings should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, Department of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which the represent (if applicable), and the

purpose for which the hearing is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before September 3, 1980. Time constraints may limit oral hearings. However, all additional written material which a party wishes to file will be considered by the panel.

Records shall be kept of all panel proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on August 18, 1980.

John R. Proffitt,

Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education.

[FR Doc. 80-25441 Filed 8-20-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 4 and 5, 1980, at the offices of the Ministry of Energy, Mines and Resources, 580 Booth Street, Ottawa, Canada, beginning at 9:30 a.m. on September 4th. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a meeting of an IEA Standing Group on Emergency Questions (SEQ) Special Subgroup to design the third IEA Allocation Systems Test (AST-3), which is being held at Ottawa on those dates.

The agenda for the meeting is under the control of the SEQ Special Subgroup. It is expected that the following agenda will be followed:

1. Opening remarks.
2. Discussion and review of AST-3 Test Guide draft.
3. Completion of AST-3 Test Guide.
4. Other matters pertaining to AST-3.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1-9a.8, will be available in the Reading Room of the Department of Energy, Room 5B-180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Issued in Washington, D.C., August 18, 1980.

Craig S. Bamberger,

Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 80-25496 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between the United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the retransfer of 230 kilograms of Uranium of United States origin, containing 8.05 kilograms of U-235 (3.5% enrichment) from the Federal Republic of Germany to Norway, for use for research purposes in the JEPP II research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/NO(EU)-47, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25485 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement".

The subsequent arrangement to be carried out under the above mentioned agreement involves the approval of contractual arrangements for the sale of 3.34 grams of normal Uranium and 4.25 grams of normal Thorium to be used as reference standards for calibration of equipment. This subsequent arrangement is designated as S-IA-108. These materials will be exported to Chile pursuant to a general license issued by the U.S. Nuclear Regulatory Commission (10 CFR 110.23).

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25486 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between U.S. and Government of Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the approval of contractual arrangements for the supply of the following special nuclear material:

Contract Number WC-SW-5, to Sweden, 40 grams of uranium, enriched to 93.11% in U-235, to be used in the study of waste migration in granite strata for radioactive waste management programs

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25487 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between the United States and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Finland Concerning Civil Uses of Atomic Energy.

This subsequent arrangement would give approval, which must be obtained under the above mentioned Agreements, for the transfer of special nuclear materials of United States origin from Belgium to Finland. The material consists of 100 milligrams of Uranium enriched to 3% in U-235 and 0.5 milligrams of Plutonium, and is to be used for the determination of the uncertainty of analytical measurements for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/FI(EU)-1 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Programs.

[FR Doc. 80-25488 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between the United States and the Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract No. S-JA-277, 148.4 grams of normal uranium oxide, to be used as standards for calibration of equipment by the Toshiba Corporation, Kobe, Japan

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25489 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between the United States and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of contractual arrangements for the supply of the following materials:

Contract Number WC-EU-162, to France, 2 kilograms of depleted Uranium as oxide, to be used in the development of reduced enrichment research and test reactor fuels.

Contract Number WC-CA-21, to Canada, 2 kilograms of depleted Uranium as oxide, to be used in the development of reduced enrichment research and test refactor fuels.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc. 80-25490 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and the Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements for sale of the following materials: Contract Number S-JA-275, to the Japan Atomic Energy Research Institute, 15 grams of Plutonium 238 and 15 grams of Plutonium 240, to be used for the measurements of small sample perturbation at the fast critical assembly.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Programs.

[FR Doc. 80-25491 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between the United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "'subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for

Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada, as amended.

The subsequent arrangements to be carried out under the above mentioned Agreements involve the approval of contractual arrangements for the supply of the following materials:

Contract Number S-EU-655, 275 milligrams of Uranium, enriched to 99.999% in U-238, and containing 11 parts per million U-235, to be used as dosimeters for pressure vessel irradiation programs at Mol, Belgium.

Contract Number S-JA-276, 742 grams of normal Uranium as oxide to be used for calibration of equipment in Japan.

Contract Number S-CA-296, 296.8 grams of normal Uranium as oxide to be used for calibration of equipment in Canada.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25492 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Associated Programs, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: August 14, 1980. Comments by: September 22, 1980.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374-5932.

SUPPLEMENTARY INFORMATION: On August 14, 1980, the Office of Enforcement of the ERA executed a Consent Order with Associated Programs, Inc., ("Associated") of Boca Raton, Florida. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Associated, through the Sterling Joint Venture, processes natural gas streams and sells the NGL and NGL products derived from these streams, and is subject to the Mandatory Petroleum 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 Associated the Office of Enforcement, ERA, and Associated entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the sales of NGL and NGL products by Associated during the period September 1, 1973 through June 30, 1980.

2. The reason for the overcharges was Associated sold NGL and NGL products at prices in excess of the applicable ceiling price, as defined at 6 CFR 150.355(b) and 150.358(b) and 10 CFR 212.81(a); 212.143(a); and 212.163(a).

3. It is understood that Associated does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. 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, Associated 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 transactions specified in I.I. above, the sum of $225,000.00, plus interest as specified in Terms and Conditions, paragraph 1, of the Consent Order. The refund shall be made in monthly installments and completed within 61 months from the effective date of the Consent Order. Such refund will be made 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 believe 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 interested 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 Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374-5932.

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 Associated Programs, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 22,

1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR 205.9(f).

Issued in Kansas City, MO on the 14th day of August 1980.

Alan L. Wehmeyer,

Acting District Manager, Economic Regulatory Administration.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 80-25367 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

R. Lacy, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 2, 1980. Comments by: September 22, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On May 2, 1980, the Office of Enforcement of the ERA executed a Consent Order with R. Lacy, Inc. of Longview, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and R. Lacy, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with R. Lacy, Inc. effective as of the date of its execution by the DOE and R. Lacy, Inc.

I. Consent Order

R. Lacy, Inc. with its home office in Longview, Texas is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R., Part 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and R. Lacy, Inc. entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil sales by R. Lacy, Inc. This Consent Order settles those matters relatives to R. Lacy, Inc.'s production and sale of crude during the period November 1, 1973 through December 31, 1974.

The significant terms of the Consent Order with R. Lacy, Inc. are as follows:

1. R. Lacy, Inc. (Lacy) allegedly misapplied the provisions of 10 CFR 212.73(a) and 212.93(a) and its predecessor, 6 CFR 150.353 and 150.359(c) incorrectly when determining the prices to be charged for certain domestic crude oil.

2. Lacy understands and agrees to refund $48,000.00 plus interest to the DOE by certified check. This amount is in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the sale of certain crude oil produced and sold by Lacy and certain crude oil purchased and resold by Lacy. Leases from which Lacy produced crude oil originated are:

A. Maberry
C. Maberry
C. C. Miller
W. Pouncy
V. B. Smith
F. M. Snider
H. A. Penna

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in 2. above will be made in four installments. The first payment is due 30 days after the effective date of the Consent Order with additional payments due in subsequent 90 day installments until the total refund has been completed. Delivery of such payments shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, in the form of a certified check made payable to the United States Department of Energy.

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 person, 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

Potential Claimants: Interested persons who believe 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.

Other Comments: The ERA invites interested 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, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. 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 R. Lacy, Inc.'s Consent Order." We will consider all comments we received by 4:30 p.m. local time, on September 22, 1980. You should identify any portion 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 5th day of May, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-25494 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Nuclear Energy

The State Planning Council on Radioactive Waste Management; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Date and time: Monday, September 8, 1980: 9:00 a.m.-5:00 p.m.; Tuesday, September 9, 1980: 9:00 a.m.-12:00 noon.

Place: Stouffer's National Center Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact: Janie Shaheen, Staff Contact for the State Planning Council, 1900 L Street, N.W., Suite 605, Washington, DC 20036, Telephone: 202/785-2901.

Purpose of Council: The State Planning Council on Radioactive Waste Management was established by Executive Order 12192 dated February 12, 1980, to provide advice and recommendations to the President and the Secretary of Energy on nuclear waste management (including interim management of spent fuel).

Tentative agenda: The agenda for the meeting will consist of consideration of recommendations on low-level waste management and the consultation and concurrence process for the development of high-level waste repositories. In addition, Council will consider procedures for reviewing the National Plan and NRC's proposed 10 CFR Part 60 (Procedural Rule).

Public participation: The meeting is open to the public. The Chairperson of the Council is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office at 202-252-5187.

Issued at Washington, D.C. on August 18, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-25495 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Colorado River Storage Project; Public Comment Forum on Proposed Rate Order

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of public comment forum for oral presentation of comments on proposed rate order by interested parties.

SUMMARY: The purpose of the public comment forum is to provide an opportunity for interested parties to present oral views, data, and arguments concerning the proposed order by the Assistant Secretary for Resource Applications, confirming, approving, and placing in effect increased rates for the Colorado River Storage Project on an interim basis. The proposed order was published in the Federal Register on August 8, 1980, at 45 FR 52900.

DATE: The public comment forum will be held on September 11, 1980, at 10 a.m. (registration at 9:30 a.m.).

ADDRESS: The forum will be held in the Seasons North Room, Salt Lake Hilton Hotel, 150 West 500 South, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, Utah 84147, Telephone: (801) 524-5493

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colorado 80401, Telephone: (303) 231-1535

Ms. Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, Federal Building, Mail Station 3344, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, Telephone: (202) 633-8338

SUPPLEMENTARY INFORMATION: The Western Area Power Administration, Department of Energy's power rate adjustment procedures, published in the Federal Register on March 23, 1978, at 43 FR 12076, as amended on February 7, 1979, at 44 FR 7795, provide that an opportunity for oral presentation of views, data, and arguments on any proposed rate order approved by the Assistant Secretary for Resource Applications would be afforded interested persons upon request. The proposed rate order for the Colorado River Storage Project was published in the Federal Register on August 8, 1980, at 45 FR 52900. Subsequently, a request was received for oral presentation by an interested party.

Since this forum will not be adjudicative in nature, questions may be asked only by those conducting the forum, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the forum will be announced by the presiding officer.

A transcript of the forum will be made, and the entire record of the forum, including the transcript, will be made available for inspection at the three Department of Energy offices listed above in Salt Lake City, Utah; Golden, Colorado; and Washington, DC. Any person may purchase a copy of the transcript from the reporter.

Issued in Washsington, D.C., August 15, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80-25493 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579-8]

Approval of PSD Permit to Martin Marietta Aluminum, Inc., St. Croix, V.I.

Notice is hereby given that on June 6, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Martin Marietta Aluminum (MMA) for approval to modify its alumina refinery on St. Croix in the United States Virgin Islands. Specifically the modification includes the expansion of the refinery to process an additional 1650 thousand tons of bauxite per year in two new fluidized-bed claciners, the addition of 3 new oil-fired boilers, a new lime calciner and a lime hydrator and cooler. This modification is designated as Expansion "E".

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C.

Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA has determined that MMA satisfies all of the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants and subject to the following conditions:

1a. MMA shall comply with the best available control technology specifications and allowable emission rates described in the PSD permit;

1b. MMA shall submit designs and operational parameters of all proposed air pollution control devices prior to the finalization of contracts;

1c. MMA shall operate no more than two oil-fired boilers at any one time;

2a. MMA shall stack test all new emission points to demonstrate compliance with applicable federal, state and local regulations;

2b. MMA shall comply with all other applicable federal, state and local regulations;

3. MMA shall inform the EPA of the anticipated dates for the commencement of the expansion process, the completion of the expansion process and the operation of the expanded facilities 30 days prior to undertaking such activities. In addition, notification of the actual dates that such activities were undertaken shall be provided to the EPA within 30 days after the occurrence of each activity.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25422 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-6]

Approval of PSD Permit to Nepera Chemical Co., Inc., Harriman, N.Y.

Notice is hereby given that on April 14, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Nepera Chemical Company (NCC) for approval to modify its chemical process plant in Harriman, New York. Specifically, the modification includes the addition of a new fume and waste water incinerator to incinerate all the waste water generated at the plant from the manufacture of pyridine and related derivatives, the picoline nitriles and the off-gases exiting from existing reactors and stills.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA has determined that the NCC satisfies all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants and subject to the following conditions:

1. Emission Requirements

Actual sulfur dioxide emissions from the entire plant shall be limited to 800 tons per year; this can be achieved by limiting the annual amount of 2 percent (by weight) sulfur fuel oil burned or by limiting the sulfur content of the oil to be burned or by performing a combination of the two. Monthly reports indicating the amount and sulfur content of the oil burned must be submitted to the EPA by the 10th day of the following month.

2. Monitoring Requirements

An opacity monitor and a furnace temperature recorder, each equipped with continuous printout capability, must be installed prior to the compliance test required by the New York State Department of Environmental Conservation (NYSDEC). Monthly printouts from each monitor must be submitted to the EPA by the 10th day of the following month.

3. Testing Requirements

A. A performance test to ensure that the opacity monitor conforms to the specifications of 40 CFR Part 60, Appendix B, must be performed within 60 days of startup;

B. The volume of fumes and waste water as well as furnace temperature recorded (at maximum capacity) during the NYSDEC compliance testing shall become operating limitations for the incinerator;

C. A test, conforming to the specifications of EPA test methods, to measure the NO_x emissions from the incinerator must be performed within 60 days of startup.

A copy of each test must be submitted to the EPA within 30 days of completion of the test.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the

subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25417 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-7]

PSD Non-Applicability to Nepera Chemical Co., Harriman, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Nepera Chemical Company (Nepera) proposal to construct an alumina catalyst regenerator at their Harriman, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to the numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

A review of the Nepera project in accordance with the requirements of this order indicates that the project is *not* subject to PSD review. The potential (uncontrolled) carbon monoxide (CO) emissions from the proposed catalyst regenerator were calculated to be approximately 1000 tons per year and, therefore, subject to PSD under the June 19, 1978, regulations. However, the administrative order stays the application of the June 19, 1978, regulations as to any source or modifications for which there is no significant increase of emissions relative to each pollutant for which the source is "major" under the September 5, 1979, proposed amendment. When taking into account all new facilities and the shutdown of existing equipment, there is a net decrease in the amount of CO emissions. In addition, there will be no significant emission increases of any other pollutant for which Nepera would be major. Based upon this review, the Nepera project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25416 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-1]

PSD Non-Applicability to Phillips Puerto Rico Core, Guayama, P. R.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Phillips Puerto Rico Core, Inc. (PPRC) hydrodealkylation (HDA) unit expansion project at their Guayama, Puerto Rico plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for petrochemical manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the potential (uncontrolled) sulfur dioxide ("SO_2") emissions relative to this project were calculated to be approximately 365 tons per year and, therefore, subject to PSD review under the June 19, 1978, regulations. However, the administrative order stays the application of the 1978 PSD regulations as to any source of modification which would not be major under the September 5, 1979, proposed regulations. The PRC project is not considered a major source because there will be no significant net increase of SO_2 emissions (the only applicable pollutant that would be emitted from this project) at the plant; the September 5, 1979, proposed regulations apply to a modification at a major emitting facility which would result in a significant net increase in the source's potential to emit the pollutant for which the source is major. When taking into account all new equipment and modifications of existing equipment, there is expected to be a net *decrease* in the amount of SO_2 emissions. Based upon this review, the PPRC HDA project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25421 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-4]

PSD Non-Applicability to Tam Ceramics Inc., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Tam Ceramics Inc., (TAM) proposal to construct five new process facilities at their Niagara Falls, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for ceramic and refractory minerals grinding and treatment plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to the numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York, is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant that would be emitted from the five referenced emission facilities). TAM satisfies the requirements of the administrative order and, therefore, PSD review of the project is not required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25418 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-3]

PSD Non-Applicability to Union Carbide Corp., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Union Carbide Corporation (UCC) proposal to construct two materials handling systems at their Carbide Products Division plant in Niagara Falls, New York, is not subject to the federal Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for carbon and graphite products manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations, or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York, is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant emitted from the referenced project). UCC satisfies the requirements of the administrative order and, therefore, PSD review of the project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng. (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FRL 1580-2]

PSD Non-Applicability to United States Gypsum Co., Oakfield, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the United States Gypsum Company (USG) proposal to modify the wallboard facility at their Oakfield, New York, plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for mill and board manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any modification for which there is no significant net increase of emissions relative to each pollutant for which the source would be major under the September 5, 1979, proposed amendments. When taking into account all new equipment and the shutdown of certain existing equipment, there is a net decrease in the amount of particulate matter emissions. Based upon this review, the USG modification is not PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren

Regional Administrator.

[FR Doc. 80-25420 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1579-5]

Martin Marietta Aluminum, Inc.; Final Determination

In the matter of the proceedings under Title I, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 25388, June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to Martin Marietta Aluminum, Inc. (MMA).

On May 4, 1979, MMA submitted an application to the United States Environmental Protection Agency (EPA), Region II Office, to obtain a PSD permit for an expansion (Expansion "E") of their existing alumina refinery on St. Croix, in the United States Virgin Islands. Additional information pertaining to the application was submitted on August 7, 1979.

On August 30, 1979, the application was considered complete, and a PSD review for approvability was commenced. A preliminary determination (a determination pending public review) (PD) to approve this project was issued to MMA on December 14, 1979. A notice to the public was published in the *Avis* on January 11, 1980, requesting comments on the EPA PD and soliciting the need to hold a public hearing on such determination. The public comment period ended February 10, 1980; no public hearing was requested during the fifteen-day period in which requests were to be considered. On February 15, 1980, the EPA did receive a letter from MMA commenting on certain sections of the PD to approve the proposed project. These comments were reviewed and all necessary changes were made to EPA internal documents.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations. The MMA project was reviewed by the EPA in accordance with the requirements of the January 30, 1980, administrative order staying the 1978 PSD regulations. It was concluded that the project was still PSD affected and that it satisfied all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed 1979 regulations.

On June 6, 1980, the EPA issued a final determination of approvability (the PSD permit) and permission to commence construction was granted.

This approval is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25433 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-5]

Nepera Chemical Co.; Final Determination

In the matter of the proceedings under Title 1, Part C of the Clean Air Act (the Act) as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388 June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to the Nepera Chemical Company in Harriman, New York.

On July 27, 1978, the Environmental Protection Agency (EPA), Region II Office, was advised by letter from the Nepera Chemical Company (NCC) that the company had begun the construction of a new fume and waste water incinerator at their Harriman, New York chemical plant.

On September 7, 1978, the company was notified by letter from the EPA that the construction of the incinerator constituted a major modification to the chemical process plant (an existing major source). This determination was made based upon a review of the project in accordance with the June 19, 1978, PSD regulations. The company was advised to submit a PSD application.

On September 18, 1978, the company was advised by letter that certain process information was needed in conjunction with the previously requested PSD application. On that same day, a meeting was held the request of NCC to discuss the applicability of the PSD regulations to the new incinerator. The company was advised that the incinerator was subject to PSD and that if it became operational prior to obtaining a PSD permit, a Notice of Violation would be issued.

On October 13, 1978, a Notice of Violation was issued by EPA to NCC for the illegal construction of the incinerator. NCC was required to submit a PSD application with an acceptable best available control technology (BACT) proposal.

Between November, 1978 and May, 1979, the company submitted an initial PSD application (declared incomplete) and a number of information packages intended to satify Region II's completeness requirements. Also during this period, a number of meetings were convened between NCC and EPA to discuss the PSD review requirements.

On June 25, 1979, the NCC PSD application was declared complete and the review of approvability commenced. On October 25, 1979, a preliminary determination (PD) (a determination pending public review) to approve this project was issued to NCC. A notice to the public was published in the *Middletown Times Herald Record* on November 6, 1979, requesting comments on the EPA PD and soliciting the need to hold a public hearing on such determination. The public comment period ended December 6, 1979; the EPA received many written comments (including numerous requests for a public hearing) in response to the EPA PD. A public hearing was held in Harriman, New York on January 22, 1980.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

The EPA reviewed the NCC PSD application in conjunction with all of the comments received from the public and from the representatives of NCC. Based upon this information, it was determined that the NCC incinerator would meet all the requirements of the Act and the PSD requirements. On April 14, 1980, the EPA issued a final determination of approvability (the PSD permit) and permission to commence construction was granted.

This approval is final action under the Act. Under Section 307 (b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25432 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1579-3]

Science Advisory Board, Subcommittee on Health Risk Assessment; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Health Risk Assessment of the Science Advisory Board will be held on Septebmer 15 and 16, 1980, in the Auditorium, Environmental Research Center, U.S. Environmental Research Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. The meeeting will start at 9:00 a.m. on September 15, 1980. The Environmental Research Center is located at the intersection of Highway N.C. 54 and T.W. Alexander Drive. The Auditorium is located near the Visitors' Entrance.

The purpose of the meeting will be to consult the Subcommittee on plans and programs of EPA's Office of Air Quality Planning and Standards to develop suitable methodology for assessing health risks associated with alternative ambient air quality standards. Particularly, the Subcommittee will review and discuss several specific plans and approaches suggested by outside EPA research groups involved in developing suitable methodology. The Agenda will also include informational items of current interest to the Subcommittee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper, or wishing further information should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 8, 1980. Please ask for Mrs. Patricia Howard of Mr. Ernst Linde. The telephone number is (202) 472-9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

August 13, 1980.

[FR Doc. 80-25434 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-2]

Prevention of Significant Deterioration of Air Quality (PSD) Permit; Pittston Co.; Request for Extension

AGENCY: U.S. Environmental Protection Agency, Region I.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has received a request from the Pittston Company to extend its Prevention of Significant Deterioration of Air Quality (PSD) Permit, which expires on August 18, 1980. The Company has asked that this extension run for (eighteen months from a final, non-reviewable order in the cases in the United States Court of Appeals for the First Circuit challenging the validity of that permit). (*Carr* v. *EPA*, Nos. 78-1443, 78-1484, 78-1486 and 78-1487). EPA's respone to the Company's request is reprinted below.

Because of potential public interest in this matter, EPA has decided in its discretion to allow any interested member of the public until September 18, 1980 to comment on the merits of the Company's request for an extension. EPA will respond by October 18, 1980 to any comments and will render a decision on the Company's request at that time. EPA has allowed an interim extension of the Company's PSD permit until October 18, 1980 in order to preserve the status quo during the comment period. Comments should be addressed to Susan E. T. Studlien, Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building Room 2203, Boston, Massachusetts 02203.

Documents relevant to the Company's request are available during normal business hours at the Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building Room 2203, Boston, Massachusetts 02203, at the Public Information Reference Unit, U.S. Environmental Protection Agency, Waterside Mall Building, 401 M Street, S.W., Washington, D.C. 20460, at the Eastport Public Library, Eastport, Maine 04361 and the Department of Environmental Protection, Ray Building, Augusta, Maine 04333.

For further information please contact Susan E. T. Studlien, Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223-5246.

Leslie A. Carothers,

Deputy Regional Administrator, U.S. Environmental Protection Agency Region I.

August 15, 1980.

Jonathan B. Hill, Esq.,
Dow, Lohnes & Albertson,
1225 Connecticut Avenue,
Washington, D.C. 20036.

Dear Mr. Hill: I am in receipt of your letter dated August 5, 1980 requesting a further extension of the Pittston Company's Prevention of Significant Deterioration of Air Quality (PSD) Permit for eighteen months dating from a final, non-reviewable order in cases in the United States Court of Appeals for the First Circuit challenging the validity of that permit.

Comment on the merits of a further extension has been submitted by the Roosevelt Campobello International Park Commission, and a request for an opportunity to comment has been made by the Natural Resources Council of Maine. It is EPA's view that the Agency can consider comment without harm to the interests of the Company. Becuase of potential interest by a wider public in this matter, I hereby allow any interested member of the public until September 18, 1980 to comment on the merits of the Company's request and I allow EPA until October 18, 1980 to respond to any comments that are received. Pursuant to my authority under 40 CFR § 52.21(r)(2) [40 CFR § 52.21(s)(2) (1978), 40 CFR § 52.21(e)(3) (1977)], I find good cause to allow an interim extension of the Company's PSD permit until October 18, 1980 to preserve the status quo during this comment period. This interim extension is hereby allowed.

I will notify the public of the opportunity to comment on the Company's request by publication of this letter in the Federal Register.

Sincerely yours,

William R. Adams, Jr.,

Regional Administrator.

A. F. Kaulakis, *Vice President*, The Pittston Company; Douglas Costle, *Administrator*, EPA; David Hawkins, Esq., *Assistant Administrator*, Air and Hazardous Materials; Peter Wyckoff, Esq., Office of General Counsel; Atty. Nancy Long, The Justice Department; Mr. Doc Hodgins, Friends of Eastport; John Lund, Esq., Atty. Virginia Davis, Maine Natural Resources Council; Alan Wilson, Esq., Conservation Law Foundation; Wayne Henderson, Esq., New England Legal Foundation; Howard William Carr, Tidal Power Publications; Bruce J. Terris, Esq., Atty. Karen A. Edgecombe, Roosevelt-Campobello, International Park Commission.

[FR Doc. 80-25630 Filed 8-20-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing and Notification of Cut-Off Date

Released: August 4, 1980.

Cut-Off Date: September 11, 1980.

Notice is hereby given that the TV and FM translator applications listed in the attached Appendix below will be considered ready and available for processing after September 11, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 11, 1980, 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 September 11, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on September 11, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT-790918IJ (new), Tampa, Florida, Joaquin Blaya, Req: Channel 50, 686-692 MHz, 1000 watts, Primary: KWEX-TV, San Antonio, Texas.

BPTT-791010IA (new), Boston, Massachusetts, Boston Latino Television, Req: Channel 62, 758-764 MHz, 1000 watts, Primary: KWEX-TV, San Antonio, Texas.

BPTT-800514IB (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 27, 548-554 MHz, 100 watts, Primary: KHJ-TV, Los Angeles, California.

BPTT-800514IA (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 21, 512-518 MHz, 100 watts, Primary: KNXT-TV, Los Angeles, California.

BPTT-800514IE (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 38, 614-620 MHz, 100 watts, Primary: KBAK-TV, Bakersfield, California.

BPTT-800519ID (new), Plainview, Hichsville, New York, Bogner Broadcast Equipment Corporation, Req: Channel 59, 740-746 MHz, 100 watts, Primary: WVIA-TV, Scranton, Pennsylvania.

BPTT-800505IS (new), Huntsville & Rural Weber County, Utah, University of Utah, Req: Channel 55, 716-722 MHz, 100 watts, Primary: KUED-TV, Salt Lake City, Utah.

BPTT-800505IT (new), Hatch, Utah, University of Utah, Req: Channel 56, 722-728 MHz, 20 watts, Primary: KUED-TV, Salt Lake City, Utah.

BPTT-800513IA (new), Myton & Rural Area, Utah, Duchesne County, Req: Channel 67, 788-794 MHz, 100 watts, Primary: KSTU-TV, Salt Lake City, Utah.

BPTT-800514IC (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 31, 572-578 MHz, 100 watts, Primary: KTTV-TV, Los Angeles, California.

BPTT-800514ID (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 35, 596-602 MHz, 100 watts, Primary: KCOP-TV, Los Angeles, California.

BPTT-800514IF (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 25, 536-542 MHz, 100 watts, Primary: KNBC-TV, Los Angeles, California.

BPTT-800516IA (new), Buellton & Solvang, California, International Panorama TV, Inc., Req: Channel 53, 704-710 MHz, 100 watts, Primary: KTBN-TV, Fontana, California.

BPTT-800522IB (new), Portales, New Mexico, Panhandle Telecasting Company, Req: Channel 59, 740-746 MHz, 100 watts, Primary: KFDA-TV, Amarillo, Texas.

BPTT-800522IC (new), Bovina & Rural Area, Texas, Panhandle Telecasting Company, Req: Channel 63, 764-770 MHz, 100 watts, Primary: KFDA-TV, Amarillo, Texas.

BPTT-800522ID (new), Hereford & Friona, Texas, Panhandle Telecasting Company, Req: Channel 67, 788-794 MHz, 100 watts, Primary: KFDA-TV, Amarillo, Texas.

VHF TV Translator Applications

BPTTV-800506ID (new), Batesburg & Leesville, South Carolina, Capital Communications, Inc., Req: Channel 2, 54-60 MHz, 1 watt, Primary: WLTX-TV, Columbia, South Carolina.

BPTTV-800519IN (new), Black Butte Ranch, Oregon, Brooks Resources Corporation, Req: Channel 5, 76-82 MHz, 10 watts, Primary: KOIN-TV, Portland, Oregon.

BPTTV-800521IA (new), Mt. Gate, Silverthorn & Bridge Bay Area, California, Req: Channel 3, 60-66 MHz, 10 watts, Primary: KRCR-TV, Redding, California.

BPTTV-800522IA (new), Steamboat, Oregon, State of Oregon Acting By & Through The State, Board of Higher Education, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KVDO-TV, Salem, Oregon.

BPTTV-800522IE (new), Sioux Falls, South Dakota, Gillett Broadcasting of South Dakota, Inc., Req: Channel 7, 174-180 MHz, 10 watts, Primary: KXON-TV, Mitchell, South Dakota.

BPTTV-800528IC (new), Gila Center Federal Housing Area & Gila Hotsprings Community, New Mexico, Gila Center Recreation Association, Req: Channel 7, 174-180 MHz, 1 watt, Primary: KOLD-TV, Tucson, Arizona.

FM Translator Applications

BPFT-800103IG (new), Yucaipa, California, SW Broadcasting Company, Inc., Req: Channel 252, 98.3 MHz, 1 watt, Primary: KCAL-FM, Redlands, California.

BPFT-800103IH (new), San Clemente, Laguna Hills, Santa Ana, & Orange, California, El Camino Broadcasting Corporation, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KWVE-FM, San Clemente, California.

BPFT-800104IR (new), Dead Indian & Emigrant, Oregon, State of Oregon Acting By & Through The State, Board Of Higher Education, Req: Channel 203, 88.5 MHz, 10 watts, Primary: KSOR-FM, Ashland, Oregon.

BPFT-800122ID (new), Oakridge, Oregon, Lane Community College, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KLCC-FM, Eugene, Oregon.

BPFT-791108IS (new), Washington & Rural Washington County, Utah, University of Utah, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KUER-FM, Salt Lake City, Utah.

BPFT-800228IC (new), Missoula, Arlee, Frenchtown & Ovando, Montana, Rocky Mountain Bible Mission, Req: Channel 214, 90.7 MHz, 10 watts, Primary: KMBI-FM, Spokane, Washington.

BPFT-800327IB (new), Freeport, Illinois, Northwestern Illinois Radio Fellowship, Inc., Req: Channel 202, 88.3 MHz, 1 watt, Primary: WMBI-FM, Chicago, Illinois.

BPFT-800620IC (new), Laguna Beach, California, Saddleback Community College District, Req: Channel 206, 89.1 MHz, 1 watt, Primary: KSBR-FM, Mission Viejo, California.

VHF TV Translator Applications

BPTTV-791205IH (new), Harrison, Nebraska, Harrison Men's Community Club, Req: Channel 9, 186-192 MHz, 5 watts, Primary: KIVV-TV, Lead-Deadwood, South Dakota.

BPTTV-800619ID (new), Bozeman, Montana, Garryowen Corporation, Req: Channel 9, 186-192 MHz, 100 watts, Primary: KTVQ-TV, Billings, Montana.

UHF TV Translator Applications

BPTT-791015IH (new), Las Vegas, Nevada, Las Tree Campanas Television, Req: Channel 27, 548-554 MHz, 1000 watts, Primary: KWEX-TV, San Antonio, Texas.

BPTT-800110IE (new), Carrizozo, Oscura & Three Rivers, New Mexico, New Mexico Broadcasting Company, NSL, Req: Channel 57, 728-734 MHz, 100 watts, Primary: KGGM-TV, Albuquerque, New Mexico.

BPTT-800110IF (new), Alamogordo & Holloman AFB, New Mexico, New Mexico Broadcasting Company, NSL, Req: Channel 65, 776-782 MHz, 100 watts, Primary: KGGM-TV, Albuquerque, New Mexico.

BPTT-800131IB (new), Romeo, La Jara, Manassa, Antonito & Alamosa, Colorado, Capitol Of Colorado Corporation, Req: Channel 57, 728-734 MHz, 100 watts, Primary: KKTV-TV, Colorado Springs, Colorado.

BPTT-800313II (new), Victoria, Texas, South Texas Educational Broadcasting Council, Req: Channel 25, 536-542 MHz, 1000 watts, Primary: KEDT-TV, Corpus Christi, Texas.

FM Translator Applications

BPFT-800122IC (new), Florence, Oregon, Lane Community College, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KLCC-FM, Eugene, Oregon.

[FR Doc. 80-25412 Filed 8-20-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-627-DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-627-DR), dated August 11, 1980, and related determinations.

DATED: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is herey given that, in a letter of August 11, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from Hurricane Allen beginning on or about August 10, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance to supplement State and local resources, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal government will provide 75 percent of all eligible public assistance under Pub. L. 93-288.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Dale Milford of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance only:

Cameron	Nueces
Jim Wells	San Patricio
Kleberg	Willacy

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-25384 Filed 8-20-80; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2146]

Flamingo Freight Forwarders, Daniel G. Ellyn, d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Flamingo Freight Forwarders (Daniel G. Ellyn, dba), 5336 West 4th Ln., Hialeah, Florida 33012, FMC No. 2146, was cancelled effective August 14, 1980.

By letter dated July 16, 1980, Flamingo Freight Forwarders (Daniel G. Ellyn, dba) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2146 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Flamingo Freight Forwarders (Daniel G. Ellyn, dba) has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2146 be and is hereby revoked effective August 14, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 2146, issued to Flamingo Freight Forwarders (Daniel G. Ellyn, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Flamingo Freight Forwarders (Daniel G. Ellyn, dba).

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-25402 Filed 8-20-80; 8:45 am]

BILLING CODE 6730-01-M

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 section 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, except as noted, received by the appropriate Federal Reserve Bank not later than September 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (mortgage lending activities; Washington): to engage through its subsidiary, Citicorp Washington Financial Center, Inc., in the activity of originating, for its own account and for the account of others, first mortgage loans secured by residential or commercial properties. This activity would be conducted from offices in Spokane, Kennewick, Everett, Yakima, Seattle, Bellevue, Wenatchee, Tacoma, Olympia, and Federal Way, Washington, serving the State of Washington.

2. Citicorp, New York, New York (consumer finance and insurance activities): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc. in conducting previously approved activities from an office located at Wheatridge, Colorado including, purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit; and the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. and to the extent permissible under applicable state insurance laws and regulations. The service area for the activity involving the sale of property and casualty insurance will be expanded to cover the entire State of Colorado. Comments on this application must be received by September 9, 1980.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-35375 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

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 section 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, except as noted, received by the appropriate Federal Reserve Bank not later than September 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (financing and mortgage banking activities; Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, Wisconsin, and the District of Columbia): to engage, through a *de novo* office of its subsidiary, Citicorp Homeowners, Inc., in making, acquiring and servicing extensions of credit secured by liens on residential real estate, and in originating 1–4 family residential mortgage loans. These activities will be conducted from an office to be located at 680 Craig Road, Creve Coeur, Missouri. The office will serve the following states and the District of Columbia; Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, and Wisconsin. Comments on this application must be received by September 11, 1980.

2. Irving Bank Corporation, New York, New York (financing and leasing activities; nationwide): to engage, through its subsidiary, Irving Business Services, Inc., in soliciting and servicing credit and other relationships for Irving Bank Corporation's direct and indirect subsidiaries, including marketing credit and other services offered by, and assisting in the negotiation of the terms of transactions with, Irving Bank Corporation's direct and indirect subsidiaries, and servicing and monitoring extensions of credit and other relationships entered into by Irving Bank Corporation's direct and indirect subsidiaries; making loans and other extensions of credit, and leasing personal property in accordance with the Board's Regulation Y. These activities will be conducted from its principal office in New York, New York and offices in Atlanta, Georgia; Chicago, Illinois; Cincinnati, Ohio; Dallas, Texas; Los Angeles, California; and Minneapolis, Minnesota, serving a nationwide service area. Comments on this application must be received by September 11, 1980.

3. Citicorp, New York, New York (first mortgage lending; Utah): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc. in the origination, for its own account for the account of others, of first mortgage loans secured by residential or commercial properties. The new activity will be offered from an existing office in Salt Lake City and will serve the entire state of Utah.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Bancorp Hawaii, Inc., Honolulu, Hawaii (industrial loan and credit related insurance activities; Hawaii): to open a *de novo* branch office of its subsidiary, Bancorp Finance of Hawaii, Inc., and to engage through this subsidiary in industrial loan business and to act as agent or broker in the sale of credit-related life, accident and health insurance. These activities will be conducted from an office in Kailua-Kona, Hawaii, and the area to be served is the entire west side of the island of Hawaii. Comments on this application must be received by September 13, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Fedral Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25379 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

CB Bancshares, Inc.; Formation of Bank Holding Company

CB Bancshares, Inc., Honolulu, Hawaii, 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 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to City Bank, Honolulu, Hawaii. 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 San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. 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, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25378 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

H & H Financial Corp.; Formation of Bank Holding Company

H & H Financial Corporation, Kokomo, Indiana, 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 90 percent or more of the voting shares of First National Bank, Kokomo, Indiana. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1980. 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, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25374 filed 8-20-80; 8:45 a.m.]

BILLING CODE 6210-01-M

Kupka's, Inc.; Proposed Retention of General Insurance Agency Activities

Kupka's Inc., Traer, Iowa, 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 retain First Insurance Agency, Traer, Iowa, a general insurance agency in a community with a population not exceeding 5,000. The geographic area to be served is the area within a 15 mile radius of Traer, Iowa. 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 September 15, 1980.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25373 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Ranier Bancorp.; Proposed Acquisition of Roger R. Post & Co., Inc.

Ranier Bancorporation, Seattle, Washington, 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 acquire through its wholly-owned subsidiary, Ranier Mortgage Company ("Ranier"), voting shares of Roger R. Post & Company, Inc. ("Post"), Monterey, California.

Applicant states that Ranier, into which Post will be merged, would engage in the activities of mortgage banking, including the origination and servicing of mortgage loans, and the sale of credit-related insurance. These activities would be performed from offices of Ranier in Kalispell, Montana; Monterey, Eureka, Fairfield, Oxnard, Redding, Sacramento, and Whittier, all in California; Coeur D'Alene, Idaho Falls, Pacatello, and Twin Falls, Idaho; and Lander and Rock Springs, Wyoming. The geographic areas to be served are the states of California, Wyoming, Montana, and Idaho, particularly in the vicinities surrounding the above-listed offices. 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 outweight 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 San Francisco.

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 September 15, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25372 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc.; Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, 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 100 percent of the voting shares of Texas Commerce Bank—Northwest Freeway, National Association, Houston, Texas, a proposed new bank. 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 September 14, 1980. 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, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25376 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

United Missouri Bancshares, Inc.; Acquisition of Bank

United Missouri Bancshares, Inc., Warsaw, Missouri, 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 81.8 percent or more of the voting shares of Warsaw Bancshares, Inc., Warsaw, Missouri and its subsidiary bank, Community Bank of Warsaw, Warsaw, 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 September 5, 1980. 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, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25377 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

B.P.C Corp.; Formation of Bank Holding Company

B.P.C. Corporation, Cookeville, Tennessee, has applied for the Board's approval under 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 Bank of Putnam County, Cookeville, Tennessee. The factors that are considered in acting on the application are set forth in 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why 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, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25427 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Century Banks, Inc.; Acquisition of Bank; Proposal To Engage in Insurance Activities; Correction

This notice corrects a previous Federal Register Document (FR Doc. 24468) appearing at page 53874 of the issue for Wednesday, August 13, 1980. The first paragraph is corrected to read as follows:

Century Banks, Inc., Fort Lauderdale, Florida, 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 80 per cent or more of the voting shares of State Bank of Apopka, Apopka, Florida. 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)).

Board of Governors of the Federal Reserve System, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25429 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on July 9, 1980, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on August 12, 1980.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, August 15, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-25431 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of July 9, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 9, 1980.[1]

The information reviewed at this meeting indicates a marked contraction in real GNP in the second quarter. In May total retail sales declined substantially for the fourth consecutive month, and housing starts, industrial production, and nonfarm payroll employment continued to decline. Employment fell sharply further in June; however, the unemployment rate edged down from 7.8 to 7.7 percent, following large increases in April and May. The overall rise in prices of goods and services has moderated in recent months, in large part owing to a lessening of the rapid rise in energy items. Over the first six months of the year, the rise in the index of average hourly earnings was moderately faster than the pace recorded in 1979.

The downward pressure on the dollar in exchange markets that emerged in early April abated in mid-June, and then was resumed in early July. The average U.S. foreign trade deficit for April and May was well below the average for the first quarter, reflecting reduced oil and non-oil imports.

Monetary expansion was rapid in June, following weakness earlier in the spring. Over the first half of the year growth of M-1A and M-1B fell short of the rates consistent with the Committee's ranges for the year from the fourth quarter of 1979 to the fourth quarter of 1980; the rate of growth for M-2 was just above the lower bound of its range. Outstanding bank loans to business declined substantially during the second quarter following a large increase in the first quarter. Market interest rates declined considerably further in late May and the first half of June, but since then most rates have retraced part of the decline. Reductions in Federal Reserve discount rates from 13 to 11 percent in equal steps were announced on May 28 and June 12.

Taking account of past and prospective economic developments, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressure while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agrees that these objectives would be furthered by growth of M-1A, M-1B, M-2, and M-3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit is 6 to 9 percent.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth of M-1A, M-1B, and M-2 over the third quarter of 1980 at annual rates of about 7 percent, 8 percent, and 8 percent respectively, provided that in the period before the next regular meeting the weekly average Federal funds rate remains within a range of 8½ to 14 percent.

If it appears during the period before the next meeting that the constraint on the Federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

Note.—On July 29, 1980, the Committee agreed that for the period from the fourth quarter of 1980 to the fourth quarter of 1981, it looked toward a reduction in the ranges for growth of M-1A, M-1B, and M-2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates.

By order of the Federal Open Market Committee, August 15, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-25430 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of July 9, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Royal Bancshares, Inc.; Formation of Bank Holding Company

Royal Bancshares, Inc., University City, 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 percent or more of the voting shares (less directors' qualifying shares) of Citizens Bank of University City, University City,

Missouri, and West Side National Bank, Glendale, 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1980. 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, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25428 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Weyerhaeuser Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Trendmaker Homes, Inc. from Alfred H. Mayer. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Weyerhaeuser Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Sections 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25498 Filed 8-20-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-20]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Jersey Board of Public Utilities involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Jersey Board of Public Utilities involving the application of the Jersey Central Power and Light Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25461 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AM-M

[F-80-15]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Louisiana Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Louisiana Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 5, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-25462 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-25-M

[GSA Bulletin FPR 47]

Federal Procurement

August 7, 1980.

To: Heads of Federal agencies.

Subject: Quarterly updates of the Qualified Film Producers List (QFPL) and Qualified Videotape Producers List (QVPL).

1. *Purpose.* This bulletin provides information regarding quarterly updates of the Qualified Film Producers List (QFPL) and Qualified Videotape Producers List (QVPL).

2. *Expiration date.* This bulletin expires August 6, 1981 unless earlier revised or superseded.

3. *General.* Federal Procurement Regulations (FPR) Temporary Regulation 53, March 31, 1980, implemented the Office of Federal Procurement Policy (OFPP) Letter 79-4, dated November 28, 1979, which directed the establishment of a uniform Government-wide system for contracting for motion picture and videotape productions. The OFPP Executive Agent for that system issues memorandums quarterly which provide updates to the basic Qualified Film Producers List (QFPL) (GSA Bulletin FPR 43, April 16, 1980) and the basic Qualified Videotape Producers List (QVPL) (GSA Bulletin FPR 44, May 12, 1980). These memorandums, with attachments, are distributed directly to OFPP Agency Points of Contact, Federal Audiovisual Committee Members, and QFPL/QVPL Points of Contact.

4. *Agency action.*—a. Agencies not receiving the updates or requiring extra copies should write to: Executive Agent, Government-wide Contracting System for Audiovisual Productions, DOD Directorate for Audiovisual Activities, 1117 North 19th Street, Room 601, Arlington, VA 22209.

b. Questions may be directed to Major Richard H. Zigler (202 694-4914/4944).

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-25463 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-61-M

Qualifications Review Panel for the Position of Director, Gerald R. Ford Library; Establishment of Committee

Establishment of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and advises of the establishment of the Qualifications Review Panel for the Position of Director, Gerald R. Ford Library. The Administrator of General Services has determined that establishment of this ad hoc advisory committee is in the public interest.

Designation. Qualifications Review Panel for the Position of Director, Gerald R. Ford Library.

Purpose. The committee will review the Personal Qualifications Statement (SF-171) of candidates for the position of Director of The Gerald R. Ford Library and recommend to the GSA Merit Selection Panel those applicants considered to be best qualified for referral to the Archivist of the United States for final selection.

General Information. Pursuant to Office of Management and Budget Circular A-63, the Committee Management Secretariat has authorized a period of less than 15 days between publication of this notice and the filing of the committee charter.

Dated: August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25464 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, The Research Work Group; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of September 1980.

The Research Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, September 19; 2:00 p.m.—Open, Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Contact: Charles T. Kaelber, Room 16C-16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2958.

Purpose: The Research Work Group evaluates all Federal alcohol and alcoholism related research efforts, seeks to coordinate these programs and activities, and submits any reports or recommendations to the Interagency Committee of the National Institute on Alcohol Abuse and Alcoholism.

Agenda: The meeting will consist of a discussion on the NIAAA Alcohol Research Center Program.

Substantive program information may be obtained from the contact person listed above. The NIAAA Committee Management Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Helen Garrett, Room 16C-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Dated: August 15, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-25362 Filed 8-20-80; 8:45 am]

BILLING CODE 4110-88-M

Health Resources Administration

National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1980:

Name: National Advisory Council on Nurse Training.

Date and Time: October 29-31, 1980, 9:00 a.m.

Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Open October 29, 9:00 a.m.-12:00 noon.

Closed remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for open portion of meeting will cover announcements; consideration of minutes of previous meeting; discuss future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S.C. and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources Administration, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6681.

Agenda items are subject to change as priorities dictate.

Dated: August 14, 1980.

Irene D. Skinner,

Advisory Committee Management Officer, HRA.

[FR Doc. 80-25363 Filed 8-20-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-26]

Intended Environmental Impact Statement on Village Nine Subdivision, Mesa Co., Colo.

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is

intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Village Nine Subdivision, Mesa County, Colorado. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues 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., August 15, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Village Nine Subdivision, Mesa County, Colorado

The HUD Area Office in Denver, Colorado intends to prepare an EIS on Village Nine Subdivision, described below, and requests information and comments for consideration in the EIS.

Description. Approximately 640 dwelling units (single-family and multi-family) will be built in Mesa County, Colorado, approximately two miles southeast of downtown Grand Junction, Colorado and within about 100 yards of the city limits on the west side.

Need. An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or reject participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Grand Junction Colorado.

Comments. Comments should be forwarded on or before September 11, 1980, to Mr. Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 80-25435 Filed 8-20-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

National OSC Advisory Board, Pacific States Regional Technical Working Group Committee; Meeting

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf Office.

ACTION: National Outer Continental Shelf Advisory Board, Pacific States Regional Technical Working Group Committee; notice and agenda for meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Pacific States Regional Technical Working Group Committee of the National OCS Advisory Board will meet during the period 9:00 a.m. to 3:30 p.m., September 15, 1980 at Amfac Hotel—Room Kent B; 8601 Lincoln Bl., Los Angeles, California.

The agenda for the meeting will cover the following topics:

(1) Oil Spill Containment and Clean-up Technology Briefing.

(2) Sale #68: EIS Scoping.

A detailed agenda will be available by August 29, 1980.

This meeting is open to the public. Interested persons may make oral or written presentations to the Committee. Such requests should be made no later than August 28, 1980 to: Ellen Aronson, Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017 (213/688-6758). Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017.

Bureau of Land Management, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20340

Date: August 11, 1980

William E. Grant,

Manager, Pacific Outer Continental Shelf Office.

[FR Doc. 80-25364 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 80-23]

Environmental Statements, Availability; Anaconda Nevada Moly Project

AGENCY: Bureau of Land Management.

ACTION: Notice of availability of the final environmental impact statement (FEIS) on the Anaconda Copper Company's proposed Nevada Moly Project.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a FEIS concerning the Anaconda Copper Company's proposal to develop, mine, and mill a deposit of molybdenum ore. A major part of the proposal is the proposed construction of an 86-mile long 230 kV powerline by the Sierra Pacific Power Company to provide power for the mine/mill complex. The FEIS contains only comments, responses and minor changes to the Draft Environmental Impact Statement (DEIS) and should be used together with the DEIS. This revised procedure has saved substantial time, money, and paperwork and is authorized under 40 CFR 1503.4(c). The EIS analyzes the impacts of the proposal, alternate routing of the powerline and a range of materials for its construction, as well as alternative means of milling the ore. The DEIS was made available to the public April 18, 1980, with comments due by June 2, 1980. The DEIS was the subject of public hearings in Tonopah, Nevada, on May 13, 1980, and in Austin, Nevada, on May 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Gene Nodine, Battle Mountain District Office, P.O. Box 194, Battle Mountain, NV 89820, (702) 635-5181.

Pat Clason, Division of Rights of Way and Project Review, Bureau of Land Management, 18th & C Streets, N.W., Washington, D.C. 20240, (202) 343-5441.

Mike Walker, Branch of Environmental Coordination, Bureau of Land Management, P.O. Box 12000, Reno, NV 89520, (702) 784-5602.

SUPPLEMENTARY INFORMATION: A limited number of copies are available upon request at the following offices:

Battle Mountain District Office, P.O. Box 194, Battle Mountain, NV 89820.

Tonopah Resource Area Headquarters Bldg., 102 Old Radar Base, Tonopah, NV 89049.

Bureau of Land Management, Nevada State Office, P.O. Box 12000, 300 Booth St., Reno, NV 89520.

Also, copies are available for review at public libraries in Tonopah, Battle Mountain, Austin, and Reno, Nevada.

Dated: August 12, 1980.

Roger McCormack,

Associate State Director, Nevada.

[FR Doc. 80-25370 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

[U-45949]

Public Lands in Millard County, Utah; Realty Action—Sale

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the fair market value shown:

Legal description	Acreage	Value
T. 15 S. R. 6 W., S.L.M.:		
Sec. 18 SW¼NW¼SW¼	200	
Sec. 19 NW¼, N½SW¼, SW¼SW¼	280	
T. 15 S., R. 7 W., S.L.M.:		
Sec. 10 All	640	
Sec. 11 All	640	
Sec. 12 SW¼SW¼	40	
Sec. 13 SE¼NE¼, E½SE¼, W½E½, W½	600	
Sec. 14 All	640	
Sec. 15 All	640	
Sec. 22 Lots 1, 2, 4, 6, and 9	100.59	
Sec. 23 Lots 1, 3, 5, and 6; N½N½, SE¼NE¼	311.28	
Sec. 24 Lots 1, 2, 5, and 7: N½, N½SE¼	522.91	
Total	4,614.78	$692,200

The sale will be made on approximately the 21st day of November, 1980.

The lands are being sold to the Intermountain Power Agency for development of a generating plant. The sale of these lands will serve important public objectives which cannot be achieved on lands other than public land. These objectives outweigh the values derived by livestock grazing which is the present and projected use of the land. Because the Intermountain Power Agency is the only utility that can reasonably be expected to complete the project at the present time, the land will be sold without competitive bidding.

The Environmental Statement written for this project considered several alternative sites for a generating plant. Two of the sites, Salt Wash and Lynndyl, were submitted to the Secretary of the Interior for consideration. However, the Secretary approved the Lynndyl site. The sale is consistent with the Bureau's planning the lands involved, and has been discussed with county and state government officials. The public interest would be well served by offering these lands for sale.

The terms and conditions applicable to the sale are:

1. The total purchase price for the land will be paid at the time of the sale.
2. The patent will contain a reservation for ditches and canals.
3. All minerals will be reserved to the United States.
4. The patent will be subject to all valid existing rights.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Richfield Bureau of Land Management Office, 150 East 900 North, Richfield, Utah 84701.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (LLM-320). Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior and the required payment will be requested of the Intermountain Power Agency. Such payment, shall be in accordance with 43 CFR 1822.1-2.

Dated: August 13, 1980.

Robert E. Anderson,

Acting State Director, Utah.

[FR Doc. 80-25371 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona, Phoenix District, Bureau of Land Management, Multiple Use Advisory Council; Meeting

The first meeting of the Phoenix District, BLM, Multiple Use Advisory Council will be held September 24 and 25, 1980. The meeting will be held at the District Headquarters, 2929 West Clarendon Avenue, Phoenix, Arizona, between 1:00-5:00 P.M. on September 24, and 8:00 A.M.-12:00 Noon on September 25. the Council has been established by, and will be managed according to, the Federal Advisory Committee Act of 1972, The Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The proposed agenda for the meeting includes:

1. Introduction and biographical sketch of members.
2. Discussion of agenda and meeting objectives.
3. Discussion of the function of the Council.
4. Description of the District Organization and introduction of staff.
5. Overview of District activities.
6. Issues and Programs in the Lower Gila, Kingman, and Phoenix Resource Areas.
7. Land-Use Planning and EIS Schedule.
8. Annual Work Plan—Budget System.
9. Election of Officers.
10. Public comment and statements.
11. Discussion of Council objectives.
12. Future meetings and agenda topics.

The meeting is open to the public. Interested persons may make oral statements to the Council between 9:00-9:30 A.M. on September 25 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by September 17, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact Frank Splendoria (602) 241-2501.

Dated: August 11, 1980.

William K. Barker,

District Manager.

[FR Doc. 80-25448 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Availability of Photo Alignment Maps Depicting Proposed Northern Tier Pipeline Route Across Federal Lands

August 15, 1980.

Photo alignment maps as listed in Exhibit B of the Federal Right-of-Way Grant (45 FR 30143) indicating the proposed routing of the Northern Tier Pipeline across Federal lands are available for public review in the following offices:

Citizens Information Office, Attention: Jan Buoy, 220 West 1st Street, Port Angeles, Washington 98362.

Capt. W. H. Byng, Commanding Officer, Whidbey Island Naval Air Station, Attention: Commander Robert Booth, Naval Air Station, Whidbey Island, Oak Harbor, Washington 98278.

Mr. Bill Lowery, District Ranger, Cle Elum Ranger District, West 2nd Street, Cle Elum, Washington 98922.

Don Campbell, Forest Supervisor, U.S. Forest Service, Attention: Sam Nagel, Lands and Minerals, 1601–2nd Avenue, Seattle, Washington 98101.

Mr. Roger Burwell, District Manager, Bureau of Land Management, Attention: Jerald Spessard, Energy Coordinator, West 920 Riverside, Room 551 Courthouse Building, Spokane, Washington 99201.

Mr. Joseph Zimmer, District Manager, Bureau of Land Management, Attention: Lynn Sheldon, Area Manager, 1808 North 3rd, Coeur d'Alene, Idaho 83814.

Tom Coston, Regional Forester, U.S. Forest Service, Region 1, Attention: Ray Karr, Information Office Director, 200 E. Broadway, Missoula, Montana 59801.

Mr. Jack Fisher, Energy Coordinator, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Mr. Neil Morck, Chief, Energy Rights-of-Way Staff, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59101.

George Neuberg, District Manager, Bureau of Land Management, Attention: Don Nelson, Area Manager, West Highway 10, Miles City, Montana 59301.

Mr. Gilbert Key, Area Manager, U.S. Fish and Wildlife Service, Attention: Lyle Schoonover, 1500 Capitol Avenue, Bismarck, North Dakota 58501.

FOR FURTHER INFORMATION CONTACT: Gary Gebhardt (406) 657–6457 at the above address.

Bill D. Noble,

Acting State Director.

[FR Doc. 80–25446 Filed 8–20–80; 8:45 am]

BILLING CODE 4310–84–M

Montana; Requesting Filing of all Existing Surface Owner Consent Agreements or Refusal To Consent Agreements for Surface Mining of Federal Coal

August 15, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR 3427, the Bureau of Land Management (BLM) is advising the public that valid written consent, or evidence thereof, which would permit surface mining of the underlying federal coal, given by qualified surface owners, should be filed with the Montana State Office, BLM.

In addition, at this time, written statements from qualified surface owners of refusal to consent to surface coal leasing may be filed with the Montana State Office.

This notice applies only to areas identified as acceptable for further consideration for coal leasing in the Colstrip and Ashland areas in the South Rosebud Management Framework Plan (MFP), the Ashland and Otter Creek areas in the Coalwood MFP and the Decker area in the Decker-Birney MFP. The MFP's are located in the Montana portion of the Powder River Federal Coal Production Region.

DATES: Copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners should be received by September 15, 1980. Valid written consents given for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the federal government (split estate lands) will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, in accordance with the announced schedule of regional lease sales set forth by Secretarial decision. However, submission at this time, of consent documents that presently exist will provide information regarding whether the public interest would be served by offering for lease the federal coal lands to which the qualified surface owner consents apply. The lack of a valid written consent at this time will not preclude consideration of federal coal tracts during the coal activity planning process, but it is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

To preclude consideration of lands that cannot be leased, we encourage written statements from qualified surface owners who firmly refuse to consent to surface coal leasing to be filed with the Montana State Office.

ADDRESSES: Copies of the surface owner consent agreements, or evidence thereof, should be sent to Montana State Office, BLM, P.O. Box 30157, Billings, Montana, 59107, Attention: MSEL. Information concerning the requirements for surface owner consent agreements or statements of refusal to consent may also be obtained from this address.

Maps showing the areas acceptable for further consideration for coal leasing in the Montana portion of the Powder River Federal Coal Production Region may be obtained at the BLM Montana State Office at 222 N. 32nd Street, Billings, Montana.

FOR FURTHER INFORMATION CONTACT: Robert Webb, Montana State Office, P.O. Box 30157, Billings Montana 59107, (406) 657–6474.

SUPPLEMENTARY INFORMATION: The BLM is requesting that valid written consent agreements, or evidence thereof, for lands in which the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the federal government (split estate lands) should be filed with the Montana State Office, at the address given above, by September 15, 1980.

The information being sought by the BLM will be used in the federal coal activity planning process by the Powder River Regional Coal Team and will provide information regarding whether the public interest would be served by offering the lease for federal coal lands to which the consents apply. Valid written consents will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, as set forth in the Secretarial decision and announcement of regional lease sales to be scheduled, in accordance with 43 CFR 3427.2(a) and 3420.6–2(b). However, early submission of surface owner consent documents that currently exist will aid the Regional Coal Team in considering the split estate coal tracts during the tract delineation, ranking and scheduling. As indicated in 43 CFR 3420.6–1(b) and 3427.2(d), split estate tracts that would be mined by other than underground mining techniques, covered by written consents that have been filed with the appropriate BLM State Office before a decision on a pending regional coal lease sale schedule, will be given priority over those split estate tracts where there is no written consent from the qualified surface owner, all other factors being nearly equal. Surface owner consents may still be entered into during the activity planning stage, but parties intending to file written consents are responsible for being aware of pending lease sale notice dates. Information concerning lease sale notice dates may be obtained from the Montana State Office at the address given above.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5 (pp)), "Qualifed surface owner means the natural person or persons (or

corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have there principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "* * * the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type of methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is requested to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Montana State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.05(zz)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Montana State Office, at the address given above.

Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and that the owner(s) does not intend to give consent for the expected future life of the Coalwood, South Rosebud and Decker-Birney land use plan(s) in the Montana portion of the Powder River Federal Coal Production Region. The refusal will be binding during the life of this land use plan, in this case four years, or until the ownership of the surface estate changes.

Upon receipt and verification of the refusal to consent, the BLM will remove the federal coal underlying the qualified surface owner's land from further consideration in the tract delineation, ranking and scheduling process until such time as the Powder River Resource Management Plan is completed or until the ownership of the surface estate changes. In preparing the Powder River Resource Management Plan, the qualified surface owner will be notified that the prior written refusal to consent is about to expire, and the owner would be given the opportunity to submit another statement of refusal.

Written statements of refusal to consent shall be signed and dated by the owner(s) as well as witnessed and/or notarized, and shall specify: (1) the location (State and County) and legal description of the lands; (2) the present legal address of the qualified surface owner, involved in the refusal to consent; (3) that the owners have held legal or equitable title to the specified land surface for a period of at least three years prior to the refusal to consent; (4) whether the lands involved are the principal place of residence of the owner(s); (5) whether the lands involved are used to conduct farming or ranching; and (6) to what degree or percentage income from farming or ranching of the specified land surface contributes to the total income of the qualified surface owner(s). The submission of personal income records or other personal income records or other personal information is not to be made by the owner(s).

The written statements of refusal to consent by qualified surface owners will become part of the public record since the refusal will be the principal reason for not considering a particular tract in the tract delineation, ranking and scheduling process. The written statements will be made available for

public inspection in the Montana State Office.

Bill D. Noble,

Acting State Director.

[FR Doc. 80-25447 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Montana, Powder River Federal Coal Production Region; Amendment to the Call for Expressions of Coal Leasing Interest

August 14, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to amend the call for expressions of coal leasing interest in Wyoming and Montana.

SUMMARY: In the Federal Register of July 24, 1980 (45 FR 49366, 49367) the Bureau of Land Management (BLM) issued a call for expressions of coal leasing interest for certain portions of the Casper District of Wyoming and the Miles City District of Montana. This notice is to rescind, in part, certain areas in the Miles City District from the call for expressions of coal leasing interest.

DATE: Expressions of interest, except those rescinded by this notice, will be accepted until September 15, 1980.

ADDRESSES: Responses should be sent to: State Director, Wyoming (933), Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001 or State Director, Montana (930), Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, as appropriate, and a copy should also be provided to: Mr. M. L. Millgate, Area Geologist, U.S. Geological Survey, P.O. Box 2373, Casper, Wyoming 82602.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Bureau of Land Management, P.O. Box 1828, Cheyennne, Wyoming 82001, telephone (307) 778-2220, ext. 2413, FTS 328-2413; or Bob Webb, Bureau of Land Management, P.O. Box 30157, Billings, Montana 49107, telephone (406) 000-5474, FTS 585-6474.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 24, 1980, (45 FR 49366, 49367) the BLM issued a call for expressions of coal leasing interest in portions of the Powder River Federal Coal Production Region. That notice stated that the coal areas identified in the Coalwood, South Rosebud, Decker-Birney, and Eastern Powder River Basin Management Framework Plans (MFP) as acceptable for further consideration for leasing were available for the filing of expressions of leasing interest.

Subsequent to the publication of that notice a protest (in accordance with 43 CFR 1601.6-1) of the management decisions in the June 1980 Powder River Resource Area MFP amendments in the Miles City District was received. The effect of this protest will delay implementation of the management decisions in the June 1980 MFP amendments until final action has been completed on the protest. Accordingly, this notice rescinds those coal areas identified in the June MFP amendments from the call for expressions of leasing interest.

The call, however, does apply to certain coal areas identified in the Powder River Resource Area MFP Update Report of July 1979 as acceptable for further consideration for leasing. These include the Colstrip and Ashland areas in the South Rosebud MFP, the Ashland and Otter Creek areas in the Coalwood MFP, and the Decker area of the Decker-Birney MFP in Montana, and the Gillette area in the Eastern Powder River Basin MFP in Wyoming.

Maxwell T. Lieurance,

State Director.

[FR Doc. 80-25445 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Coos Bay District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Coos Bay District Multiple Use Advisory Council will be held on Thursday, September 18, 1980 at 9 a.m. at the Neighborhood Facility Building, 250 Hull Street, Coos Bay, Oregon.

Agenda for the meeting will include: 1. Introduction and biographical sketch of members.

2. Discussion of the function of the council.

3. Briefing and discussion of Coos Bay District programs.

4. Development of a 10-year Timber Management Plan to include, but not be limited to discussion of 9 alternatives analyzed in the South Coast and Curry Sustained Yield Units Timber Management Environmental Impact Statement.

5. Discuss potential for committees.

6. Election of officers.

7. Arrangements for next meeting.

This meeting will acquaint the Council with the Coos Bay District so that it can offer advice and make recommendations to the District Manager relative to Coos Bay District programs.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Coos Bay District Office, 333 South Fourth, Coos Bay, OR 97420 by September 11, 1980. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 8, 1980.

Paul M. Sanger,

District Manager.

[FR Doc. 80-25468 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

APPLICANT: Ringling Brothers & Barnum & Bailey Combined Shows, Washington, D.C. 20016.

The applicant requests a permit to import in foreign commerce seven captive-bred Asian elephants (*Elephas maximus*) from Mr. Hermann Ruhe of Alfeld-Leine, West Germany for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, Va. 22203.

This application has been assigned file number PRT 2-6874. Interested persons may comment on this application on or before September 5, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25476 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: Oklahoma City Zoo, 2101 NE 50th, Oklahoma City, OK 73111.

The applicant requests a permit to import 3 male and 3 female captive bred and born Round Island geckos (*Phelsuma guentheri*) from the United Kingdom for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6788. Interested persons may comment on this application on or before September 5, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25477 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: International Crane Foundation, Baraboo, WI 53913.

The applicant requests a permit to import one wild-caught Siberian white crane (*Grus leucogeranus*) held in captivity at the Ube Zoo, Ube City, Japan for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6879. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25478 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: Stephen A. Sardello, Boulder, CO 80302.

The applicant requests a permit to import in foreign commerce six captive-bred Puerto Rican boas (*Epicrates inornatus*) and six captive-bred Jamaican boas (*E. subflavus*) from the Reptile Breeding Foundation, Ontario, Canada for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6914. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25479 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Amendment to Notice of Receipt of Application

APPLICANT: Kansas City Zoological Gardens, Swope Park, Kansas City, MO 64132.

The applicant requests a permit to amend permit PRT 2-4807 to include the importation of a male Asian wild ass (*Equus hemionus*) foal which was born to a pregnant Pre-Act wild ass which has already been imported to the Kansas City Zoo from West Germany.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-4807. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 15, 1980.

Donald G. Donahoo,

Chief, Permit Branch Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25480 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: International Animal Exchange, 1489 E. Nine Mile Road, Ferndale, MI 48220.

The applicant requests a permit to purchase one male jaguar (*Panthera onca*) from the St. Louis Zoo and export it to the Taipei (Republic of China) Zoo for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6792. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 14, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25481 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Intent To Prepare an Environmental Impact Statement for the Preservation of Redhead Waterfowl Production Wetlands in SE Idaho

AGENCY: Fish and Wildlife Service, Department of Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the

preparation of an Environmental Impact Statement (EIS) for the preservation of redhead waterfowl production wetlands in SE Idaho. Public participation will be sought regarding this proposal and during preparation of the EIS. This notice is being furnished as required by the National Environmental Policy Act to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATE: Written comment should be received by September 22, 1980.

ADDRESS: Comments should be addressed to: Area Manager, U.S. fish and Wildlife Service, 4620 Overland Road, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT:

Dave Brown, Wildlife Biologist, U.S. Fish & Wildlife Service—ARW-ACQ, 500 NE Multnomah Street, Portland, Oregon 97232. Phone: (503) 231-2234 Commercial, 429-2234 FTS;

or

Jim Messerli, Habitat Protection Specialist, U.S. Fish & Wildlife Service, 4620 Overland Road, Boise, Idaho 83705. Phone: (206) 334-1490 Commercial, 554-1490 FTS.

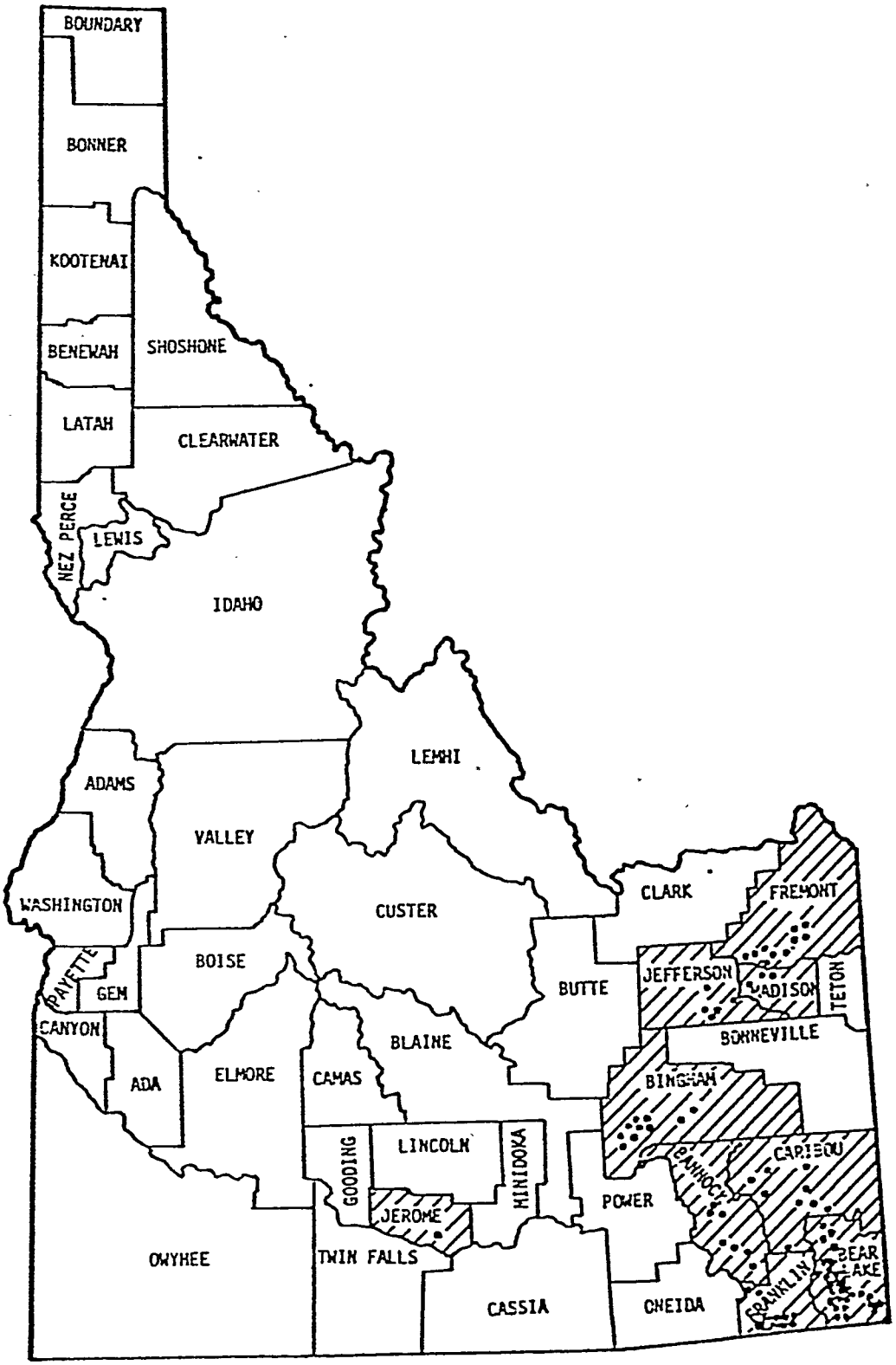
SUPPLEMENTARY INFORMATION: Dave Brown is the primary author of this document.

Purpose and Need for Action: The U.S. Fish and Wildlife Service has major responsibilities for conservation of the nation's waterfowl resources. To help meet this responsibility a continuing effort is being made to assure wetlands essential to waterfowl are protected. Wetlands that are important to redhead ducks are of special concern. Of the major waterfowl species important in North America, redhead population levels have been one of the lowest.

Historically, SE Idaho has had wetlands that are important to redheads. However, like many wetlands throughout the west, they have been impacted by various land uses. For example, over 400,000 acres of wetlands in Idaho have been drained. Recently, 90 individual wetland sites have been identified that are used by nesting redheads and other waterfowl (Figure 1). These wetlands total approximately 8,000 acres. The U.S. Fish and Wildlife Service plans to consider various alternative ways of preserving and improving these wetlands.

BILLING CODE 4310-55-M

Figure 1. General distribution of Redhead production wetlands in southeastern Idaho.



BILLING CODE 4310-55-C

Principle Identified Alternatives: Prior to issuing this Notice of Intent, the fish and Wildlife Service completed two documents relative to the subject. The first was a Concept Plan for Preservation of Redhead Breeding Habitat in the Great Basin. This covered a seven state area including Idaho. It discussed the need to protect wetlands and identified areas important to redheads. The second was a Protection Strategy Study for SE Idaho. The purpose of this study was to identify threats to the habitat and examine if any existing zoning or legislation insured protection of the habitat. The study was also to determine if any other agencies or organizations were capable and willing to preserve the needed habitat. It was determined they were not. Contacts with landowners and local officials also led to the determination that an effort by the Fish and Wildlife Service to protect wetlands would be feasible. This led to the recommendation that an EIS on some form of Service acquisition be prepared.

Alternatives to be considered in the EIS include: (1) No Action, (2) Lease, (3) Conservation Easement, and (4) Fee Acquisition. These are briefly discussed in the following:

1. No Action. Under a no action alternative the U.S. Fish and Wildlife Service would not attempt to protect or improve SE Idaho wetlands. Existing land uses that impact wetlands would continue. These include draining and filling, overgrazing shoreline vegetation, pumping or diverting water for irrigation, urban development and allowing excessive carp populations.

2. Lease. The U.S. Fish and Wildlife Service would rent wetlands from landowners and manage them for waterfowl production purposes. Generally, leases permit a specified use of land, are short-term, and may be cancelled by either party.

3. Conservation Easements. This alternative would involve the U.S. Fish and Wildlife Service acquiring certain rights from landowners. These would be the right to drain, fill, overgraze, develop or in other ways impact wetlands. Eastments represent an actual interest in the land, may be for any length of time but are usually longer term than leases, and may not be cancelled before they expire.

Of the alternatives identified, the U.S. Fish and Wildlife Service, at this time, prefers the acquisition of conservation easements. Under this alternative, the wetlands would remain in private ownership but the landowners would essentially be selling their right to adversely impact them. Landowners would be paid fair market value for any right acquired and the program would be on a voluntary basis.

4. Fee Acquisition. Complete purchase of wetlands would be considered with this alternative. Landowners would actually be selling all of their rights to the property. As with the lease and easement alternatives, landowners would be paid fair market value for rights acquired and the program would be on a voluntary basis.

Environmental Impacts of Preferred Alternative:

The fundamental consequence of the proposal will be preservation and enhancement of wetlands important to redhead ducks and other waterfowl. Numerous other wildlife species such as marsh birds, pheasant and deer, also associated with wetland environments, will benefit. In addition, the proposal will preserve the open space and aesthetic values that wetlands add to an area. Significant non-wildlife benefits include: (1) reducing surface water run-off and soil erosion, (2) ground water recharge, and (3) flood control.

Preservation of the wetlands for waterfowl purposes will preclude some economic uses. These are: (1) loss of potential agriculture land if wetlands cannot be drained or filled; (2) some loss of grazing if cattle use is limited on nesting cover around wetlands; (3) loss of some irrigation if water levels are not pumped down during the nesting season; (4) loss of potential homesites if buildings cannot be constructed close to wetlands.

Significant Issues To Be Covered During Scoping and Planning:

The scope of the proposal involves the protection of redhead production wetlands in the geographic area of SE Idaho and examination of alternative ways to accomplish this. Public and other agency involvement will be part of the process and comments sought to: (1) identify alternatives; (2) identify impacts; (3) identify significant issues that need to be addressed; (4) identify issues that do not need to be addressed; (5) identify other EIS's related to this one; (6) identify other requirements of the project, e.g., consultation and coordination.

As part of the Protection Strategy Study already completed, U.S. Fish and Wildlife Service made numerous personal contacts which were considered part of the scoping process. These included contacts with other state and federal agencies, landowners, county commissioners, and state and federal congressmen. It is planned to continue contacts of this type until it is concluded all significant issues have been identified. Because of the wide geographic area involved, it may be necessary to hold more than one public meeting for interested and/or affected individuals.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act, Council on Environmental Quality Regulations, other appropriate regulations, and Fish and Wildlife Service procedures for compliance with those regulations.

It is estimated the draft Environmental Impact Statement will be made available to the public by February, 1981.

Dated: August 11, 1980.

William H. Meyer,

Acting Regional Director.

[FR Doc. 80-25460 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Union Oil Company of California, Unit Operator of the Vermilion Block 14 Federal Unit Agreement No. 14-08-0001-12339, submitted on August 4, 1980, a proposed Supplemental plan of Development/Production describing the activities it proposes to conduct on the Vermilion Block 14 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested

parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 11, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-25459 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes which have occurred since the publication of the material in the Federal Register on April 11, 1977 (42 FR 18968).

Three records systems are no longer maintained as Privacy Act systems of records and are deleted as follows:

1. System Name: Employee Identification Card files—Interior, Office of the Secretary—48 (Published at 42 FR 19023).
2. System Name: Safety Career Opportunity Plan for Employees—Interior, Office of the Secretary—61 (Published at 42 FR 19026).
3. System Name: Government of American Samoa Administrative Management and Fiscal Records—Interior, Office of the Secretary—96 (Published at 42 FR 19035).

Parts I through VII of the Appendix containing addresses of facilities of the Department which pertain to the Office of the Secretary and Other Departmental Offices (published at 42 FR 18970–18972) are updated and republished. The information in Part XIII (published at 42 FR 19000–19002) and Part XIX (published at 42 FR 19014) is deleted.

The following system notices are updated and republished in their entirety below:

1. System Name: Emergency Defense Mobilizaton Files—Interior, Office of the Secretary—15 (Published at 42 19018).
2. System Name: Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45 (Published at 42 FR 19021).
3. System Name: Secretarial Subject Files—Interior, Office of the Secretary—46 (Published at 42 FR 19022).
4. System Name: Parking Assignment Records—Interior, Office of the Secretary—47 (Published at 42 FR 19022).
5. System Name: Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50 (Published at 42 FR 19023).
6. System Name: Property Management Accountability—Interior, Office of the Secretary—51 (Published at 42 FR 19023).
7. System Name: Travel Management Records—Interior, Office of the Secretary—52 (Published at 42 FR 19024).
8. System Name: Classified Documents—Interior, Office of the Secretary—53 (Published at 42 FR 19024).
9. System Name: Privacy Act Files—Interior, Office of the Secretary—57 (Published at 42 FR 19024).
10. System Name: Safety Management Information System—Interior, Office of the Secretary—60 (Published at 42 FR 19025).
11. System Name: Freedom of Information Appeal Files—Interior, Office of the Secretary—69 (Published at 42 FR 19027).
12. System Name: Applicant Files—Interior, Office of the Secretary—70 (Published at 42 FR 19028).
13. System Name: Unfair Labor Practice Charges/Complaints—Interior, Office of the Secretary—77 (Published at 42 FR 19029).
14. System Name: Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78 (Published at 42 FR 19030).

Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-6191.

Dated: August 15, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

Appendix

This Appendix contains the addresses of facilities of the Department of the Interior. The Appendix is to be used in conjunction with the Department's notices describing systems of records which are subject to section 3 of the Privacy Act of 1974. Various system notices will refer the reader to the facilities maintaining the records which are listed in this Appendix.

I. OFFICE OF THE SECRETARY. (All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240).

A. Immediate Office of the Secretary
B. Office of the Under Secretary
C. Office of the Assistant Secretary for Fish and Wildlife and Parks
D. Office of the Assistant Secretary—Land and Water Resources
E. Office of the Assistant Secretary—Energy and Minerals
F. Office of the Assistant Secretary—Policy, Budget and Administration.
G. Office of the Assistant Secretary—Indian Affairs
H. Office of the Assistant Secretary—Territorial and International Affairs
I. Office of Congressional and Legislative Affairs
J. Office for Equal Opportunity
K. Office of Public Affairs
L. Office of Information Resources Management
M. Office of Administrative Services
N. Office of Secretarial Operations
O. Office of Personnel
P. Office of Acquisition and Property Management
Q. Office of Coal Leasing Planning and Coordination
R. Office of Aircraft Services—Headquarters Office, Office of Aircarft Services, 3905 Vista Avenue, Boise, Idaho 83705.

Regional Office, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503.

S. Office of Budget
T. Office of Policy Analysis
U. Office of Environmental Project Review
V. Office of Outer Continental Shelf Program Coordination

II. OFFICE OF THE SOLICITOR

A. Headquarters Office, Office of the Solicitor, U.S. Department of the Interior, 18th & C Streets NW., Washington, D.C. 20240.
B. Office of the Regional Solicitor, U.S. Department of the Interior, 510 L Street, Suite 408, Anchorage, Alaska 99501.
C. Office of the Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Federal Building, 75 Spring Street, S.W., Suite 1328, Atlanta, Georgia 30303.

(1) Office of the Field Solicitor, U.S. Department of the Solicitor, P.O. Box 15006, Knoxville, Tennessee 37901.

D. Office of the Regional Solicitor, U.S. Department of the Interior, Suite 306, One Gateway Center, Newton Corner, Massachusetts 02158.

(1) Office of the Field Solicitor, U.S. Department of the Interior, 950 E. Kanawha Boulevard, Charleston, West Virginia 25301.

(2) Office of the Field Solicitor, U.S. Department of the Interior, Suite 505, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

E. Office of the Regional Solicitor, U.S. Department of the Interior, Building 67, Room 1480, Denver Federal Center, Denver, Colorado 80225.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Room 211, Federal Building, Aberdeen, South Dakota 57401.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Room 5431, Federal Building, 316 N. 26th Street, Billings, Montana 59103.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 501 Scarritt Building, 818 Grand Avenue, Kansas, City, Missouri 64106.

F. Office of the Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah, Portland, Oregon 97232.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724.

G. Office of the Regional Solicitor, U.S. Department of the Interior, Room E-2753, 2800 Cottage Way, Sacramento, California 95825.

(1) Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 427, Park Street, Boulder City, Nevada 89005.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Valley Bank Center, Suite 2080, 201 North Central Avenue, Phoenix, Arizona 85073.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 3610 Central Avenue, Suite 104, Riverside, California 92506.
(4) Office of the Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Room 14126, San Francisco, California 94102.
(5) Office of the Field Solicitor, U.S. Department of the Interior, Window Rock, Arizona 86515.

H. Office of the Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, Salt Lake City, Utah 84138.

I. Office of the Regional Solicitor, U.S. Department of the Interior, Room 3068, Page Belcher Federal Building, 333 West 4th Street, Tulsa, Oklahoma 74103.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Room 7102, Federal Building & Courthouse, Albuquerque, New Mexico 87101.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Box H-4393, Herring Plaza, 317 East Third, Amarillo, Texas 79101.
(3) Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 397, W.C.D. Office Building, Route 1, Anadarko, Oklahoma 73005.
(4) Office of the Field Solicitor, U.S. Department of the Interior, Room 319, Federal Building, 5th and Broadway, Muskogee, Oklahoma 74401.
(5) Office of the Field Solicitor, U.S. Department of the Interior, Osage Agency, Grandview Avenue, Pawhuska, Oklahoma 74056.
(6) Office of the Field Solicitor, U.S. Department of the Interior, 331 Sandoval Street, Santa Fe, New Mexico 87501.

III. OFFICE OF HEARINGS AND APPEALS

A. Headquarters Office: Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

B. Field Offices: Administrative Law Judge, 2020 Hurley Way, Suite 170, Sacramento, California 95825; Administrative Law Judge, 6432 Federal Building, Salt Lake City, Utah 84138; Administrative Law Judge, Indian Probate, Federal Building, Room 2021, 230 N. First Avenue, Phoenix, Arizona 85025; Administrative Law Judge, Indian Probate, 2020 Hurley Way, Suite 150, Sacramento, California 95825; Administrative Law Judge, Indian Probate, Federal Building and Courthouse, Billings, Montana 59101; Administrative Law Judge, Indian Probate, 301 Federal Building, Gallup, New Mexico 87301; Administrative Law Judge, Indian Probate, P.O. Box 3064, Tulsa, Oklahoma 74101; Administrative Law Judge, Indian Probate, 1425 N.E. Irving Street, Building 100, Suite 112, Portland, Oregon 97232; Administrative Judge, P.O. Box 2433, Anchorage, Alaska 99510; Administrative Law Judge, 1 Valley Square, Suite 920, Charleston, West Virginia 25301; Administrative Law Judge, 1111 N. Shore Drive, Suite 202, Building 1, Knoxville, Tennessee 37919; Administrative Law Judge, 1052 C Federal Building, 600 Federal Place, Louisville, Kentucky 40202; Administrative Law Judge, Federal Office Building, Suite 1603, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

IV. OFFICE OF INSPECTOR GENERAL

Headquarters Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;
Washington Audit Operations, Ballston Towers 01, 800 N. Quincy Street, Room 401, Arlington, Virginia 22203;
Central Region, 134 Union Boulevard, Suite 510, Lakewood, Colorado 80228;
Central Region, Suboffice, Room 334, Old Post Office Bldg., 123 4th Street, SW., P.O. Box 128, Albuquerque, New Mexico;
Western Region, Federal Office Building, Room W 2219, 2800 Cottage Way, Sacramento, California 95825;
Western Region Suboffice, 920 N.E. 7th Avenue, Room 106, Portland, Oregon 97232.

V. OTHER DEPARTMENTAL OFFICES (All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240).

A. Office of Youth Programs—Northeast Region, Office of Youth Programs, Customs House, Room 804A, 8 McKinley Square, Boston, Massachusetts 02109;
North Atlantic Region, Office of Youth Programs, 6 World Trade Center, Suite 612, New York, New York 10048;
Mid-Atlantic Region, Office of Youth Programs, 2nd & Chestnut St., Suite 600, Philadelphia, PA 19106;
Southeast Region, Office of Youth Programs, Richard B. Russell Fed. Bldg., 75 Spring St., S.W., Room 802, Atlanta, Georgia 30303;
Midwest Region, Office of Youth Programs, 175 W. Jackson St., Room A-1153, Chicago, IL 60604;
Southwest Region, Office of Youth Programs, 1100 Commerce, Dallas, Texas 75242;
North-Central Region, Office of Youth Programs, 601 E. 12th St., Room 1702, Kansas City, MO 64106;
Rocky Mountain Region, Office of Youth Programs, Lake Plaza South, Room 617, 44 Union Boulevard, Lakewood, CO 80228;
Western Region, Office of Youth Programs, Federal Office Building, 450 Golden Gate Ave., Room 14470, San Francisco, CA 94102;
Northwest Region, Office of Youth Programs, 601 4th & Pike Bldg., Rm. 307, Seattle, WA 98101.

B. Office of Water Research and Technology
C. Office of Small and Disadvantaged Business Utilization
D. Office of Minerals Policy and Research Analysis

VI. (Reserved)
VII. (Reserved)

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XIII. (Reserved)

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XIX. (Reserved)

INTERIOR/OS-15

SYSTEM NAME:

Emergency Defense Mobilization Files—Interior, Office of the Secretary—15.

SYSTEM LOCATION:

(1) Office of the Assistant Secretary—Energy and Minerals. (2) Office of the Assistant Secretary—Land and Water Resources. Address for all locations: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and related records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer the NDER program. Disclosures outside the Department of the Interior may be made (1) to officials of participating departments and agencies relevant to reservists assigned to their units; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

DISPOSAL:

Records held for two years after individual's resignation or death.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records maintained in the Office of the Secretary, the Assistant Secretary-Policy, Budget and Administration. (2) For records maintained in the Office of the Assistant Secretary—Energy and Minerals, the Assistant Secretary—Energy and Minerals. (3) For records maintained in the Office of the Assistant Secretary—Land and Water Resources, the Assistant Secretary—Land and Water Resources.

NOTIFICATION PROCEDURE:

A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. The request shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals.

INTERIOR/OS-45

SYSTEM NAME:

Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Division of Enforcement and Security Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office of the Secretary personnel, Heads of Bureaus, and their respective Bureau Security Officers whose duties have been designated critical sensitive or non-critical sensitive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of SF-85 or SF-86 and/or SF-171 supplied by individual concerned as well as copies of letters of transmittal between Interior and the Office of Personnel Management concerning the individual's background investigation. Further, contains copy of certification of clearance status and briefing and/or debriefing certificate signed by individual as appropriate. Card file reflects summary, case number and disposition of the case number and disposition of the case file following review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for the identification of (a) Office of the Secretary personnel and Heads of Bureaus and their respective Security Officers who have been granted a security clearance; (b) persons in a pending clearance status awaiting the results and adjudication of Office of Personnel Management investigations; and (c) persons whose clearance has been terminated in the last five years due to an administrative down-grading, transfer to other agencies, employment retirement, or death. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safes. Access granted only to cleared personnel on official business.

RETENTION AND DISPOSAL:

Records are maintained in active status until the individual is debriefed; held for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Enforcement and Security Management, Office of Administrative Services (PMO), Office of the Secretary, Department of the

Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Same as the above. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as the above. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

INTERIOR/OS-46

SYSTEM NAME:

Secretarial Subject Files—Interior, Office of the Secretary—46.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Secretary's Mail and Files Section, Room 6013, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have had correspondence with the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Index cards containing the name, dates, and subject codes for retrieval of subject files, subject files of correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior, Solicitor, Assistance Secretaries, Deputy Assistant Secretaries, and their immediate staff, disclosures outside the department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3" x 5" index cards correspondence filed in folders.

RETRIEVABILITY:

Indexed by subject.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services (PMO) Office of Adminstrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requestor seeks information concerning records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Correspondence or documents signed at the Secretarial level.

INTERIOR/OS-47

SYSTEM NAME:

Parking Assignment Record—Interior, Office of the Secretary—47.

SYSTEM LOCATION:

Office of Administrative Services (PMO), Division of General Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual requesting a parking permit or joining a carpool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, social security number, telephone number at work, service computation date, vehicle make and model, state of registration, license tag number, residence address, location of employment, parking space location and number, number of carpool riders, and the applicant's parking payment record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471, et seq., FMC 74-1 FPMR Temporary Regulation D-43.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) internal control over the assignment of parking permits (b) assistance to individuals in locating carpools. Disclosures outside the department are (1) to a Federal agency that has jurisdiction over parking space, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer printout.

RETRIEVABILITY:

Indexed by name of individual, social security number, zip code of individual's residence, organization location and license tag number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL:

Records maintained on a current basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of General Services, Office of Administrative Services (PMO), U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data furnished by the individual.

INTERIOR/OS-50

SYSTEM NAME:

Motor Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50.

SYSTEM LOCATION:

Office of the Secretary—(1) Division of General Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240. (2) Division of Personnel Services, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in the Office of the Secretary and other Departmental offices who have been issued government driver identification cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, title, sex, date of birth, place of birth, physical characteristics, social security number, past driving record, traffic citations, accidents for past three years, medical history, state driver license number, and road test results, when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491(j); 5 U.S.C. 1302, 3301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is internal control over the issuance of government driver identification cards. Disclosures outside the Department are, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on form DI-131-Rev. and Standard Form 47.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Subject to general records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services and Chief, Division of Personnel Services, Office of Secretarial Operations, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees applying for a government driver identification card.

INTERIOR/OS-51

SYSTEM NAME:

Property Management Accountability—Interior, Office of the Secretary—51.

SYSTEM LOCATION:

Division of General Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals designated as Responsible Officers who are charged with the care, utilization, recordkeeping, etc., for property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains computer identification codes for each Responsible Officer and descriptive data about each piece of property (excluding supplies) assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal control of property assigned to offices. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to respond to General Accounting Office audits and Congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

System is indexed by code assigned to each Responsible Officer or by various property system codes.

SAFEGUARDS:

Maintained with safeguards meeting the "Computer Security Guidelines for Implementing the Privacy Act of 1974."

RETENTION AND DISPOSAL:

Destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and

must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Responsible Officer who is assigned the property by code.

INTERIOR/OS 52

SYSTEM NAME:

Travel Management Records—Interior, Office of the Secretary—52.

SYSTEM LOCATION:

Branch of Travel. Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Employees or individuals who travel on behalf of the Department on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains passports, visas, printouts of airline ticket payment reports, Government transportation requests; and travel tickets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are making reservations, generating tickets, and transferring travel tickets to fiscal services for payment. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printouts and tickets maintained in folders. Government transportation requests are maintained in log books. Each passport and visa maintained in separate book.

RETRIEVABILITY:

Printouts filed by bureau. Government transportation requests filed by number and name. Passports and visas filed by name.

SAFEGUARDS:

Passports, visas, and Government transportation log books stored in a locked room in manipulation proof three way combination lock steel safes. Printouts stored in a locked office. Access granted only to designated personnel.

RETENTION AND DISPOSAL:

General Records Schedule No. 9, Item No. 4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Travel, Office of Administrative Services, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendemnt shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees and individuals who travel on behalf of the Department.

INTERIOR/OS-53

SYSTEM NAME:

Classified Documents—Interior, Office of the Secretary—53

SYSTEM LOCATION:

Branch of Office Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of U.S. Department of the Interior authorized to receive classified documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individuals name, security clearance, employment address, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450 and 10865.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal transmittal of classified documents to individuals. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in standard file folders.

RETRIEVABILITY:

Indexed by bureau and name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safe.

RETENTION AND DISPOSAL:

Records are maintained in active status subject to general record schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

List of employees who have security clearance and have needs for specified classified data.

INTERIOR/OS-57

SYSTEM NAME:

Privacy Act Files—Interior, Office of the Secretary—57.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Offices of Privacy Act Officers of each bureau of the Department. (See Appendix for addresses of bureau headquarters offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have submitted requests for notification, access or amendment of records under the Privacy Act. (2) Individuals who have filed Privacy Act appeals with Assistant Secretary—Policy, Budget, and Administration under the department's regulations. (3) Offices of Systems Managers and other officials authorized to receive requests for notification and access and petitions for amendments. (See system notices for addresses.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, appeals, decisions and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for action on requests and appeals of Privacy Act matters. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on access are destroyed two years after date of reply. Final decisions on agreements or refusals to amend records are destroyed four years after final decision, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records in the Office of Administrative Services: Privacy Act Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) For other records: Bureau Privacy Act Officers. (See Appendix for addresses of bureau headquarters offices.)

NOTIFICATION PROCEDURE:

The System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to any office or offices to which the requester has submitted a request for access or an appeal. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS-60.

SYSTEM NAME:

Safety Management Information System—Office of the Secretary—60.

SYSTEM LOCATION:

(1) Division of Safety Management, Office of Administrative Services, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) All field offices and bureau headquarters retain copies of source document. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Interior facilities who have been involved in an accident resulting in personal injury, and/or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employees only), occupation, date and location of accident; data elements about the accident for analytical purposes; and descriptive narrative concerning the reason for the loss producing event.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2671–2680, (3) 31 U.S.C. 240–243, (4) Executive Order 12196 (1980), (5) 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provide summary data of injury, illness and property loss information to bureaus in a number of formats for analytical purposes in establishing program to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to bureaus to insure that accidents occuring are reported through the Safety Management Information System, and (c) adjudicating tort and employee claims. Disclosures outside the Department of the Interior may be made, (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide to the Department of Labor quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies

responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, with copies of source document maintained at bureau safety management headquarters, regional, and field offices where accident is reported.

RETRIEVABILITY:

System is indexed by bureau assigned document control number.

SAFEGUARDS:

Maintained with safeguards meeting the 'Computer Security Guidelines for Implementing the Privacy Act of 1974.'

RETENTION AND DISPOSAL:

Data stored on magnetic tape is retained as a permanent record. Source documents are to be retained at the field level for five years following end of the calendar year to which the record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Safety Management, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

System manager or the field office in which the source document pertaining to the individual would be filed. The source document contained in the field office need not be maintained more than five calendar years past the date of the record as indicated in records disposal. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or the field safety office in which the source document for the individual would be filed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisor of employee involved in accident. Investigation conducted by supervisor of employee and may include safety professionals and other management officials of the involved bureau or office.

INTERIOR/OS-69

SYSTEM NAME:

Freedom of Information Appeal Files—Interior, Office of the Secretary—69.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (2) Office of Public Affairs, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed appeals under Department of the Interior Freedom of Information appeal procedures. (2) Individuals whose Freedom of Information requests to bureaus and offices have required longer than 10 days to process. (3) Individuals whose Freedom of Information requests to bureaus and offices have been denied in whole or part.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeals, recommendations of Solicitor, Director of Public Affairs, Program Assistant Secretaries and other officials, decisions of Assistant Secretary—Policy, Budget, and Administration, extension of time and initial decisions issued by bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to support review and decision-making for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are destroyed four years after final determination by agency, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Appeals Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Bureaus and offices of the Department, appellants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS-70

SYSTEM NAME:

Applicant Files—Interior, Office of the Secretary—70.

SYSTEM LOCATION:

(1) Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (3) Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203. (4) Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicants, recommendations, interview notes and other documents utilized to determine eligibility, suitability and qualifications for Federal civilian employment maintained subject to applicable Office of Personnel Management requirements, including Office of Personnel Management Rule VI and Chapter 302 of the Federal Personnel Manual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1457, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the hiring of applicants. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementating the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Current applications retained.

SYSTEM MANAGER(S) AND ADDRESS:

For the Ofice of the Secretary: Staff Assistant, Office of the Assistant Secretary—Policy, Budget, and Administration, U.S. Department of the Interior, Washington, D.C. 20240. (3) For the Office of Hearings and Appeals: Directors, Office of Hearings and Appeals, Office of the U.S. Department of the Interior, Washington, D.C. 20240. (2) For the Office of the Solicitor: Administrative Officer, Office of the Solicitor, U.S. Department of the Interior, 4015 Wilson Blvd. Arlington, Virginia 22203. (4) For the Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate systems manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation, 43 CFR 2.79(c), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (1) and (f) to the extent that it consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/OS-77

SYSTEM NAME:

Unfair Labor Practice Charges/ Complaints—Interior, Office of the Secretary—77.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W. Washington, D.C. 20245. c. For employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FFWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C. Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS; Water & Power Resources Service, Division of Personnel, 19th & C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C. Streets, N.W. Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G. St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For Employees of OSM: Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing unfair labor practice charges/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal information

about complainant, transcript of hearing (if held), and information about other personnel in complainant's work unit, as relevant

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer charges or complaints of unfair labor practices. Disclosures outside the Department of the Interior may be made (1) to the Department of Labor and to the Federal Labor Relations Council for settlement of the complaint or appeal; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and docket or case number.

SAFEGUARDS:

Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f): Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water and Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation and Recreation Service, 440 G Street, N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

INTERIOR/OS-78

SYSTEM NAME:

Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. c. For Employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organzation, 19th and C Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS: Water & Power Resources Service, Division of Personnel, 19th and C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G. St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For employees of OSM: Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing grievances/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal infomation about complainant, transcript of hearing (if held), and information about other personnel in complianant's work unit, as relevant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer employee grievances.

Disclosures outside the Department of the Interior may be made (1) to the Federal Labor Relations Council, or to the Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and Docket or Case number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water & Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530) 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation & Recreation Service, 440 G St., N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71. The request must meet the content requirements of 43 CFR 2.63.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

[FR Doc. 80-25523 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-10-M

National Environmental Policy Act; Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed instructions for the Lowell Historic Preservation Commission.

SUMMARY: This notice proposes NEPA implementing procedures for the Lowell Historic Preservation Commission, a component of the Department of the Interior. The Departmental procedures were published in the Federal Register on April 23, 1980 (45 FR 27541).

DATE: Comments due by September 19, 1980.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891. FTS: 343-3891.

For Lowell Historic Preservation Commission, contact Nancy Bellows, Telephone (617) 458-7653. FTS 223-0766.

SUPPLEMENTARY INFORMATION: These proposed implementing procedures provide more specific NEPA compliance guidance to the Lowell Historic Preservation Commission. They were prepared in consultation with the Office of Environmental Project Review in accordance with 516 DM 6.5(C). They should be read in conjunction with the Departmental procedures (516 DM 1-6) which are published in the Federal Register on April 23, 1980, and with the regulations of the Council on Environmental Quality (40 CFR 1500-1508). Copies of these procedures are also available for inspection at the Commission's offices at 204 Middle Street, Lowell, MA 01825.

Comments on the proposed procedures are invited. To be considered in the preparation of final procedures, comments must be received by September 19, 1980.

Dated: August 14, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Lowell Historic Preservation Commission

1. *NEPA Responsibility.* A. *Chairman* is responsible for NEPA complinace for Lowell Historic Preservation Commission (the Commission) activities.

B. *Executive Director* is responsible for insuring that the Commission staff activities and recommendations are conducted in accordance with the requirements and the spirit of NEPA.

C. *Planning Director* (1) is responsible for coordination and oversight of the NEPA process. Information about Commission NEPA documents or the NEPA process can be obtained by contacting the Planning Director at the Commission office.

(2) Is responsible for integrating the NEPA process into the Commission's activities and will insure that environmental concerns, as covered in environmental documents, are addressed when the Commission carries out its preservation and cultural activities.

2. *Guidance to Applicants.* A. Actions that are intitiated by private or non-

Federal entities through applications include: grants for private residential and commercial facade rehabilitation; grants for cultural program; loans to private firms for facade improvement programs; emergency grants or loans for facade stabilization.

B. Applicants are required to complete an application form which includes a checklist of environmental impacts that may result from the work; they will be informed by the Commission staff as to what environmental information is needed when they initiate their application. The Commission staff, using this information will advise applicants whether further environmental documentation is required.

C. A Grant Application Package is available on request at the Commission office, 204 Middle Street, Lowell, MA 01852.

3. *Major Actions Normally Requiring an EIS.* There are no categories of actions where an EIS will normally be prepared.

4. *Categorial Exclusions.* In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix I of 516 DM 2, many of which the Commission also performs, the following Commission actions are designated categorical exclusions unless the actions qualify as an exception under 516 DM 2.3 A(3):

A. *Operating Activities.* (1) Professional services, including such things as architectural plans, studies, maps, renderings, and photographs; engineering studies; appraisals; graphic design; and building inventories and surveys.

(2) Identifying the eligibility for and nominating, properties for the National Register of Historic Places and the National Historic Landmark and National Natural Landmark programs.

B. *Development Activities.* (1) Minor revisions in the boundaries of the Preservation District recommended pursuant to Section 101(2)(b) of Pub. L. 95-290.

(2) Grants to private property owners on a matching basis for the rehabilitation of building facades provided that this rehabilitation does not adversely alter the integrity of the setting or increase public use of the area to the extent of compromising the nature and character of the property or cause a nuisance to adjacent property owners or occupants. This includes the case where the owner intends to change the use of the building.

(3) Matching grants to private property owners for construction or rehabilitation work on existing non-Federal properties which are required to meet health, safety, and handicapped regulations.

(4) Grants for construction, demolition, addition, expansion of new non-residential facilities if the new facilities will not increase public use of the area to the extent of compromising the nature and character of the property or causing physical damage to it; institute non-compatible uses which might compromise the nature and characteristics of the property or cause physical damage to it; or cause a nuisance to adjacent property owners or occupants.

(5) Leasing or disposition or any interagency transfer or use of rail right-of-way for continued rail-related uses.

(6) Operation of a trolley system for resident and visitor use utilizing existing rights-of-way and tracks.

(7) Long and short term leasing of office, display, or other space from public or private owners.

(8) Acquisition or disposition of interests in real property, including but not limited to leaseholds, easements, rights-of-way or fee interests.

(9) Cultural programs, including such things as outdoor summer theater programs; art exhibits, demonstrations, and feasibility studies.

[FR Doc. 80-25456 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-10-M

Water and Power Resources Service

Repayment Contract Negotiations for Irrigation Storage Keyhole Unit, Pick-Sloan Missouri Basin Program, Wyoming; Intent To Negotiate for Irrigation Storage Space

The Department of the Interior, through the Water and Power Resources Service, intends to begin negotiations with the Belle Fourche-Wyoming Water Association (BFWWA) for irrigation storage space in Keyhold Reservoir, an existing federally constructed multipurpose facility located in Crook County, Wyoming. Keyhold Dam and Reservoir were authorized under the general authority of the Flood Control Act of 1944 (58 Stat. 887).

The BFWWA was formed in the early 1970's by a number of irrigators whose lands are located along the Belle Fourche River in Wyoming. The BFWWA entered a 10-year contract with the United States in 1974 to obtain supplemental irrigation water service from Keyhold Reservoir. The BFWWA intends to form an irrigation district and has requested a repayment contract to be considered to allow the district to purchase Wyoming's entitlement to Keyhold Reservoir storage as provided by the Belle Fourche River Compact (58 Stat. 94). The Water and Power Resources Service has agreed to enter contract negotiations with the BFWWA. The State of Wyoming will be invited to participate in negotiations as an interested and concurring party.

All meetings and/or negotiation sessions, where terms and conditions of a repayment contract are to be discussed, are open to the public. Advance notice of such meetings or sessions will be furnished on written request from interested parties. Requests for meeting notices should be addressed to the Regional Director, Water and Power Resources Service, Attention Code UM-440, P.O. Box 2553, Billings, Montana 59103. All written correspondence concerning the proposed contract is available to the general public pursuant to terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a public hearing may be held, if necessary, and a 30-day period will be allowed for receipt of written comments from the public.

For further information on these proposed contract negotiations, please contact William E. Crosby, Chief, Economics and Repayment Branch, at the address stated above or by telephone (406) 657-6413.

Dated: August 15, 1980.

Clifford I. Barrett,

Assistant Commissioner, Water and Power Resources.

[FR Doc. 80-25360 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-09-M

Motor Carrier Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any

interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

No. F.D. 29383. By decision of July 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1141, The Motor Carrier Board approved the transfer to Columbia Transportation Company, Cleveland, OH, of Certificate W-773, issued February 6, 1950, to Columbia Transportation Company, which name was changed to Oglebay Norton Company, in 1958, authorizing the operation as a common carrier by self-propelled vessels, in interstate or foreign commerce, in the transportation of commodities generally, between all points on the Great Lakes and its tributary and connecting waterways, with the exception of the New York State Canal System and the St. Lawrence River east of Ogdensburg, NY. Applicants' representatives: Frank Castle, 1200 Hanna Bldg., Cleveland, OH 44115 for transferee; and Ronald Thompson, 1200 Hanna Bldg., Cleveland, OH 44115, for transferor.

MC-FC-78401. On reconsideration, by decision of July 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5, approved the transfer to Heartland Express, Inc., St. Clair, MO, of Certificates MC-120181 (Sub-Nos. 6 and 7), issued December 10, 1976, and June 16, 1980, respectively, to Main Line Hauling Co., Inc., St. Clair, MO, authorizing the transportation of (1) *General commodities* with the usual exceptions, between Memphis, TN and St. Louis, MO, over Interstate Highway 55, serving no intermediate points; and (2) *foodstuffs* (except in bulk), from the facilities of Inland Storage Distribution Center at Kansas City, KS, to points in AR, LA, and TN, and *empty containers*, between Kansas City, KS and Kansas City, MO, and points in AR, LA, and TN, restricted in (2) above against interlining. Applicants' representative: William H. Shawn, Suite 501, 1730 M St., NW., Washington, DC 20036.

Note.—Applicants are advised that (1) temporary authority operations authorized under 49 U.S.C. 10928 are not transferable, transferee must file its own applications; and (2) those operating authority applications which are still pending before the Commission (MC-120181 Sub-Nos. 17F, 18F, 12F and 19F) are also not transferable, applicants may file petitions for substitution in those proceedings.

MC-FC-78492. By decision of July 16, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to E. M. Nee Transfer & Storage, Inc. of Certificate MC-74528 issued September 21, 1951 to Edward M. Nee and transferred February 13, 1980 to Mary E. Nee, d.b.a. E. M. Nee Transfer and Storage, authorizing the transportation of household goods between points in Allegheny and Westmoreland Counties, PA, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Maryland, Michigan, North Carolina, New Jersey, Ohio, Tennessee and the District of Columbia. Representative: Mary E. Nee, 306 Murray Ave., Arnold, PA 15068.

MC-FC-78547. By decision of July 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Burris Trucking, Inc., Winston-Salem, NC, of Certificate MC-142623 (Sub-No. 2), issued March 7, 1979, to Robert L. Macon, Garner, NC, authorizing the transportation of *bricks*, from points in NC and SC, to points in AL, CT, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, TN, VA, and WV. Application for temporary authority has been filed under 49 U.S.C. 11349. Applicant's representative: Stuart R. Childs, One NCNB Plaza, Suite 3440, Charlotte, NC, 28280.

MC-FC-78566. By decision of May 1, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board approved the transfer to Arnold Angel Trucking, Inc., of Williamsburg, KY, of Permit MC 138338 issued March 27, 1974, to Jim Perkins Trucking, of Jellico, TN, authorizing the transportation of *stone and stone products*, in dump vehicles, from the facilities of Jellico Stone Co., Inc., at or near Jellico, TN, to points in that part of KY bounded by a line beginning at the KY-TN State line and extending along U.S. Highway 25E to junction KY Highway 229, thence along KY Highway 229 to junction KY Highway 192, thence along KY Highway 192 to junction KY Highway 312, thence along KY Highway 312 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction KY Highway 90, thence along KY Highway 90 to junction U.S. Highway 27, and thence along U.S. Highway 27 to the KY-TN State line. Applicant for TA has not been filed. Transferee presently holds no authority.

MC-FC-78606. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to R.S.J. Leasing, Inc., Flushing, NY, of Certificate MC 119929, issued July 6, 1961, to Z. Tavss, Inc., New York, NY, authorizing the transportation of *fireproof* building materials, technical paints, water-proofing materials, and steel cable, between New York, NY, on the one hand, and, on the other, points in New York, NY, and New Jersey within 150 miles of Columbus Circle, New York, NY, and those in Connecticut within 85 miles of Columbus Circle, New York, NY. The gateway elimination application in MC 71079 (Sub-1F), filed by R.S.J. Leasing, Inc., as a matter directly related to the transfer transaction, is denied because the commodities set forth in the involved operating authority are not susceptible to being tacked. Representative: A. Charles Tell, Suite 1800, 100 E. Board St., Columbus, OH 43215.

MC-FC-78618. By decision of July 18, 1980 issued under 49 U.S.C. 10931 or 10932 an 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Sun Express, Inc., of Chino, CA, of Certificates of Registration MC 126944 and MC 120575 (Sub-4) and Certificate MC 120575 (Sub-3) held by Three-B Freight Service, Inc., of Chino, CA. The certificates authorize a *general commodities* service with named exceptions between described points in California, including San Diego, Borrego Valley and Calexico. The grant is subject to applicant furnishing proof that underlying state intrastate

rights have been transferred prior to or concurrently with consummation. An application for temporary lease authority has been filed. Transferee holds authority from the Commission. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211.

MC-FC-78621. By decision of July 17, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to R&S Drayage, Inc., of Certificate of Registration MC 121769 issued September 15, 1975, to H. R. McDonald d.b.a. R&S Drayage, San Leandro, CA evidencing a right to engage in transportation in interstate commerce corresponding in scope to Decision No. 84418 dated May 13, 1975 in Application 55486 issued by the Public Utilities Commission of the State of California. Representative is: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108.

MC-FC-78641. By decision of July 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Bob Stewart Trucking, Inc., of a portion of Permit/Certificate MC 98327 (Sub-10) issued November 29, 1974 to System 99, of Oakland, CA, authorizing the transportation of construction, drainage, mining, and logging equipment, which because of size or weight requires the use of special equipment, between points in Klawath County, OR, on the one hand, and, on the other, points in Modoc and Counties, CA; and iron and steel articles, from Klamoth Falls, OR, to points in Modoc and Counties, CA. Representative: John G. McLaughlin, Suite 1440-200 S.W. Market St., Portland, OR 92201. Transferee is not a carrier. An application seeking TA lease has been filed.

MC-FC-78642 (Republication). By decision of July 10, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board No. 5 approved the transfer to Harold D. Miller, Inc., of Shrever, OH, of Certificate MC 115276 issued July 12, 1979, MC 115276 (Sub-4) issued April 1, 1974, and, MC 115276 (Sub-E-1) published April 23, 1974, to Bod Head, Inc., of Indiana, PA, authorizing the transportation in MC 115276 of (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe in connection with main lines, between points in PA, WV, OH, and MD.

MC 115276 (Sub-4): *Machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products (except commodities in bulk); and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operations, repair servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, (except commodities in bulk), Between points in Pennsylvania on the one hand, and, on the other, points in New York. Machinery, equipment, materials, and supplies used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their byproducts (except commodities in bulk); and machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except commodities in bulk, except the stringing and picking up of pipe in connection with main lines, between points in New York, on the one hand, and, on the other, points in West Virginia, Ohio, and Maryland. The purpose of this filing is to eliminate the gateway of Pennsylvania. Representative is: Mr. Boyd B. Ferris, Muldoon, Pemberton & Ferris, Attorney-at-law, 50 West Broad Street, Columbus, OH 43215. Transferee presently holds no authority from the Commission. Application for TA has not been filed.

MC-FC-78665. By decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5, approved the transfer to Charles C. Young, d.b.a. Heritage Tours, Omaha, NE, of the following portion of Certificate MC 1515 (Sub-71), issued April 25, 1973, to Greyhound Lines, Inc., Phoenix, AZ, authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as set forth on original sheet No. 45, (1) route 5, between the Iowa-Nebraska State line at Sioux City, IA, and Omaha, NE, from the Iowa-Nebraska State line over U.S. Highway 77 to Oakland, then over NE Hwy 32 to Tekamah, then over U.S. Highway 73 to Omaha, and return over the same route, serving all intermediate points, and (2) route 6, between Walthill and Walthill Junction, over NE Hwy 94, serving all intermediate points, subject to the conditions that (1) no express or newspapers shall be transported in vehicles engaged in operations authorized only in special operations, and (2) incidental charter operations may be conducted. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106.

MC-FC-78651. By decision of July 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Overland Tow Service, Inc., Shawnee Mission, KS, of Certificates MC 116178 (Sub-1 and 2), issued November 14, 1974 and February 25, 1976, to A-Emergency Tow Service, Inc., Kansas City, MO and transferred to Mid-Am Towing, Inc., Kansas City, MO pursuant to MC-FC-78434, but not reissued in its name, authorizing the transportation of *wrecked, damaged or disabled motor vehicles and trailers,* and *replacement motor vehicles and trailers* to points of wreck, damage, or disablement, by the use of wrecking equipment, only, between points in IA, KS, MO, NE, and OK; and *wrecked and disabled motor vehicles, and trailers and replacement motor vehicles and trailers,* by use of wrecker equipment, between points in the Kansas City, Mo.,-Kansas City, KS, Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in AR, IL, IN, OH, NM, and TX. Applicants' representative is: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105.

Note.—MC 112892 (Sub-1F), published in a previous section of this Federal Register issue is a directly related matter.

MC-FC-78668. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5, approved the transfer to Peter Del Grande, Inc. d.b.a. James Gallagher Trucking, Camden, NJ, of the following portion of Certificate MC 35706, issued November 4, 1976, to ATSL, Inc., Philadelphia, PA, authorizing the transportation of *new furniture,* between Philadelphia, PA, on the one hand, and, on the other, points in NJ, subject to the condition, agreed upon by applicants, that the remainder of the authority set forth in Certificate MC 35706, be restricted against the transportation of new furniture, from Philadelphia, PA, to points in NJ. Application for temporary authority has

been filed under 49 U.S.C. 11349. Transferee holds authority from this Commission under MC 1475. Representative: Richard Rueda, 133 N. 4th St., Philadelphia, PA 19106.

MC-FC-78683. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Kent Terminals of Massachusetts, Inc., Boston, MA, of that portion of Certificate MC 2509, issued April 10, 1941, to D. S. Woodbury Co. (Debtor in Possession), Boston, MA, authorizing the transportation of *general commodities*, with the usual exceptions, (1) between Boston, MA, on the one hand, and, on the other, points within fifteen miles of Boston, and (2) between Boston, MA and points within ten miles of Boston, on the one hand, and, on the other, points in MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78684. By decision of July 23, 1980, issued under 49 U.S.C. 19026 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Valley Refrigerated Express, Inc., McAllen, TX of Certificate MC 105636 (Sub-37) issued June 27, 1978, to Armellini Express Lines, Inc., Vineland, NJ, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, frozen foods, commodities in bulk and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders operating pursuant to Part IV of the Interstate Commerce Act, from Akron, OH, Baltimore, MD, Boston, MA, Cranston, RI, Cincinnati, OH, Cleveland, OH, Milford, CT, Secaucus, NJ, New Haven, CT, North Bergen, NJ, Philadelphia, PA, and Syracuse, NY, to Amarillo, Dallas, Fort Worth, El Paso, Houston, Laredo, Lubbock, and San Antonio, TX; from Dallas, TX to Akron, OH, Baltimore, MD, Boston, MA, Cincinnati, OH, Cleveland, OH, New Haven, CT, North Bergen, NJ, Philadelphia, PA, and Syracuse, NY. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transferee holds no authority from the Commission. An application seeking TA lease has not been filed.

MC-FC-78687. By decision of July 29, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to United Transport Corp., Kearny, NJ, of Permits No. MC 109501, and MC 109501 (Sub-3, 6, 8, 10, and 11), issued May 4, 1955, April 1, 1958, August 9, 1962, August 14, 1968, March 23, 1970, and April 21, 1971, respectively, to Calhoun Trucking Corp., Kearny, NJ, authorizing the transportation of *iron and steel mill products*, not fabricated, and *aluminum products* in sheets and bars not fabricated, from Lyndhurst, NJ, to points in Erie, Chemung, Monroe, and Onondage Counties, NJ and *damaged or defective shipments* in the reverse direction, *iron and steel mill products* and *aluminum* in sheets not fabricated, from Lyndhurst, NJ, to points in CT west of the Connecticut River, New York, NY, points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Columbia, Rensselaer, Rockland, Orange, Sullivan, Delaware, Broome, Ulster, Greene, Albany, and Schenectady Counties, NY, and those in PA on and east of a line extending along U.S. Hwy 309 from the NY-PA State line to Hazleton, PA, then along PA Hwy 29 to junction PA Hwy 443, approximately three miles south of Tamaqua, PA, then along PA Hwy 443 to New Ringgold, PA, then along PA Hwy 895 to Molino, then along PA Hwy 122 to the PA-MD State line; *Air conditioner sub-assemblies and parts*, from Newark, NJ to Maspeth, NY, and *pallets* used in transporting air conditioner sub-assemblies and parts, from Maspeth NY to Newark, NJ, under contract(s) with Fedders-Quigan Corp. of Newark, NJ; *Boilers, radiators, furnaces, air conditioning units, and parts* for boilers, radiators, furnaces and air conditioning units, between Newark and Garwood, NJ, on the one hand, and, on the other, Scranton, Tunkhannock, Honesdale, Philadelphia. West Hazleton, and Hazleton, PA, New York, NY, points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties, NY, and that part of CT west of the Connecticut River; *Household appliances, furnaces, air cleaners, conditioners, heaters, humidifiers, and dehumidifiers*, from the plant site of Fedders Corporation of Edison Township Middlesex County), NJ, to Scranton, Tunkhannock, Honesdale, Philadelphia, West Hazleton, and Hazleton, PA, New York, NY, points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties, NY, and points in that part of CT west of the Connecticut River, *materials, parts, and supplies* (except commodities in bulk), used in the manufacture, production, and distribution of the above-described commodities, from the immediately above-described destination points, to Newark, NJ and the plant site of Fedders Corporation in Edison Township (Middlesex County), NJ, and *returned shipments*, from the above-described destination points, to the above-described origin points, under contract(s) with Fedders Corporation of Edison Township, NJ; *Household appliances, furnaces, air cleaners, conditioners, heaters, humidifiers and dehumidifiers*, from the plant site of Fedders Corporation of Edison (Middlesex County), NJ, to points in PA (except Scranton, Tunkhannock, Honesdale, Philadelphia, West Hazelton, and Hazleton), NY (except New York, NY and points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties), CT (except those west of the Connecticut River), RI, MA, MD, DE, VA, and DC and *materials, parts and supplies* (except commodities in bulk), used in the manfacture of the immediately above-described commodities, in the reverse direction, under contract(s) with The Fedders Corporation; *household appliances and air cleaning, heating, humidifying, dehumidifying, and cooling units*, from the plant site of the Fedders Corporation at Edison, NJ, to points in NC, SC, GA, FL, AL, TN, KY, and MI, and *materials and supplies* (except in bulk), used in the manufacture and distribution of the commodities described immediately above, in the reverse direction, under contract(s) with Fedders Corporation, of Edison, NJ. Transferee presently holds authority from this Commission under MC 145103 (Sub-1 and 4). Application for temporary authority has not been filed under 49 U.S.C. 11349.

MC-FC-78688. By decision of July 31, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Eunice L. Hengeveld, Moxee, WA, of Permit No. MC-143523, issued September 8, 1978, to Gerald R. Hengeveld, Moxee, WA, authorizing the transportation of *Malt beverages and wine*, from Azusa, Los Angeles and Modesto, CA, to Mt. Vernon, WA, under continuing contract(s) with Sound Beverage Distributors, Inc., of Mt. Vernon, WA. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under 49 U.S.C. 11349. Representative: Eunice L. Hengeveld, Rt. 1, Box 46, Moxee, WA 98936.

MC-FC-78689. By decision of July 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132,

Review Board Number 5 approved the transfer to Golden Pringle Express, Ltd., Higbee, MO, of Permits No. MC 138384 (Sub-2 and 4), issued January 2, 1974, and September 27, 1974, to Elwood Lynch and previously transferred to Boyd Martin Enterprises, Inc., in MC-FC-78003, effective August 5, 1979, authorizing the transportation of *Malt beverages,* (1) from Belleville, IL, to Moberly, MO, and (2) from Memphis, TN, to Moberly, MO, under continuing contract with Hunt Distributing, Inc., of Moberly, MO. Application for temporary authority has been filed under 49 U.S.C. 11349. Transferee presently holds no authority from this Commission. Representative: Tom B. Kretsinger, 20 E. Franklin, Liberty, MO 64068.

MC-FC-78690. By decision of July 25, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to MERCHANTS DELIVERY & STORAGE, of Hamilton, MT, of Certificate MC-63562 (Sub-47), issued April 12, 1966, and a portion of Certificate MC-63562, issued September 21, 1972, and awarded to SALT CREEK FREIGHTWAYS, of Casper, WY, in MC-F-13496, by order served April 21, 1978, authorizing the transportation of *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 the use of special equipment), (1) between Missoula, MT, and Darby, MT, serving all intermediate points: from Missoula over US Hwy 93 via Florence, MT, to Darby (also from Florence, MT, over unnumbered hwy to Hamilton, MT, and then over US Hwy 93 to Darby), and return over the same routes, and (2) between Darby, MT, and the Trapper Creek Job Corps Camp located approximately 10.5 miles southwest of Darby, serving all intermediate points: from Darby over US Hwy 93 to junction MT Hwy 473, then over MT Hwy 473 to the Trapper Creek Job Corps Camp, and return over the same route. Representative: John R. Davidson, Room 805, First Bank Bldg., Billings, MT 59101.

Note.—Application for temporary authority has been filed under 49 U.S.C. 11349 in MC-F-14423F.

MC-FC-78699. By decision of July 28, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to BROWN LINE MOTOR FREIGHT, INC., of Winterset, IA, of Certificate of Registration No. MC-99803 (Sub 2), issued February 24, 1964, to CARL E. PETERSON, DOING BUSINESS AS PETERSON MOTOR FREIGHT, of Earlham, IA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Convenience and Necessity No. 976, dated December 8, 1959, issued by the Iowa State Commerce Commission. Condition: Prior to or concurrently with consummation of this transaction, Brown Line Motor Freight, Inc., shall furnish a copy of the Iowa certificate as reissued to it, or if the Iowa State Commerce Commission does not reissue a certificate, a certified copy of the order which approves the transfer of the Iowa intrastate certificate, together with a statement in writing confirming the date of the consummation of the intrastate transaction. Representative: P. C. McNamara, Box 207, Winterset, IA 50273.

Decision Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which doe not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to

insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* the following operating rights applications directly related thereto filed on or before September 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 112892 (Sub-1F), filed June 6, 1980. Applicant: OVERLAND TOW SERVICE, INC., P.O. Box 4262, Shawnee Mission, KS 66208. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, transporting *wrecked and disabled motor vehicles and trailers,* and *replacement motor vehicles and trailers* to points of wreck or disablement, by use of wrecker equipment only, between points in IA, KS, MO, NE, and OK, on the one hand, and, on the other, points in AR, IL, IN, OH, NM, and TX.

Note.—This is an elimination of the gateway of the Kansas City, MO-Kansas City, KS Commercial Zone, filed as a matter directly related to MC-FC-78651, published in another section of this FR issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25408 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the revelant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Motor Carrier Board, Members Healy, Hedetniemi, and Holyfield.

Federal Register Summary for Certificate or Permit

MC-FC-78420. By decision of January 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Kuhlman Towing, Inc., of Rochester, MN, of Certificate No. MC-123172 issued June 11, 1974, to Truman D. Moulton, d.b.a. Pulver's Motor Service of Rochester, MN, authorizing the transportation of *disabled motor vehicles,* by use of wrecker equipment only, Between points in that part of Minnesota on and south of a line beginning at the Minnesota-South Dakota State line and extending along U.S. Hwy 14 to Manketo, MN, and then along Minnesota Hwy 60 to the Mississippi River, at or near Wabasha, MN and points in Iowa, Illinois and Wisconsin. *Tractors* for replacement of wrecked or disabled tractors by wrecker equipment only. Between points in that part of Minnesota on and south of a line beginning at the South Dakota-Minnesota State line at U.S. Highway 14 to Mankato, MN, then along Minnesota Hwy 60 to Mississippi River at or near Wabasha, MN, and points in Iowa, Illinois and Wisconsin. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. An application seeking temporary lease authority has been filed. Transferee holds no authority from this Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25409 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-006]

Permanent Authority Decision Notice; Correction

Decided: July 30, 1980.

Notice of Correction, previously noticed in the Federal Register issue of August 13, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified

statements filed on or before October 6, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 59150 (Sub-182F), filed July 23, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202.

MC 95540 (Sub-1166F), filed July 23, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 38302. Representative: Benjy W. Fincher (same address as applicant).

MC 133591 (Sub-110F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391.

MC 135861 (Sub-83F), filed July 28, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103.

MC 144140 (Sub-53F), filed July 28, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant).

MC 149170 (Sub-16F), filed July 25, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603.

[FR Doc. 80-25407 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-007]

Permanent Authority Decision Notice; Correction

Decided: July 30, 1980.

Notice of Correction, previously noticed in the Federal Register issue of August 13, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to fitness related applications, in lieu of non-fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 6, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 94901 (Sub-10F), filed July 28, 1980. Applicant: EDDY MESSENGER SERVICE, INC., 4 Warehouse Lane, Elmsford, NY 10523. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

MC 119990 (Sub-11F), filed July 24, 1980. Applicant: MERCHANTS DELIVERY CO., a Corporation, 1212 E. 19th St., Kansas City, MO 64108. Representative: David W. Howard, 601 W. 47th St., Kansas City, MO 64112.

MC 133591 (Sub-109F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391.

MC 141320 (Sub-14F), filed July 28, 1980. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., Suite 303, 900 Walt Whitman Rd., Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 1632, Two World Trade Center, New York, NY 10048.

[FR Doc. 80-25406 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days

after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 21, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 308

Decided: August 1, 1980.

By the Commission, Review Board Number; Members Carleton, Joyce and Jones.

MC 200 (Sub-474F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (escept those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of T. J. Lipton, Inc., at or near Suffolk, VA, as an off-route point in connection with carrier's otherwise authorized regular-route operations, restricted to traffic originating at or destined to the named facilities.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 200 (Sub-475F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *expended polystryrene products,* from the facilities of Culpepper and Associates of CA (CA Expanded Plastics), at or near Riverside, CA, to points in AZ, NV, and UT, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-476F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *wheels and rims,* between the facilities of Webb Wheel, at or near (a) Siloam Springs, AR, and (b) Clearfield, UT, restricted to traffic originating at or destined to the named points.

MC 200 (Sub-477F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *wire rope*, on reels, from the facilities of Wire Rope Corporation of America, Inc., at or near St. Joseph, MO to Houston, TX, restricted to traffic originating at the named origin and destined to the named destination.

MC 1931 (Sub-20F), filed June 27, 1980. Applicant: VON DER AHE VAN LINES, INC., 600 Rudder Ave., Fenton, MO 63026. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Transporting *household goods*, as defined by the Commission, between points in the US, (including HI and AK). Applicant holds authority in MC 1931 (Sub-14G) authorizing a portion of the above transportation. The purpose of this application is to remove the restrictions in the Sub 14G which states the operations authorized herein are restricted against service (1) between points in ME, VT, and NH and (2) between points in ND and SD. Condition: Issuance of a certificate in this proceeding shall cancel MC 1931 (Sub-14G).

MC 2860 (Sub-207F), filed June 27, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Peter J. Nickles, 888 16th St., N.W., Washington, DC 20006. Transporting, (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of General Electric Company, Major Appliance Group, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 3581 (Sub-27F), filed June 23, 1980. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Drive, N.E., Suite 107, Atlanta, GA 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *automobiles, trucks, and tractors*, from points in Jefferson County, KY, to points in the U.S. (except AK and HI).

MC 29910 (Sub-276F), filed June 30, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of Digital Equipment at or near Contoocook, NH, as an off-route point in connection with applicant's otherwise authorized regular route operations to and from Lowell, MA. Applicant intends to tack this authority.

MC 42011 (Sub-66F), filed June 27, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *construction materials, equipment, and supplies*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Ortloff Corporation or its customers or suppliers.

MC 42011 (Sub-67F), filed June 26, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *cooling tower parts*, from Tulsa, OK, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Ecodyne Cooling Products Division.

MC 52861 (Sub-87F), filed June 30, 1980. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting *sand*, from Akron, OH, to points in IL, IN, MI, NY, PA, WI, and WV.

MC 59150 (Sub-181F), filed June 27, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting (1) *composition board*, from the facilities of the Abitibi-Price Corporation, at or near points in (a) Lucas County, OH, and (b) Wilkes County, NC, to those points in the U.S. in and east of ND, SD, NE, CO, and NM, and (2) *materials and supplies* used in the manufacture of composition board, from those points in the U.S. in and east of ND, SD, NE, CO, and NM, to the facilities of Abitibi-Price Corporation at or near points in Wilkes County, NC.

MC 65941 (Sub-64F), filed May 23, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Picoma Industries, Inc., at Martins Ferry and Bellaire, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at or destined to the named facilities.

MC 66571 (Sub-8F), filed June 18, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *cleaning products* (except in bulk), from Bristol, PA, South Kearny and Hackensack, NJ, and New Castle, DE, to the facilities of Purex Corporation, at Salem and Roanoke, VA.

MC 66571 (Sub-10F), filed June 18, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *plastic containers*, from the facilities of Purex Corporation, at Baltimore, MD, to the facilities of Purex Corporation, at Salem and Roanoke, VA.

MC 69901 (Sub-40F), filed June 27, 1980. Applicant: COURIER-NEWSON EXPRESS, INC., P.O. Box 270, Columbus, IN 47201. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Jefferson, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 78400 (Sub-87F), filed June 27, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Owensville, Gerald, and Japan, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 80430 (Sub-183F), filed June 27, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between the facilities of Tradewinds,

Inc., at Manawa, WI, on the one hand, and, on the other, points in AR, FL, GA, IL, IN, IA, KY, MN, MO, NH, NJ, NY, OH, PA, TN, TX, and the Lower Peninsula of MI.

MC 94350 (Sub-433F), filed June 30, 1980. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr., (same address as applicant). Transporting *buildings*, in sections, mounted on wheeled undercarriages, from points in Carter, Greene, Johnson, Sullivan, and Washington Counties, TN, to points in KY, NC, VA, and WV.

MC 115181 (Sub-42F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *brick products and clay products*, between Flemington, NJ, on the one hand, and on the other, points in ME, VT, NH, NY, MA, CT, RI, PA, OH, WV, MD, NJ, DE, and DC.

MC 117730 (Sub-73F), filed November 6, 1979, and previously noticed in Federal Register issue of March 20, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 No. LaSalle St., Chicago, IL 60602. Transporting *bananas and agricultural commodities otherwise exempt from regulations under 49 U.S.C. section 1056 (A)(6), when transported in mixed loads with bananas*, (1) from New York, NY, Baltimore, MD, and Philadelphia, PA, to points in IL, IN, KY, MI, NY, OH, PA, WV, and WI, and (2) from Albany, NY, Newark, NJ, Wilmington, DE, Charleston, SC, and Mobile, AL, to points in IL, IN, KY, MI, OH, PA, and WI.

Note:—This republication shows Albany, NY, as an origin point in part (2).

MC 121801 (Sub-3F), filed June 27, 1980. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, Ardmore, OK 73401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Over regular routes*, transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ardmore, OK, and Gainesville, TX, over Interstate Hwy. 35, serving no intermediate points.

Note:—Applicant intends to tack the rights sought with its existing authority.

MC 121821 (Sub-9F), filed May 9, 1980, and previously noticed in Federal Register issue of July 22, 1980. Applicant: TENNESSEE MOTOR LINES, INC., P.O. BOX 100363, Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Over regular routes* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Knoxville, TN, and Tiptonville, TN, from Knoxville over Interstate Hwy 40 to its junction with U.S. Hwy 641, then over U.S. Hwy 641 to Camden, TN, then over U.S. Hwy 70 to Huntington, TN, then over U.S. Hwy 70A to Atwood, TN, then over TN Hwy 104 to Dyersburg, TN, then over TN Hwy 78 to Tiptonville, and return over the same route, serving (a) Camden, Trenton, Dyersburg, and Ridgely, TN as intermediate points, (b) Rutherford, Dyer, Bradford and Milan, TN, as off-route points, and (c) Nashville, TN, as an intermediate point for the purpose of joinder only, and (2) between Chattanooga and Nashville, TN, over Interstate Hwy 24, serving Nashville for purpose of joinder with Route (1) above only, and restricted against traffic moving between Nashville and Chattanooga, TN.

Note:—This republication shows Camden and Trenton, TN, as intermediate points in route (1)(a).

MC 124821 (Sub-98F), filed June 27, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Gettysburg Road, Camp Hill, PA 17011. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Cortland, Chenango, Broome, Chemung and Steuben Counties, NY, Franklin, Columbia, Montour, Bradford, Lackawanna, Luzerne, Wayne, Lehigh, Northampton, Tioga and Schuylkill Counties, PA, on the one hand, and, on the other, points in AL, AR, AZ, CT, DE, IA, ID, IN, KS, KY, LA, MA, MD, ME, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OK, PA, RI, SC, SD, TN, UT, VA, VT, WV and WY, and (2) between points in Wyoming, Pike, Monroe and Carbon Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) and (2) above to traffic originating at or destined to facilities used by Northeastern Pennsylvania Shippers Cooperative Association, Inc.

MC 133570 (Sub-9F), filed June 27, 1980. Applicant: A OF I, INC., P.O. Box 27, Hamilton, IN 46742. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885. *Contract carrier*, transporting (1) *machinery*, and *parts* for machinery, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Erie Press Systems, at or near Erie, PA, on the one hand, and, on the other, points in the U.S. (except AK, HI, and PA), under continuing contract(s) with Erie Press Systems, of Erie, PA.

MC 135070 (Sub-103F), filed September 13, 1979, and previously noticed in Federal Register issue of March 18, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs* (except frozen foods and commodities in bulk), from the facilities of Vlasic Foods, Inc., at or near Greenville, MS, to points in AR, CO, IL, IN, KS, LA, MO, NM, OK, and TX.

Note.—This republication adds CO, IL, IN, LA, and NM as destinaton states.

MC 135231 (Sub-49F), filed June 27, 1980. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *particleboard*, from Wheaton, IL, to Stevens Point, WI, and (2) *wooden cabinets*, unassembled, from Stevens Point, WI, to San Diego, CA.

MC 136511 (Sub-103F) filed June 27, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *new furniture and furniture parts*, from points in MS, VA, NC, and SC to points in MA, CT, NY, NJ, PA, MD, VA, DE, GA, FL, TN, OH, IN, KS, MN, MO, IL, TX, CO, OK, AZ, CA, WA, OR and UT, restricted to traffic destined to the facilities of Levitz Furniture Corporation.

MC 143210 (Sub-3F), filed June 30, 1980. Applicant: W. C. HALL GENERAL HAULING, INC., Callao, VA 22435. Representative: Calvin F. Major, 200 W. Grace St., Richmond VA 23220. Transporting *canned goods and canning supplies*, between (a) the facilities of Lake Packing Co., Inc., in Northumberland County, VA, and (b) the facilities of H. H. Perry Canning Co., Inc., in Westmoreland County, VA, on the one hand, and, on the other, points in MD, NC, SC, and PA, restricted to traffic originating at or destined to the named facilities.

MC 143500 (Sub-9F), filed June 30, 1980. Applicant: R. B. CARRIERS, INC., 4425 Highway 31 East, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Contract carrier,* transporting (1) stove pipe, chimneys, ducts, and *flashings (2) metal products except those described in (1) above and equipment, materials and supplies used in the manufacture, and distribution of commodities named in (1) and (2) above* (except commodities in bulk, in tank vehicles), between Redwood City, CA, and Vicksburg, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Dura-Vent Corp. of Redwood City, CA.

MC 145150 (Sub-15F), filed May 22, 1980. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. 2, Salina, KS 67401. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *Liquid fertilizer solution;* From the facilities of Chevron Chemical Co. at or near Friend, KS, to points in CO, NE, OK, NM, and TX.

MC 146110 (Sub-2F), filed June 30, 1980. Applicant: SMALL SHIPMENT EXPRESS OF ILLINOIS, INC., 9623 North Karlov Ave., Skokie, IL 60076. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in by wholesale mail order houses, from the facilities of Shaklee Corporation at Chicago, IL, to points in MO.

MC 148710 (Sub-7F), filed June 30, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract carrier,* transporting *cleaning, buffing, and polishing compounds, textile softeners, lubricating oils, deodorants, and disinfectants,* (except commodities in bulk), from the facilities utilized by Economics Laboratory, Inc., at or near South Holland, IL, to points in AL, FL, GA, KY, MO, NC, SC, and TN, under continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN.

MC 149100 (Sub-4F), filed June 30, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1) *paper drying and processing equipment,* (2) *parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, installation and maintenance of the commodities in (1) and (2) above (except commodities in bulk), between points in Brown and Outagamie Counties, WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 151170F, filed June 27, 1980. Applicant LONG ISLAND GRAIN CO., INC., P.O. Box 97, Long Island, KS 67647. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. Transporting *such commodities* as are dealt in by animal feed business houses, from the facilities of Ralston Purina Company, at or near (a) St. Joseph and Kansas City, MO, and (b) Lincoln and Omaha, NE, to points in Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Sherman, Thomas, Sheridan, Graham, Rooks, Osborne, Wallace, Logan, Gove, Trego, Ellis and Russell Counties, KS.

MC 151120F, filed June 23, 1980. Applicant: WILLIAM B. TOLIVER, R.F.D. 1, Culpeper, VA 22701. Representative: John J. Davies III, 122 West Cameron St., Culpeper, VA 22701. Transporting *passengers and their baggage,* limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, in round-trip special and charter operations, beginning and ending at Culpeper, VA, and extending to race tracks in Charlestown, WV, and Laurel, Bowie and Baltimore, MD.

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Decided: July 21, 1980.

By the Commission, Review Board Number 2, members Chandler, Eaton and Liberman.

FF 442 (Sub-3F), filed June 6, 1980. Applicant: C-LINE FORWARDING, INC., 340 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, Esq., 1730 M St., NW., Suite 501, Washington, DC 20036. To operate as a *freight forwarder* through the use of the facilities of common carriers by *rail, motor* and *water,* in the transportation of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Alexandria, VA, Baltimore, MD, and Washington, DC, points in FL and RI, and points in Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk and Worcester Counties, MA, Anne Arundel, Baltimore, Howard, Montgomery and Prince Georges Counties, MD, Bergen, Camden, Essex, Gloucester, Hudson, Middlesex, Passaic, and Union Counties, NJ, Delaware, Montgomery and Philadelphia Counties, PA, and Arlington and Fairfax Counties, VA, on the one hand, and, on the other, Suffolk County, NY.

MC 61592 (Sub-492F), (correction); filed March 21, 1980, published in the Federal Register, issue of May 29, 1980, and republished, as corrected, this issue. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Elisabeth A. DeVine, P.O. Box 737, Moline, IL 61265. The territorial description should read as follows: "Between Sellersburg, IN, Louisville, KY and those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.) The purpose of this republication is to correct the territorial description. Previous publication was a radial description and it should have been a non-radial description.

MC 107403 (Sub-1339F), filed June 24, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes (same address as applicant). Transporting (1) *chemicals,* and (2) *sugars, syrup, and blends of sugar and syrup,* in bulk, in tank vehicles, from points in Jefferson and Walker Counties, AL, to points in GA, FL, MS, NC, SC, TN and LA.

MC 108393 (Sub-147F), filed March 26, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036. *Contract carrier,* transporting *general commodities* (except commodities in bulk, in tank vehicles, classes, A and B explosives, household goods as defined by the Commission and commodities requiring special equipment) between the facilities of Terminal Freight Cooperative Association, at Alexandria, VA, Atlanta, GA, Baltimore, MD, Boston, MA, Buffalo, NY, Cincinnati, Cleveland and Columbus, OH, Chicago, IL, Chula Vista, CA, Dallas, TX, Denver, CO, Fort Smith, AR, Greensboro, NC, Houston, TX, Jacksonville, FL, Lenoir, NC, Los Angeles, CA, Memphis, TN, Miami, FL, Minneapolis, MN, Nashville, TN, North Bergen, NJ, Oakland, CA, Philadelphia, PA, Pocatello, ID, Portland, OR, Sacramento, CA, San Antonio, TX, Seattle, WA, St. Louis, and Kansas City, MO, and Spokane, WA under a continuing contract(s) with Terminal Freight Cooperative Association, of Des Plaines, IL, restricted to traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 109462 (Sub-29F), filed June 25, 1980. Applicant: LUMBER TRANSPORT, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst,

P.O. Drawer L, Madisonville, KY 42431. Transporting (1) contractors materials, equipment, and supplies (except commodities in bulk), (2) self-propelled articles, each weighing 15,000 pounds or more, (3) commodities, the transportation of which because of size or weight require those of special equipment, and (4) general commodities (except commodities in bulk, classes A and B explosives and commodities which require the use of special equipment) when moving in mixed shipment as commodities in (2) and (3) above, between points in KS and MO, on the one hand, and, on the other, points in WY, CO, OK, TX, LA, AR, IL, NB, KS, MO and IA.

MC 109533 (Sub-128F), filed May 7, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA 23224. Representative: Eugene T. Liipfert, Suite 1000, 1660 L St., NW., Washington, DC 20036. Over regular routes transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN and Ft. Worth, TX, from Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy 67 to Dallas, TX then over U.S. Hwy 80 to Ft. Worth, and return over the same route, serving all intermediate points, (2) between Birmingham, AL and Ft. Worth, TX, from Birmingham over U.S. Hwy 11 to Meridian, MS, then over U.S. Hwy 80 to Ft. Worth and return over the same route, serving all intermediate points and (3) serving points in Collin, Dallas, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise Counties, TX, and Tyler and Kilgore, TX as off-route points in connection with carrier's regular route operations restricted against the transportation of traffic originating at or received from connecting carriers at one point in TX, and destined to or delivered to connecting carriers at another point in TX.

Note.—Applicant intends to tack the authority sought with its otherwise authorized regular routes.

MC 110683 (Sub-173), filed March 19, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Minneapolis, MN, and Kansas City, KS: From Minneapolis, over Interstate Hwy 35 to Kansas City, MO, then over Interstate Hwy 70 to Kansas City, KS and return over the same route, serving Albert Lea, MN, and those points in IA on Interstate Hwy 35 as intermediate points; (2) between Bloomington, IL and Minneapolis, MN: from Bloomington over Interstate Hwy 74 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Minneapolis, and return over the same route, serving Peoria, IL, Rochester, MN, and those points in IA on the indicated routes as intermediate points; (3) between Waukegan, IL, and Lincoln, NE: from Waukegan over IL Hwy 120 to junction IL Hwy 47, then over IL Hwy 47 to junction IL Hwy 176, then over IL Hwy 176 to junction IL Hwy 23, then over IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 2, then over IL Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Lincoln, and return over the same route, serving De Kalb, Moline, and Rock Island, IL, Omaha, NE, and points in IA on the indicated route as intermediate points; (4) between Waukegan, IL, and Wichita, KS: from Waukegan over U.S. Hwy 41 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Wichita, and return over the same route, serving Chicago and Bloomington, IL, St. Louis and Kansas City, MO, and Topeka, KS, as intermediate points; (5) between Lincoln, NE, and Wichita, KS: from Lincoln over U.S. Hwy 77 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 135, then over Interstate Hwy 135 to Wichita, and return over the same route, serving no intermediate points; (6) between Lincoln, NE, and Topeka, KS: from Lincoln over U.S. Hwy 34 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Topeka, and return over the same route, serving no intermediate points; (7) between Lincoln, NE, and Kansas City, MO: from Lincoln over NE Hwy 2 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route, serving St. Joseph, MO, and those points in IA on the authorized route as intermediate points; (8) between Minneapolis, MN, and St. Joseph, MO: from Minneapolis over U.S. Hwy 169 to junction MN Hwy 60, then over MN Hwy 60 to junction IA Hwy 60, then over IA Hwy 60 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction Interstate Hwy 29, then over Interstate Hwy 29 to St. Joseph, and return over the same route, serving those points in IA on the authorized route as intermediate points; (9) between South Sioux City, NE, and Chicago, IL: from South Sioux City over U.S. Hwy 20 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Chicago, and return over the same route, serving Aurora, IL, and those points in IA on the authorized route as intermediate points; (10) between South Sioux City and Lincoln, NE, over U.S. Hwy 77, serving no intermediate points; (11) between Rochester, MN, and South Sioux City, NE: From Rochester over U.S. Hwy 63 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Sioux City, and return over the same route, serving Albert Lea, MN, and those points in IA on the authorized route as intermediate points; (12) between Waukegan, IL, and Minneapolis, MN: from Waukegan over U.S. Hwy 41 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, and return over the same route, serving no intermediate points, (13) between Bloomington, IL, and Minneapolis, MN: from Bloomington over U.S. Hwy 51 to junction U.S. Hwy 14, then over U.S. Hwy 14 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Minneapolis, and return over the same route, serving Rockford, IL, as an intermediate point; (14) between Topeka and Wichita, KS, over the Kansas Turnpike, serving no intermediate ponts; (15) between St. Louis, MO, and South Sioux City, NE: from St. Louis over U.S. Hwy 61 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction IA Hwy 141, then over IA Hwy 141 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Sioux City, and return over the same route, serving those points in IA on the authorized route as intermediate points; (16) between Lincoln, NE, and Bloomington, IL: from Lincoln over U.S. Hwy 34 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Bloomington, and return over the same route, serving Peoria, IL, and those points in IA on the authorized route as intermediate points; (17) between De Kalb, IL, and St. Louis, MO; from De Kalb over IL Hwy 23 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 51, then

over U.S. Hwy 51 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 180, then over Interstate Hwy 180 to junction IL Hwy 29, then over IL Hwy 29 to junction IL Hwy 4, then over IL Hwy 4 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving Peoria, IL, as an intermediate point; (18) between Topeka, KS, and Bloomington, IL: from Topeka over Interstate Hwy 70 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Bloomington, and return over the same route, serving St. Joseph, MO, and Decatur, IL, as intermediate points; (19) between Lincoln, NE and Peoria, IL: from Lincoln over NE Hwy 2 to junction IA Hwy 2, then over IA Hwy 2 to junction IL Hwy 9, then over IL Hwy 9 to Peoria, and return over the same route, serving those points in IA on the authorized route as intermediate points; (20) between Waukegan and Rockford, IL: from Waukegan over IL Hwy 131 to junction IL Hwy 176, then over IL Hwy 176, to junction U.S. Hwy 20, then over U.S. Hwy 20 to Rockford, and return over the same route, serving no intermediate points; (21) between Rockford and Chicago, IL: from Rockford over U.S. Hwy 51 to junction IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 23, then over IL Hwy 23 to junction IL Hwy 5, then over IL Hwy 5 to junction IL Hwy 83, then over IL Hwy 83 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Chicago, and return over the same route, serving De Kalb and Aurora, IL as intermediate points; (22) between St. Louis, MO and Dubuque, IA: from St. Louis over U.S. Hwy 61 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Dubuque, and return over the same route, serving those points in IA on the authorized route as intermediate points; (23) between Mason City, IA, and Milwaukee, WI over U.S. Hwy 18, serving no intermediate points; (24) between Milwaukee, WI and Davenport, IA: from Milwaukee over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 2, then over IL Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Davenport, and return over the same route, serving Rock Island, IL, as an intermediate point; (25) between Kansas City, KS, and St. Louis, MO: from Kansas City over U.S. Hwy 69 to junction U.S. Hwy 50, then over U.S. Hwy 50 to St. Louis, and return over the same route, serving no intermediate points; (26) between Wichita, KS, and St. Louis, MO: from Wichita over KS Hwy 96 to junction KS Hwy 47, then over KS Hwy 47 to junction KS Hwy 57, then over KS Hwy 57 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to St. Louis, and return over the same route, serving no intermediate points; (27) between Wichita, KS, and Kansas City, MO, over Interstate Hwy 35, serving no intermediate points; (28) between Rochester, MN, and St. Louis, MO: from Rochester over U.S. Hwy 63 to junction MO Hwy 22, then over MO Hwy 22 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction MO Hwy 19, then over MO Hwy 19 to junction Interstate Hwy 70, then over Interstate Hwy 70 to St. Louis, and return over the same route, serving all points in IA on the indicated route as intermediate points, and (29) serving Chemolite Siding, MN, O'Fallon, IL, and points in IA not on the above routes, as off route points in connection with routes (1) to (28) above. Restriction: Service at Kansas City, KS–MO is restricted to traffic originating at or destined to Minneapolis, MN, and Des Moines, IA. Note: The purpose of this application is to convert irregular-route authority to regular-route. Conditions: (1) The regular-route authority granted here shall not be severable, by sale or otherwise, from applicant's retained pertinent irregular-route authority. (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding serivice between any two points authorized to be served here pursuant to regular-route authority. In doing so, applicant should make specific references (by docket and sub number) to the irregular-route authorities being converted. As an alternative, applicant may request in writing, coincidental cancellation of the irregular-route authorities being converted.

MC 110683 (Sub-177F), filed April 18, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Niles, MI, and Evansville, IN: from Niles over U.S. Hwy 31 to junction IN Hwy 25, then over IN Hwy 25 to junction IN Hwy 28, then over IN Hwy 28 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, serving the intermediate points of South Bend, Lafayette, and Terre Haute, IN, and the off-route points of Danville and Watseka, IL, and Brazil, IN, and return over the same route; (2) between Hicksville, OH and Lafayette, IN: from Hicksville over OH Hwy 2 to junction IN Hwy 37, then over IN Hwy 37 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction IN Hwy 25, then over IN Hwy 25 to Lafayette, serving the intermediate point of Ft. Wayne, IN, and return over the same route; (3) between Willshire, OH, and Antwerp, OH; from Willshire over U.S. Hwy 33 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Antwerp, serving all intermediate points, and return over the same route; (4) between Hicksville, OH, and Auburn, IN: from Hicksville over OH Hwy 18 to junction IN Hwy 8, then over IN Hwy 8 to Auburn, serving all intermediate points, and return over the same route, and (5) serving points in Steuben, Allen, Huntington, La Grange, La Porte, Wells, Boone, St. Joseph, Hendricks, Elkhart, De Kalb, Noble, Newton, Carroll, Clinton, Clay, Benton, Adams, and Jasper Counties, IN, and Lenawee County, MI, as intermediate and off-route points in connection with carrier's authorized regular routes.

Note.—Tacking is intended.

MC 112713 (Sub-303F), filed May 8, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: R. E. DeLand (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Brattleboro and Norwich, VT, over U.S. Hwy 5, serving all intermediate points, and serving Grafton, Saxons River, and Springfield, VT as off-route points; (2) between Wilder and Burlington, VT: from Wilder over VT Hwy 14 to Barre, VT, then over U.S. Hwy 302 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Burlington, and return over the same route, serving all intermediate points; (3) between Montpelier, VT and junction VT Hwys 107 and 14: from Montpelier over VT Hwy 12 to junction VT Hwy 107, then over VT Hwy 107 to junction VT Hwy 14, and return over the same route, serving all intermediate points; (4) between St. Johnsbury and Montpelier, VT, over U.S. Hwy 2, serving all intermediate points; (5) between Brattleboro and Bennington, VT, over VT Hwy 9, serving all intermediate

points; (6) between Keene, NH and junction U.S. Hwy 5 and the Connecticut River: from Keene over NH Hwy 9 to the NH-VT State line, then across the Connecticut River to junction U.S. Hwy 5, and return over the same route, serving all intermediate points; (7) between Norwich and St. Johnsbury, VT, over U.S. Hwy 5, serving all intermediate points and serving Lyndonville, Lyndon, and Lyndon Center, VT as off-route points; (8) between Burlington, VT and Rouses Point, NY: from Burlington over U.S. Hwy 7 to junction VT Hwy 78, then over VT Hwy 78 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Rouses Point, and return over the same route, serving all intermediate points; (9) between junction NY Hwys 9N and 8 and Burlington, VT: from junction NY Hwys 9N and 8 over NY Hwy 8 to the VT State line, then over VT Hwy 17 to junction VT Hwy 22A, then over VT Hwy 22A to junction U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (10) between Pittsfield, MA and junction VT Hwy 22A and U.S. Hwy 7, over U.S. Hwy 7, as an alternate route for operating convenience only, serving no intermediate points, serving Bennington, VT as a point of joinder only; (11) between Troy, NY and junction VT Hwy 9 and U.S. Hwy 7: from Troy over NY Hwy 7 to the NY-VT State line, then over VT Hwy 9 to junction U.S. Hwy 7, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, (12) between Brattleboro, VT and Bernardston, MA, over U.S. Hwy 5, as an alternate route for operating convenience only, serving no intermediate points; (13) between Glens Falls, NY and junction VT Hwys 17 and 22A: from Glen Falls over NY Hwy 254 to junction U.S. Hwy 4, then over U.S. Hwy 4 to junction VT Hwy 22A, then over VT Hwy 22A to junction VT Hwy 17, and return over the same route for operating convenience only, serving no intermediate points, and (14) between junction U.S. Hwy 4 and VT Hwy 30 and junction VT Hwy 30 and U.S. Hwy 7, over VT Hwy 30, as an alternate route for operating convenience only, serving no intermediate points. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 114273 (Sub-761F), filed June 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *metals*, from Walnutport, PA, to points in IA, IL, IN, KY, MI, MN, MO, OH and WI.

MC 114273 (Sub-762F). Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: (1) *Petroleum and petroleum products*, (2) *automotive chemicals, and cleaning compounds*, and (3) *equipment, materials, and supplies* used by automotive service centers (except in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc., at or near Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to named facilities.

MC 125433 (Sub-427F), filed June 24, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 Southe Redwood Rd., Salt Lake City, UT 84104. Representative: R. CAMERON ROLLINS, P.O. Box 11086, Birmingham, AL 35202.Transporting (1) *iron* and *steel articles*, (2) *commodities*, the transportation of which because of size or weight requires the use of special equipment, and (3) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk) between the facilities of Southern Engineering Company at Catawba and Rock Hill, SC and Charlotte, NC, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 135803(Sub-12F), (correction), filed March 25, 1980, published as MC 135805 (Sub-12F), in the Federal Register, issue of July 3, 1980, and republished, as corrected, this issue. Applicant: WALLACE TRANSPORT, a corporation, 9290 E. Hwy, 140 (P.O. Box 67), Planada, CA 95365. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. The purpose of this republication is to show the correct MC Number. MC 135803 (Sub-12F), which was published as MC 135805 (Sub-12F). The rest of the publication remains the same as previously published.

MC 135803 (Sub-13F), (correction) filed April 4, 1980, published as MC 135805 (Sub-13F) in the Federal Register, issue of July 3, 1980, and republished as corrected, this issue. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140 (P.O. Box 67), Planada, CA 95365. Representative: John, C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. The purpose of this republication is to show the correct MC Number. MC 135803 (Sub-13F), which was previously published as MC 135805 (Sub-13F). The rest of the publication remains the same as previously published.

MC 146402 (Sub-24F), filed July 1, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same address as applicant). Transporting (1) *belt conveyors, and steel supports* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of ZINIZ Inc. at Louisville, KY on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to facilities utilized, by ZINIZ Inc.

MC 147853 (Sub-2F), filed October 3, 1979. Applicant: MOYER & SONS, INC., P.O. Box 733, Gaithersburg, MD 20760. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *household goods as defined by the Commission*, between points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148183 (Sub-22F), filed April 23, 1980. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. Transporting *frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Saluto Foods Corp., at Montgomery AL, to points in CA, FL, GA, NC, SC, and TX.

MC 148943 (Sub-1F), filed March 7, 1980. Applicant: TEJAS OESTE TRUCK LINES, INC., 2209 Mills St., El Paso, TX 79901. Representative: Greg J. Evans (same as applicant). Over *regular* routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between El Paso, TX, and Hobbs, NM, over U.S. Hwy 62-180; (2) between Hobbs and Lovington, NM, over NM Hwy 18; (3) between Hobbs, NM, and Midland, TX: from Hobbs over NM Hwy 18 to the NM-TX State line, then over TX Hwy 18 to junction Interstate Hwy 20, then over Interstate Hwy 20 to

Midland, and return over the same route; (4) between junction TX Hwy 18 and Interstate Hwy 20, and El Paso, TX; from junction TX Hwy 18 and Interstate Hwy 20, over Interstate Hwy 20 to junction Interstate Hwy 10, then over Interstate Hwy 10 to El Paso, and return over the same route; serving all intermediate points in routes (1) through (4) above.

MC 150412 (Sub-1F), filed May 8, 1980. Applicant: VERNON EQUIPMENT, INC., 2115 East 27th Street, Los Angeles, CA 90058. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract carrier,* transporting *such commodities* as are dealt in by retail department stores, between Ontario, CA, on the one hand, and, on the other, points in AZ, NV, NM, TX, and UT, under continuing contract(s) with Mervyn's, of Hayward, CA.

MC 1150482F, filed April 14, 1980. Applicant: JOHN SMITH, RUSSELL ORF, and PETER LYDON, d.b.a. MCCAULEY AIR FREIGHT, R.D. No. 4, Box 314A, Punxsutawney, PA 15767. Representative: John Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives and commodities in bulk), between points in Armstrong, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Jefferson, Lycoming, Union, and Venango Counties, PA, on the one hand, and, on the other, Clarion, DuBois, Philipsburg, and Pittsburgh, PA, restricted to traffic having prior or subsequent movement by air.

MC 150633 (Sub-1F), filed June 24, 1980. Applicant: MERTENS TRUCKING CO., INC., 4215 Terminal Dr., McFarland, WI 53558. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *liquid fertilizer,* in bulk, in tank vehicles, from Amboy, Fulton, and Lemont, IL, to points in IA, MN, and WI.

MC 151 (Sub-123F), filed June 24, 1980. Applicant: T-A-T AIRFREIGHT, INC., 4401 N.W. 74th Ave., Miami, FL 33152. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives, those of unusual value, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between points in New York, Kings, Queens, Bronx, Richmond, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam counties, NY, points in Fairfield and New Haven counties, CT, and points in NJ, restricted to traffic having a prior or subsequent movement by air or water.

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Decided: August 1, 1980.
By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 29910 (Sub-272F), filed June 23, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), alternate routes for operating convenience only in conjunction with applicant's regular-route operations, (1) between Birmingham, AL, and Indianapolis, IN, over Interstate Hwy 65, serving Louisville, KY, and the termini for purposes of joinder only, (2) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, serving the termini for purposes of joinder only, (3) between Birmingham, AL, and St. Louis, MO, from Birmingham over Interstate Hwy 65 to junction AL Hwy 157, then over AL Hwy 157 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction U.S. Hwy 54, then over U.S. Hwy 45 to junction U.S. Hwy 45E, then over U.S. Hwy 45E to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 3, then over IL Hwy 3 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the termini for purposes of joinder only, (4) between Birmingham, AL, and Houston, TX, from Birmingham over Interstate Hwy 20/59 to Jackson, MS, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Houston, and return over the same route, serving Jackson, MS, and the termini for purposes of joinder only, (5) between Birmingham, AL, and Harrisburg, PA, from Birmingham over Interstate Hwy 59 to junction Insterstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Harrisburg, and return over the same route, serving the termini for purposes of joinder only, (6) between Birmingham, AL, and Dallas, TX, over Interstate Hwy 20, serving the termini for purposes of joinder only, (7) between Birmingham, AL, and New Orleans, LA, over Interstate Hwy 59, serving the termini for purposes of joinder only, (8) between Birmingham, AL, and Little Rock, AR, from Birmingham over Interstate Hwy 20 to Tuscaloosa, AL, then over U.S. Hwy 82 to junction U.S. Hwy 65, then over U.S. 65 to Little Rock, and return over the same route, serving Columbus, MS and the termini for purposes of joinder only, (9) between Birmingham, AL, and Erie, PA, from Birmingham over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction WV Hwy 16, then over WV Hwy 16 to junction U.S. Hwy 19, at or near Beckley, WV, then over U.S. Hwy 19 to junction Interstate Hwy 79, at or near Canfield, WV, then over Interstate Hwy 79 to Erie, and return over the same route, serving the termini for purposes of joinder only, (10) between Birmingham, AL, and Chicago, IL, from Birmingham over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 24 to junction Alternate U.S. Hwy 41, then over Alternate U.S. Hwy 41 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, and return over the same route, serving the termini for purposes of joinder only, and (11) between Birmingham, AL, and Waco, TX, from Birmingham over Interstate Hwy 20 to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction TX Hwy 31, then over TX Hwy 31 to Waco, and return over the same route, serving the termini for purposes of joinder only.

MC 29910 (Sub-275F), filed July 1, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *chemicals* (except in bulk), from Houston, TX, to those points in the U.S. in and east of MN, IA, MO, AR, and TX.

Note.—Applicant intends to tack the sought rights to its existing authority.

MC 29910 (Sub-277F), filed July 1, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *activated carbon,* from Marshall, TX, to points in the U.S. (except AK and HI).

MC 29910 (Sub-279F), filed July 2, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72910. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. *Over regular routes,* transporting *general commodities*

(except those of ususual value, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), (1) between Sacramento, CA, and Letterkenny Army Depot, at or near Chambersburg, PA, from Sacramento over Interstate Hwy 80 to junction Utah Hwy 186, then over Utah Hwy 186 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 80 North, then over Interstate Hwy 80 North to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction U.S. Hwy 30 at Breezewood Interchange, then over U.S. Hwy 30 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Letterkenny Army Depot, and return over the same route, serving no intermediate points; (2) betweeen junction Interstate Hwy 80 and U.S. Hwy 40, and junction Interstate 70 and U.S. Hwy 30, at or near Breezewood Interchange, from junction Interstate Hwy 80 and U.S. Hwy 40 over U.S. Hwy 40 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 30, and return over the same route, serving no intermediate points; (3) between junction Interstate Hwy 80 and Alternate U.S. Hwy 95, and Interstate Hwy 70 and U.S. Hwy 40, from junction Interstate Hwy 80 and Alternate U.S. Hwy 95 over Alternate U.S. Hwy 95 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 40, and return over the same route, serving no intermediate points; (4) between Amarillo, TX, and Red River Arsenal, at or near Texarkana, TX, from Amarillo over U.S. Hwy 287 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Red River Arsenal, and return over the same route, serving no intermediate points; (5) between Amarillo, TX, and Red Stone Arsenal, at or near Huntsville, AL, from Amarillo over Interstate Hwy 40 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction Alternate U.S. Hwy 72, then over Alternate U.S. Hwy 72 to Red Stone Arsenal, and return over the same route, serving no intermediate points, and (6) between Sacramento, CA, and junction Interstate Hwy 65 and Alternate U.S. Hwy 72, from Sacramento over Interstate Hwy 5 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Alternate U.S. Hwy 72, and return over the same route, serving no intermediate points. Note: Applicant intends to tack the sought rights to its existing authority. Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 29910 (Sub-280F), filed June 16, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Washburn, Roanoke, Goodfield, Princeville and Eureka, IL, as off-route points in connection with applicants otherwise authorized regular-route operations at Peoria, IL.

Note.—Applicant intends to tack this authority.

MC 33500 (Sub-21F), filed June 30, 1980. Applicant: TOWNE VAN LINES, INC., 10214 North Interregional Highway, Austin, TX 78753. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *used household goods,* between points in the U.S. (including AK and HI, but excluding ID).

MC 33641 (Sub-148F), filed July 2, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Personal Products Co., at or near Wilmington, IL, as an off-route point in connection with carrier's otherwise authorized regular route operations.

MC 33641 (Sub-149F), filed July 2, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound, communications, educational, and entertainment materials (except commodities in bulk and those requiring use of special equipment), between Los Angeles, San Jose, Santa Clara, and Santa Maria, CA, on the one hand, and, on the other, Terre Haute, IN, restricted to traffic originating at or destined to the facilities of CBS Records, Division of CBS, Inc.

MC 48221 (Sub-27F), filed January 28, 1980. Applicant: W. N. MOREHOUSED TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between points in IA, MO, KS, NE, MN, SD, AZ, CA, CO, WA, OR, MI, WI, OK, and TX, restricted to traffic originating at or destined to the facilities of Cudahy Foods Company.

MC 52460 (Sub-275F), filed January 28, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *foodstuffs, pet foods, and animal feeds,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (except commodities in bulk), between points in AL, AR, CO, FL, GA, IL, IN, LA, KS, MS, MO, NM, OK, TN, and TX, restricted to traffic originating at or destined to the facilities used by Carnation Co.

MC 59570 (Sub-46F), filed June 10, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: Jean R. Hecht (same address as applicant). Transporting *salt products, salt with additives, pepper and mineral mixtures,* (1) from the facilities of Morton Salt, at Perth Amboy, NJ, to points in ME, MA, NC, NH, OH, VA, WV, and VT, and (2) from the facilities of Morton Salt, at Silver Spring, NY, to points in CT, DE, ME, MD, MA, NC, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

MC 99031 (Sub-6F), filed February 6, 1980. Applicant: THE KLUG-DIRECT TRANSPORTATION CO., a corporation, P.O. Box 72, Stoutsville, OH 43154. Representative: David A. Turano, Suite 1800, 100 East Broad St., Columbus, OH 43215. Transporting (1) *refractories, and steel mill and foundry supplies,* (except commodities in bulk), from Cleveland, OH, to Ashland, KY, and Huntington, WV, and (2) *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between Cincinnati, Cleveland, and Dayton, OH, on the one hand, and on the other, points in OH.

Note.—Part (2) seeks to convert the Certificate of Registration in MC 99031 (Sub-5), issued January 27, 1978, to a Certificate of Public Convenience and Necessity.

MC 106920 (Sub-107F), filed June 30, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805

McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *foodstuffs,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between Delphos, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 106920 (Sub-108F), filed July 2, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *foodstuffs,* from points in Allen County, OH, to those points in the U.S. in and east of MT, WY, CO, and NM, and (2) *materials, equipment and supplies* used in the manufacture and distribution of prepared foods, in the reverse direction, restricted to traffic originating at or destined to the facilities of Rudolph Foods Co., Inc., in Allen County, OH.

MC 113651 (Sub-321F), filed September 18, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from Chicago, IL, and Milwaukee, WI, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 113651 (Sub-342F), filed June 30, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Omaha, NE 68154. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *malt beverages,* from the facilities of Van Munching & Co., Inc., at New York, NY, to points in FL, GA, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, OK, SD, TX, and WI.

MC 115181 (Sub-40F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *bakerage,* between Carteret, NJ, and points in PA.

MC 115840 (Sub-120F), filed May 2, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 22168, McBride Lane, Knoxville, TN 37922. Representative: Leonard M. Carroll (same address as applicant). Transporting (1) *fabricated fiberglass structural members,* (a) from Houston, TX, to points in the U.S. (except AK and HI), and (b) from Bristol, VA, to Houston, TX.

MC 117730 (Sub-79F), filed July 1, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. Transporting (1) *foodstuffs* (except in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), in mixed loads with the commodities in (1) above, (a) from the facilities of Oscar Mayer & Co., Inc., at Goodlettsville, TN, to Davenport, IA, Madison and Jefferson, WI, and points in IL on and north of U.S. Hwy 136, (b) from the facilities of Oscar Mayer & Co., Inc., at Beardstown, IL, to Goodlettsville, TN, and points in MA, MD, NJ, NY, and PA, and (c) from the facilities of Oscar Mayer & Co., Inc., at Madison and Jefferson, WI, to points in MD, NJ, NY, OH, PA, WV, and DC.

118570 (Sub-11F), filed June 5, 1980. Applicant: DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. *Contract carrier,* transporting *such commodities* as are dealt in or used by grocery stores and food business houses (except commodities in bulk), from the facilities of Procter & Gamble Company, at (a) points in Lackawanna, Luzerne, and Wyoming Counties, PA, to Baltimore, MD, Washington, DC, and points in Orange County, NY, and (b) Baltimore and Cockeysville, MD, to points in Broome, Chemung, and Tioga Counties, NY, and Columbia, Lackawanna, Luzerne, Monroe, Montour, Northumberland, Wayne, and Pike Counties, PA, under continuing contract(s) with Procter & Gamble Company, of Cincinnati, OH.

MC 119670 (Sub-54F), filed September 26, 1979, and previously noticed in Federal Register issue of March 20, 1980. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *such commodities* as are dealt in or used by manufacturers of glass, plastic, chinaware, and metal products (except commodities in bulk), between points in IL, IN, KY, MI, MO, OH, WV, WI, and points in PA on and west of U.S. Hwy 219, restricted to traffic originating at or destined to the facilities used by Anchor Hocking Corporation and its subsidiaries.

Note.—This republication clarifies the terrritorial description.

MC 120491 (Sub-2F), filed March 27, 1980. Applicant: CONSTRUCTION HAULAGE CORP., Unit F at 46th Street, Brooklyn, NY 11322. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *stone blocks,* from St. Peters, PA, to Providence, RI, and (2) *stone slabs,* from Providence, RI, to Brooklyn, NY.

Note.—Issuance of a certificate in this proceeding shall cancel Certificate of Registration MC 120491 (Sub-1), issued December, 12, 1963.

MC 121661 (Sub-7F), filed May 9, 1980. Applicant: VAN WYKE FREIGHT LINES, INC., Box 70, Grinnel, IA 50112. Representative: Russell H. Wilson, 3839 Merle Hay Road, Suite 200, Des Moines, IA 50310. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Moline, IL, and points in IA.

Note:—Issuance of a certificate in this proceeding shall cancel Certificates of Registration Nos. MC 121661 (Sub-1), MC 121661 (Sub-3), and MC 121661 (Sub-5).

MC 124211 (Sub-379F), filed June 30, 1980. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). *Over irregular routes,* transporting (1) *petroleum and petroleum products and cleaning compounds,* and *such commodities* as are dealt in or used by automotive service centers (except commodities in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc., at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to the named facilities; and *over regular routes,* transporting (2) *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 points in Burt County, NE, as intermediate and off-route points in connection with carrier's otherwise authorized regular route operations.

MC 129631 (Sub-73F), filed November 13, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson, (same address as applicant). Transporting (1) *sulphur* (except in bulk), between points in CA, ID, MT, OR, UT, WA, and WY, and (2)(a) *pallets, horticulture*

containers, skids, and boxes, and (b) *materials* used in the manufacture of the commodities in (a), between those points in the U.S. in and west of CO, MT, NM, and WY (except AK and HI).

MC 126930 (Sub-33F), filed February 25, 1980. Applicant: BRAZOS TRANSPORT CO., a corporation, P.O. BOX 2746, Lubbock TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *petroleum and petroleum products,* from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IA, KS, LA, MO, NM, OK, and TX.

MC 129031 (Sub-8F), filed May 21, 1980. Applicant: KLAUSNER TRANSPORTATION CO., INC., 101 North Ave. 18, Los Angeles, CA 90031. Representative: William Davidson, 2455 East 27th St., Vernon, CA 90058. *Contract carrier,* transporting (1) *wearing apparel and piece goods,* and (2) *accessories* for wearing apparel and piece goods, (a) between Los Angeles, CA, and Salt Lake City, UT, (b) between Salt Lake City, UT, and El Paso, TX, and (c) between Salt Lake City, UT, El Paso, TX, and Los Angeles, CA, under continuing contract(s) in (1) and (2) above with Pyke Manufacturing Company, Inc., of Salt Lake City, UT.

MC 135640 (Sub-9F), filed June 30, 1980. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Road, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same address as applicant). Transporting *Such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, (except commodities in bulk), between the facilities used by International Paper Company, at or near (a) Jackson, TN, (b) Clinton, IA, (c) Litchfield, IL, (d) Indianapolis, IN, (e) Wilmington, OH, and (f) Pittsburgh, KS, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 138520 (Sub-2F), filed July 1, 1980. Applicant: R. JOHNS TRANSFER, INC., 2206 Patterson Ave., Roanoke, VA 24016. Representative: Rogers Johns (same address as applicant). Transporting *such commodities* as are dealt in or used by chain grocery houses, between Charlotte, NC, on the one hand, and, on the other, points in VA and WV.

MC 14180 (Sub-1F), filed May 27, 1980. Applicant: CITY PARCEL DELIVERY, INC., South 108 State St., Spokane, WA 99204. Representative: Paul Gisselberg (same address as applicant). *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Spokane, WA, and Coeur D'Alene, ID, over Interstate Hwy 90, (2) between junction Interstate Hwy 90 and U.S. Hwy 95 and Hayden Lake, ID, over U.S. Hwy 95, and (3) between Hayden Lake, ID, and junction U.S. Hwy 41 and Interstate Hwy 90, from Hayden Village over unnumbered county road to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Interstate Hwy 90, and return over the same route, serving all intermediate points, restricted against transporting individual packages or articles weighing more than 50 pounds from any one consignor to one consignee at one location within any one day.

MC 143610 (Sub-18F), filed September 13, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Contract carrier,* transporting *such commodities* as are dealt in or used by toy and game retailers, from those points in the U.S. in and east of WI, IA, MO, AR, and LA to Compton and San Jose, CA, Dallas and Houston, TX, and Seattle, WA, under continuing contract(s) with Toys-R-Us, Inc., of Saddlebrook, NJ.

MC 144130 (Sub-5F), filed June 20, 1980. Applicant: GRILLS TRUCKING, 2225 East 33rd Ave., Vancouver, B.C., Canada. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Contract carrier,* transporting *flat glass and flat glass products,* from Lathrop, CA., to the ports of entry on the international boundary line between the U.S. and Canada in WA, under continuing contact(s) with Libbey-Owens-Ford Company, of Toledo, OH.

MC 144821 (Sub-9F), filed June 13, 1980. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Raymond Ellsworth (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities used by International Paper Company and its subsidiaries at points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of International Paper Company.

MC 145441 (Sub-117F), filed July 2, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *alcoholic beverages* (except in bulk), from San Antonio, TX, to Little Rock, AR.

MC 145481 (Sub-20F), filed June 30, 1980. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1) *plastic articles* (except commodities in bulk), from Warren, PA, to Atlanta, GA, to Indianapolis, IN, and Enfield, CT, and (2) *medicines, cosmetics, toilet preparations, plastic articles, weed killing compounds, and animal and poultry feed supplements* (except commodities in bulk), and *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), from Roanoke, VA, West Columbia, SC, and Indianapolis, IN, to Enfield, CT, restricted in (1) and (2) above, to traffic originating at or destined to the facilities of Eli Lilly and Company.

MC 145760 (Sub-15F), filed July 1, 1980. Applicant: JOHNSON TRANSPORTATION CO. 1327 Highway 13 North, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 22807, 236 E. Capital Street, Jackson, MS 39205. Transporting (1) *axles, wheels and tires,* from Largo, FL, to points in AL, GA, IN, KS, LA, MD, MS, NC, OH, PA, SC, TX, and WI, and (2) *axles,* from Denver, CO, Brownsville, Dallas, Ft. Worth, Lufkin, and Waco, TX, to Largo, FL, restricted in (1) and (2) above, to traffic orignating at or destined to the facilities of or used by All American Wheel and Axle Company, Inc.

MC 146270 (Sub-2F), filed October 22, 1979. Applicant: WINFORD NOAH WILLIAMS, Box 578, Aberdeen, NC 28315. Representative: James E. Holshouser, Jr., Box 116, Southern Pines, NC 28387. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hamlet and Fayetteville, NC, on the one hand, and, on the other, points in Lee and Moore Counties, NC, restricted to traffic having a prior or subsequent movement by rail in trailer on flatcar service.

MC 146341 (Sub-1F), filed November 4, 1980. Applicant: RIGHT-O-WAY, INC., 566 Valley St., Orange, NJ 07050. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. *contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment), between Rouses Point, NY, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Champlain Valley International Shippers and Receivers, Incorporated, of Rouses Point, NY.

MC 146440 (Sub-8F), filed June 30, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market St., Everett, MA 02149. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in Franklin County, VT, and Clinton County, NY, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, MN, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, WV, and WY.

MC 147451 (Sub-4F), filed July 2, 1980. Applicant: RAY J. FORNEY, INC. P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *such commodities* as are dealt in or used by wholesale, retail, and chain grocery stores, and food processors, (except commodities in bulk), between the facilities of Crest Foods, Inc., at or near Ashton, and Forreston, IL on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Issuance of a certificate in this proceeding shall cancel Permit MC 138109.

MC 147681 (Sub-12F), filed June 30, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. No. 2, West Middlesex, PA 16159. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *can ends,* and *metal containers,* from the facilities of Crown Cork & Seal Company, Inc., at (a) Baltimore, MD, (b) Lawrence, MA, (c) North Bergen, NJ, (d) Philadelphia, PA, and (e) Winchester, VA, to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, TN, KY, OH, IL, IN, MI, MO, MS, AR, LA, KS, OK, TX, and DC.

MC 147681 (Sub-14F), filed June 30, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. No. 2, West Middlesex, PA 16159. Representative: Michael P. Pitterich (same address as applicant). Transporting *glass containers,* (1) between Hartford and Dayville, CT, on the one hand, and, on the other, points in MI, and (2) between Knox, Marienville, Parker, Dubois, and points in Clarion County, PA, on the one hand, and, on the other, points in NJ, MD, and DE.

MC 148291 (Sub-8F), filed June 30, 1980. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Harrison, AR, and Tulsa, OK, from Harrison over U.S. Hwy 62 to junction AR Hwy 68, then over AR Hwy 68 to the AR–OK State line, then over OK Hwy 33 to Tulsa, and return over the same route, serving all intermediate points in AR, and the off-route points of Rogers and Bentonville, AR, and (2) between Conway, AR, and Tulsa, OK, from Conway over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Tulsa, and return over the same route, serving all intermediate points.

MC 148490 (Sub-6F), filed July 1, 1980. Applicant: C & N EVANS TRUCKING COMPANY, INC., Route 2, Box 39E, Stoneville, NC 27048. Representative: Clarence B. Evans (same address as applicant). Transporting (1) *containers, container ends, and container closures,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in AL, DE, FL, GA, MD, NJ, NY, NC, SC, PA, VA, WV, and DC.

MC 148710 (Sub-8F), filed July 2, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Road, Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001. *Contract carrier,* transporting *chemicals,* in packages, from Groton, CT, North Claymont, DE, Chicago, IL, Indianapolis, IN, Plaquemine, LA, Baltimore, MD, Brooklyn, NY, Philadelphia, PA, Memphis, TN, Freeport, TX, Portsmouth, VA, and points in NJ, to Atlanta, GA, under continuing contract(s) with Van Waters & Rogers, of Atlanta, GA.

MC 149100 (Sub-3F), filed June 30, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1) *wood fiberboard,* and (2) *materials and supplies* used in the installation of wood fiberboard (except commodities in bulk), from Newark, OH, to points in CA, ID, OR, and WA.

MC 149170 (Sub-13F), filed June 9, 1980. Applicant: ACTION CARRIER, INC, 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *mattresses, box springs, furniture, batting, padding, frames, springs and molds,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Lockland, OH, London, KY, and Pontotoc, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Stearns & Foster Co. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-14F), filed June 9, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *automotive parts and accessories and oils* (except in bulk), from points in IL, MO, TX, GA, MI, PA, WV, MN, and OH to the facilities of Pam Oil Company at (a) Sioux Falls, SD, (b) Omaha, NE, (c) Fargo, ND, and (d) Minneapolis, MN, restricted to traffic destined to the facilities of Pam Oil Company. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 150301 (Sub-3F), filed July 2, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 3653 Lake Eastbrook Blvd. SE., Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract carrier,* transporting *such commodities* as are dealt in or used by retail stores, from points in the U.S. (except AK, HI, and MI), to the facilities of Quality Stores, Inc., in MI, OH, and IN, under continuing contract(s) with Quality Stores, Inc., of N. Muskegon, MI.

MC 150320F, filed March 10, 1980. Applicant: NORTH COAST CONTAINER SERVICE, INC., 8726 25th Ave., N.W., Seattle, WA 98117. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Transporting (1) *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), in cargo containers or trailers, and (2) *empty cargo containers or trailers,* between points in CA, OR, and WA, on the one hand, and, on the other, points in WA, OR, CA, and ID, restricted to traffic having an immediate prior or subsequent movement by water.

MC 150490F, filed March 11, 1980. Applicant: CONN WEST TRUCKING, INC., 4000 East Rd., Lima, OH 45807. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting (1) *machinery, engine brakes, and materials and supplies* used in the manufacture and distribution of machinery and engine brakes, between West Hartford, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *generators, engines,* and *materials and supplies* used in the manufacture and distribution of generators and engines, between Attleboro, MA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *engines, generators, radiators, trailers,* and *materials and supplies* used in the manufacture and distribution of engines, generators, radiators, and trailers, between Bridgeport, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *generators, generator parts, and materials, equipment, and supplies* used in the manufacture and distribution of generators and generator parts, (except commodities in bulk), between Lima, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (5) *materials, equipment, supplies, and parts* used in the manufacture and distribution of motor vehicles (except commodities in bulk), between Lima, OH, and Doylestown, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (6) *motor vehicle parts,* and *materials and supplies* used in the manufacture and distribution of motor vehicle parts, between Elk Grove Village, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (7) *internal combustion engines, engine parts, engines and generators combined, rough castings,* and *materials, equipement, and supplies* used in the manufacture of the foregoing commodities, between Harvey, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150871F filed May 19, 1980. Applicant: B.D.C., LTD., 2677 Drew Road, Mississauga, Ontario, Canada L4T 3W1. Representative: Carl L. Steiner, 39 So. LaSalle St., Chicago, IL 60603. In foreign commerce only, transporting (1) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and such commercial papers, documents and written instruments as are used in the business of banks and banking institutions), between the ports of entry on the international boundary line between the U.S. and Canada at or near Detroit, MI, on the one hand, and, on the other, Detroit, MI, restricted against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight, (2) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls and Buffalo, NY, on the one hand, and, on the other, Buffalo, NY, restricted (a) against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight and (b) to traffic having a prior or subsequent movement by air, (3) *such commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as are used in the conduct and operation of banks and banking institutions), between the ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls and Buffalo, NY, on the one hand, and, on the other, Buffalo, NY, and (4) *such commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities) as are used in the conduct and operations of banks and banking institutions, audit media and other business records, processed and unprocessed film, prints, slides, audio and video tapes, including motion picture film and materials and supplies used in connection with commercial and television motion pictures, between the ports of entry on the international boundary line between the U.S. and Canada at or near Blaine, WA, on the one hand, and, on the other, Blaine and Seattle, WA, restricted (a) to traffic having a prior or subsequent movement by air and (b) against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight.

Note.—Issuance of a certificate in this proceeding shall cancel that portion of Certificate MC 114533 Sub-226 which duplicates any authority granted hereunder.

MC 151171F, filed June 27, 1980. Applicant: CIRCLE DELIVERY SERVICE, INC., 2008 Clark Tower, Memphis, TN 38137. Representative: Dennis D. Kirk, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives in bulk, and those requiring special equipment), between points in Davidson County, TN, on the one hand, and, on the other, points in Lake County, IN, and Cook, DuPage, Kane, Lake, and Will Counties, IL. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 39491 (Sub-17F), filed June 25, 1980. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Road, Westwood, NJ 07675. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, from Philadelphia, PA and points within 35 miles of the City Hall at Philadelphia, to points in the U.S., including AK (except to points in HI, NY, NJ, DE, MD, DC and to points in VA on and east of U.S. Hwy 1 and to points in PA within 35 miles of the City Hall at Philadelphia), and return.

MC 123481 (Sub-7F), filed October 16, 1979. Applicant: BROWN LINES, INC., 22 First St. West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800 South, 1800 M St., NW., Washington, DC 20036. *Over regular routes,* transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Sandpoint, ID, and Spokane, WA, over U.S. Hwy 2, serving all intermediate points.

Note.—Applicant intends to tack this authority.

MC 139440 (Sub-1F), filed June 30, 1980. Applicant: HAMMOND YELLOW & CHECKER CAB INC., d.b.a. AIRPORT LIMOUSINE SERVICE, 5850 Calumet Ave., Hammond, IN 46320. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, (a) between Chicago, IL, and points within the Chicago, IL Commercial Zone, and (b) beginning and ending at points in Lake County, IN, and

Cook County, IL, and extending to points in IN, IL, WI, MI, OH, KY, and MO.

MC 148590 (Sub-1F), filed March 12, 1980. Applicant: KCD OF CONNECTICUT, INC., 32 Burnwood Drive, P.O. Box 92, Bloomfield, CT 06002. Representative: Gerald A. Joseloff, 80 State St., Hartford, CT 06103. *Contract carrier, transporting passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, between points in CT, on the one hand, and, on the other, points in the United States, under continuing contract(s) with Michael C. Chaiklin, d.b.a. Creative Tours, of Bloomfield, CT. (Hearing site: Hartford, CT, or Washington, DC.)

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Decided: June 27, 1980.

By the Commission, Review Board Number 2, Members Chandler Eaton and Liberman.

MC 33843 (Sub-1F), filed June 17, 1980. Applicant: ALLONS TRUCKING CO., INC., 642 W. 28th Street, New York, NY 10001. Representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier, transporting such commodities* as are dealt in by manufacturers of paper and paper products and *materials, supplies and equipment* used in the manufacture of paper and paper products (except commodities in bulk), under continuing contract(s) with Appleton Papers, Inc., of Appleton, WI, Hammermill Paper of Erie, PA, and Nekoosa Papers, Inc., of Port Edwards, WI. (Hearing site: New York, NY.)

MC 57373 (Sub-1F), filed May 27, 1980. Applicant: LEE-WAYS FREIGHT LINES, INC., 7606 Westover Industrial Airpark, Chicopee, MA 01020. Representative: Lee L. Desrosier, 7606 Westover Industrial Airpark, Chicopee, MA 01020. Transporting *general commodities,* between points in MA, VT, NH, CT, RI, and NY. Condition: To the extent that any authority issued authorizes the transportation of classes A and B explosives, it will be conditioned to expire 5 years from the date of issuance. (Hearing site: Springfield or Boston, MA.)

MC 64932 (Sub-613F), (Correction) filed May 19, 1980, published in the Federal Register issue of July 3, 1980, and republished, as corrected, this issue. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *petroleum products,* from the facilities of Amoco Chemicals Corporation, at Natchez, MS, to points in IL, IN, MI, OH, KY, TN, VA, NC, SC, AL, GA, and TX.

Note.—The purpose of this republication is to include the State of GA as a destination state, previously omitted.

MC 72243 (Sub-68F), filed June 19, 1980. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road, SE., Warren, OH 44482. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. Transporting *iron and steel articles,* (1) from the facilities of Natchez Steel & Pipe, Inc. at or near Rosharon, TX, to points in AL, AR, LA, MS, OK, and TN, (2) from New Port, AR, and from the facilities of Natchez Steel & Pipe, Inc. at New Orleans, LA, to points in TX. (Hearing site: Houston, TX.)

MC 73533 (Sub-11F), filed June 18, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, Commodities of unusual value, and commodities requiring the use of special equipment), between Baltimore, MD, on the one hand, and, on the other, points in VA, WV, MD, DE, PA, NJ, CT, and DC, and those points in NY on and south of Interstate Highway 84. (Hearing site: Baltimore, MD.)

Note.—Dual operations may be involved.

MC 76262 (Sub-3F), (Correction) filed December 28, 1979, published in the Federal Register, issue of March 27, 1980, and republished, as corrected, this issue. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Transporting (1) *iron and steel and aluminum articles,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of National Steel Corporation and its subsidiaries.

Note.—The purpose of this republication is to include National Steel Corporation and its subsidiaries.

MC 82063 (Sub-119F), filed June 20, 1980. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from points in LA and TX to west Memphis, AR. (Hearing site: Memphis, TN or St. Louis, MO.)

MC 103993 (Sub-1054), filed June 18, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies and bodies,* from points in Wirt County, WV, to points in the U.S. (except AK and HI) (Hearing site: Charleston, WV.)

MC 103993 (Sub-1055F), filed June 20, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *iron and steel articles,* from the facilities of Dial Tube Company, at or near Bedford Park, IL to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: chicago, IL.)

MC 103993 (Sub-1056F), filed June 19, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *lumber and wood products* from Alamagordo, NM, Fredonia, AZ and Panguitch and Escalante, UT, to points in OK, TX, AR, MO, IA, IL, IN, OH, MI, MN, KY and TN. (Hearing site: Albuquerque, NM.)

MC 107403 (Sub-1267F), (Correction), filed September 21, 1979, published in the Federal Register, issue of June 26, 1980, and republished, as corrected this issue. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from points in CA to points in AZ, CO, TX, IN, WI, KS, MO, WV, NM, WY, and MT, OK and FL. The purpose of this republication is to add the destination States of OK and FL, previously omitted.

MC 108223 (Sub-35), filed June 19, 1980. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN. 55164. Representative: Warren K. Wahoska (same address as applicant). Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk) from the facilities of Clyde Iron Works, Inc., at Duluth, MN, to New Orleans, LA, Baltimore, MD, Port Deposit, MD., New York, NY and Houston, TX. (Hearing site: St. Paul or Duluth, MN.)

MC 109533 (Sub-121F) (Republication), filed December 13, 1979, published in the Federal Register issue of May 15, 1980,

and republished, as corrected, this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: E. T. Liipfert, Suite 1100, 1660 L St. NW., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) over regular routes, (1) between Knoxville, TN, and Indianapolis, IN: from Knoxville over U.S. Hwys 25W and 25 to Cincinnati, OH, then over U.S. Hwy 52 to Harrison, IN, then over IN Hwy 46 to Greensburg, IN, then over U.S. Hwy 421 to Indianapolis, and return over the same route, serving all intermediate points and the off-route point of Shelbyville, IN; (2) between Morristown, TN, and Corbin, KY, over U.S. Hwy 25E, serving all intermediate points; and (3) between Kingsport and Knoxville, TN, over U.S. Hwy 11W, serving all intermediate points; and (b) over irregular routes, between Knoxville, Chattanooga, Nashville, and Bristol, TN, points in TN on and east of a line beginning at the AL–TN state line and extending along U.S. Hwy 31 to junction U.S. Hwy 31E and then along U.S. Hwy 31E to the TN–KY State line, and those in GA on and north of Interstate Hwy 20. (Hearing site: Knoxville, TN or Washington, DC.)

Note.—(I) Applicant intends to tack the regular routes sought with both its regular and irregular-route authority, and the irregular routes sought with its regular-route authority. (II) Applicant states that it presently holds authority to serve the termini and some intermediate points on routes (a) (1), (2), and (3) above, and holds authority to serve all points and territories named in (b) above. (III) Applicant further states that the purpose of this application is to obtain shortened routes and unrestricted intermediate point authority in (a) (1), (2), and (3), and to eliminate the following gateways in (b): the gateway point of Monroe, NC in part III(a) of lead certificate MC 109533; gateway points along described routes between Atlanta, GA and High Point, NC found in Part (I)(e) of lead certificate MC 109533; and gateway points of Birmingham, AL, Atlanta, and Macon, GA, and Gaffney, SC, found in certificate MC 109533 Sub-36. The purpose of this republication is to correct the territory description, to include a commodity description for Part b, and certain notes.

MC 110683 (Sub-183F), filed June 16, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment, (1) between Ft. Smith, AR, and Joplin, MO, over U.S. Hwy 71, serving all intermediate points, (2) between Ft. Smith, AR, and junction U.S. Hwy 71, and MO Hwy 59, from Ft. Smith over AR Hwy 59 to the AR–MO state line, then over MO Hwy 59 to junction U.S. Hwy 71, and return over the same route, serving all intermediate points, (3) between Tulsa, OK, and Springfield, MO, from Tulsa over the Muskogee Turnpike to junction OK Hwy 51, then over OK Hwy 51 to junction U.S. Hwy 62, then over U.S. Hwy 62 to the OK–AR state line, then over MO Hwy 37, to junction MO Hwy 248, then over MO Hwy 248 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Springfield, and return over the same route, serving all intermediate points, (4) between Vinita, OK, and Joplin, MO, from Vinita over U.S. Hwy 60 to junction MO Hwy 13, then over MO Hwy 13 to junction Interstate Hwy 44, then over Interstate Hwy 44 to Joplin, and return over the same route, serving all intermediate points, (5) between Tulsa, OK, and Springdale, AR, from Tulsa over Interstate Hwy 44 to junction OK Hwy 33, then over OK Hwy 33 to the OK–AR state line, then over AR Hwy 68 to Springdale, and return over the same route, serving all intermediate points, (6) between Claremore, OK, and Bentonville, AR, from Claremore over OK Hwy 20 to the OK–AR state line, then over AR Hwy 43 to junction AR Hwy 72, then over AR Hwy 72 to Bentonville, and return over the same route, serving all intermediate points, and (7) serving points in Sebastian, Crawford, Washington, Madison, Carroll, Boone, and Benton Counties AR; Andrew, Cedar, Dade, Greene, St. Charles, Jasper, Barton, Webster, Newton, McDonald, Lawrence, Polk, Dallas, Laclede, Pulaski, Texas, Wright, Christian, Stone, and Barry Counties, MO; and Miami, Bourbon, Crawford, Cherokee, Labette, Montgomery, and Neosho Counties, KS, as intermediate or off-route points in connection with carrier's authorized regular-route operations. (Hearing site: Washington, DC.)

Note.—Applicant intends to tack this authority with its otherwise authorized regular-route authority. Tacking and interlining is intended.

MC 115353 (Sub-45F), filed June 23, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Keil, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier*, transporting (1) *reinforced concrete pressure pipe*, (2) *fittings, tools and accessories* used in the installation of the commodities in (1) above and, (3) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Perryman, MD, on the one hand, and, on the other, points in NY; NJ, PA, CT, RI, MA, NH, VT, ME, VA, WV, DE and DC, under continuing contract(s) with Interpace Corporation. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 116763 (Sub-673F), filed June 19, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting (1) *plastic, plastic articles*, and (2) *such commodities* as are used in the manufacture, distribution, and sale of the commodities in (1) above, between those points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles, and restricted further to the transportation of traffic originating at or destined to the facilities of Plast-O-Meric, Inc. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-67F), filed June 19, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *general commodities* (except commodities in bulk, in tank vehicles, used furniture, commodities requiring the use of special equipment, automobiles, trucks and buses, and explosives), between points in the U.S. in and east of MN, IA, MO, OK and TX, restricted to traffic originating at or destined to the facilities utilized by James River Corporation. (Hearing site: Richmond, VA.)

MC 123233 (Sub-95F), filed June 17, 1980. Applicant: PROVOST CARTAGE, INC., 7887 rue Grenache, Ville d'Anjou, Quebec, H1J 1C4 Canada. Representative: William H. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting *alcoholic liquors, alcohol, distilled spirits, neutral spirits, wine, juices, and juice concentrates*, (1) between Bardstown, KY, on the one hand, and on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, Detroit, MI, Scobeyville, NJ, and Burlingame, CA, (2) in foreign commerce only, ports of entry on the international boundary between the U.S. and Canada, on the one hand, and, on

the other, facilities used by Hiram Walker & Sons, Inc., at (a) Fort Smith, AR, (b) Plainfield, IL; and (c) New Orleans, LA, (3) between Silverton, OH, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY; New Orleans, LA, and Scobeyville, NJ, and (4) between points in NY, PA, NJ, MD, FL, AL and LA on the one hand, and, on the other, Fort Smith, AR; Silverton, OH; Plainfield, IL, Bardstown, KY, and Scobeyville, NJ, restricted to traffic having a prior or subsequent movement by water, and restricted further in paragraphs (1) (3) and (4) to the transportation of traffic originating at and destined to facilities used by Hiram Walker & Sons, Inc.

MC 123993 (Sub-80F), filed June 20, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX, 78701. Transporting (1) *bags, bagging, steel cotton-bale ties, burlap* and (2) *materials and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above (except commodities in bulk) between New Orleans, LA and Ft Worth, TX, on the one hand, and, on the other, points in the United States, except AK, AR, CO, GA, HI, IL, IA, IN, KS, LA, MN, MO, MS, NE, ND, NC, OK, SD, TN and TX. (Hearing site: Ft Worth, TX, or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 125433 (Sub-400F), (correction), filed March 17, 1980 published in the Federal Register, issue of May 15, 1980, and republished, as corrected, this issue. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *batteries, battery accessories, and battery supplies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of batteries, between the facilities of General Battery Corp, in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Washington, DC.) The purpose of this republication is to correct the commodity description and territorial description.

MC 125433 (Sub-426F), filed June 16, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *agricultural machinery, implements and equipment; industrial and construction machinery and equipment, irrigation equipment; drainage systems, stump-cutter; log-splitters, log-chippers and tree spades,* (2) *attachments, parts and supplies* used in the operation of the commodities in (1) above; (3) *material and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of Vermeer Manufacturing Company at Pella, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 128273 (Sub-397F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *general commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, requiring the use of special equipment, and commodities in bulk, in tank vehicles) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities utilized by Purex Corporation. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 128273 (Sub-398F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are used or dealt in by manufacturers and distributors of paper and paper products, printed forms, and carbon paper (except commodities in bulk, in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Vanier Graphics Corporation. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 128273 (Sub-399F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are used or dealt in by manufacturers and distributors of transmitting, receiving, recording and computing devices and phonographic equipment (except commodities in bulk, in tank vehicles), between Compton, CA, and Edison, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), RESTRICTED to traffic originating at or destined to the facilities of Lloyd's Electronics, Inc. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 128883 (Sub-7F), filed June 20, 1980. Applicant: NORTH IOWA EXPRESS, INC., 1921 N.E. 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), (1) between Des Moines, IA and Waterloo, IA, from Des Moines over U.S. Hwy 69 to Ames, IA, then over U.S. Hwy 30 to Cedar Rapids, IA, then over U.S. Hwy 218 to Waterloo and return over the same route, serving all intermediate points; and (2) between Des Moines, IA, and Austin, MN, from Des Moines, over Interstate Hwy 35 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Austin, and return over the same route, serving no intermediate points but serving Lake Mills, Joice, Fertile, Forest City, Hanlontown, Kensett and Northwood, IA, and Albert Lea, MN, as off-route points.

Note.—Applicant intends to tack this authority with its otherwise authorized regular routes.

MC 128343 (Sub-53F), filed June 19, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, DC 20036. *Contract carrier* transporting *such commodities* as are dealt in, used by or distributed by manufacturers and distributors of plastic and plastic products, between the facilities of Superior Plastic Products Corp., at or near Cumberland, RI, on the one hand, and, on the other, points in CA, IL, PA, TN, and VA, under a continuing contract(s) with Superior Plastic Products, Inc. (Hearing site: Boston, MA or Washington, DC.)

MC 134783 (Sub-67F), filed June 17, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver,

CO 80203. Transporting *foodstuffs* from the facilities used by Texsun Corporation, at or near Weslaco, TX to those points in the U.S. in and east of NM, CO, WY, SD and ND. (Hearing site: Lubbock, TX.)

Note.—Dual operations may be involved.

MC 135283 (Sub-64F), filed June 13, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Transporting *frozen meat and barbecue sauce* from the facilities used by 7th Rib Products, Inc., at or near Minneapolis, MN, to those points in the U.S. in and east of ND, SD, NE, CO, OK and TX, restricted to traffic originating at the named facilities or desitned to points in the named states. (Hearing site: Minneapolis, MN or Grand Island, NE.)

MC 135633 (Sub-19F), filed June 13, 1980. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylvan Avenue, Englewood Cliffs, NJ 07632. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *motor vehicles,* except automobiles, in driveaway service between points in the U.S., including AK and HI, restricted to traffic moving to or from the facilities used by Jartran, Inc., or its affiliates, or customers. (Hearing site: Washington, DC or Newark, NJ.)

MC 138313 (Sub-72F), filed June 16, 1980. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting (1) *hides and pelts,* (2) *scrap metals,* (3) *such commodities as are used or dealt in by retail or wholesale hardware stores, and* (4) *such commodities as are manufactured or distributed by steel mills or metal fabricators* (a) between the facilities of Pacific Hide & Fur Depot at or near (I) Billings, Bozeman, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Miles City, Missoula, Lewistown, and Sidney, MT, (II) Seattle, Kennewick, Spokane, and Tacoma, WA, (III) Mills, Riverton, Worland, Gillette, and Rock Springs, WY, (IV) Salmon, Nampa, Sandpoint, Lewiston, Twin Falls, Boise, Burley, and Pocatello, ID, and (V) Portland, OR, and (b) between the facilities of Pacific Hide & Fur Depot at the points named in (a) above, on the one hand, and on the other, points in CA, CO, ID, MT, OR, UT, WA and WY. (Hearing site: Great Falls, MT.)

MC 138543 (Sub-4F), filed June 10, 1980. Applicant: GARY A. SCANNAVINO, d.b.a. CHEROKEE FREIGHT LINES, 5643 Cherokee Road, Stockton, CA 95205. Representative: Thomas M. Loughran, James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Contract carrier* transporting *foodstuffs, except frozen, and such products as are dealt in by wholesale and retail grocers,* from the facilities of Amstar Corporation, Spreckels Sugar Division, at Manteca, Mendota, Spreckels, and Woodland, CA to points in ID, UT, and AZ, under continuing contract(s) with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA. (Hearing site: San Francisco, CA.)

(Correction)

MC 138882 (Sub-362F), filed April 24, 1980, published in the Federal Register issue of July 3, 1980, and republished, as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *foodstuffs* (except in bulk, in tank vehicles) between the facilities of Seabrook Blanching Corp., at or near (1) Edenton, NC, (2) Sylvester, GA, and (3) Tyrone, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

MC 141533 (Sub-19F), filed June 9, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Transporting *cleaning compounds, in ingots, solder residue, solder,* and *anodes* (except commodities in bulk in tank vehicles) between New York, NY, and Chicago, IL. (Hearing site: New York, NY.)

MC 142423 (Sub-10F), filed June 17, 1980. Applicant: BIG D CARTAGE, INC., 28091 Kingsberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *automobile parts,* from the facilities of Clipper International Corporation at Detroit, MI, to Buffalo, NY. (Hearing site: Detroit or Lansing, MI or Washington, DC.)

MC 142423 (Sub-11F), filed June 17, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting (1) *pickles, pickle products, and pepper products,* from the facilities of Safie Bros. Farm Pickle Co., Inc., at or near New Baltimore, MI, to points in MN, WI, IA, IL, MO, TN, AR, LA, MS, IN, KY, OH, IN, GA, AL, SC, NC, VA, WV, PA, NY, NJ, MA, CT, and DE, and (2) *materials, equipment and supplies used in the processing and packaging of commodities in* (1) above in the reverse direction. (Hearing site: Detroit, or Lansing, MI.)

MC 142423 (Sub-12F), filed June 16, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 2855 Collidge, Suite 201 A, Troy, MI 48084. Transporting *malt beverages* from St. Louis, MO and Baldwinsville, NY, to Detroit, MI. (Hearing site: Detroit, or Lansing, MI.)

MC 142423 (Sub-13F), filed June 16, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 2855 Collidge, Suite 201 A, Troy, MI 48084. Transporting (1) *games and toys* from the facilities of Fundimensions Division of CPG Products Corp., located at or near Mount Clemens, MI, to those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment and supplies* used in the manufacture of games and toys, in the reverse direction. (Hearing site: Detroit, or Lansing, MI.)

MC 142703 (Sub-28F), filed June 4, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., P.O. Box 14072, 750 West Third Street, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in by retail drug and grocery stores (except commodities in bulk), *paper, paper articles,* and *plastic film* between St. Louis, MO, on the one hand, and, on the other, points in IN, KY and OH. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 143343 (Sub-3F), filed June 16, 1980. Applicant: BALLENTINE TRANSPORT, INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine (same address as applicant). *Contract carrier,* transporting *dry sugar,* from Ft. Morgan and Loveland, CO, and Gering and Scottsbluff, NE, to points in IA, NE, MN, Sioux Falls, SD, Belvidere and Chicago, IL, and points in KS on and north of U.S. Hwy 54, under continuing contract(s) with International Distributing Corporation of St. Louis, MO. (Hearing site: Kansas City, MO or Denver, CO.)

MC 143953 (Sub-3F), filed June 11, 1980. Applicant: ELITE TRUCKING COMPANY, P.O. Box 69, Station E, St. Joseph, Missouri 64505. Representative:

W. R. England, III, P.O. Box 456, Jefferson City, Missouri 65102. *Contract carrier* transporting *weed and tree killing compounds,* in from the plant site facilities of Rhodia, Inc., at or near St. Joseph, MO, to points in CA, ID, IL, IN, IA, MN, MT, NE, ND, OR, SD, WA and WY, under continuing contract(s) with American Hoechst Corporation. (Hearing site: Kansas City, or Jefferson City, MO.)

MC 144323 (Sub-7F), filed June 20, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N 30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract carrier.* Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Peck Meat Packing Corp., at Milwaukee, WI, to points in the United States (except AK and HI); under a continuing contract(s) with Peck Meat Packing Corp. (Hearing site: Milwaukee, WI.)

MC 144912 (Sub-3F), (correction) filed May 7, 1979, published in the Federal Register, issue of March 25, 1980, and republished as corrected this issue. Applicant: LEON R. GOLDSMITH, d.b.a. TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, CA 90021. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Los Angeles, CA on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, restricted to traffic moving on bills of lading of non-profit shippers' associations operating pursuant to 49 U.S.C. 10562 (3).

Note.—The purpose of this republication is to add the correct restriction.

MC 144913 (Sub-4F), filed June 13, 1980. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., NE, Atlanta, GA 30326. Contract carrier transporting *such commodities as are dealt in or used by retail discount department stores* (except commodities in bulk and except hanging garments), from the facilities of Zayre Corp. at or near Forest Park, GA, to points in MS, under continuing contract(s) with Zayre Corp. (Hearing site: Atlanta, GA.)

MC 146293 (Sub-63F), filed June 18, 1980. Applicant: REGAL TRUCKING CO., INC., Post Office Box 429, Lawrenceville, GA 30426. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting (1) *Electronic equipment and appliances* and (2) *materials, equipment and supplies used in the manufacture and sale of electrical equipment* (except in bulk) between facilities of Sharp Manufacturing Company, Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Memphis, TN.)

Note.—Dual operations may be involved.

MC 146643 (Sub-48F), filed June 16, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier* transporting *canned foodstuffs* (except cold packed or frozen foodstuffs), from Chicago, IL, to St. Louis, Salem, Springfield and Sedalia, MO, under continuing contract(s) with Campbell Soup Company. (Hearing site: Chicago, IL.)

MC 146643 (Sub-51F), filed June 20, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier* transporting *automotive oils and automotive chemicals* (except commodities in bulk), from Kansas City, KS, and Edison, NJ, to those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, under a continuing contract(s) wth Inter State Oil Co., of Kansas City, KS, and Burmak-Castrail, Inc., of Shawnee Mission, KS. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 147433 (Sub-3F), filed May 30, 1980. Applicant: LONG LEASING CORP., P.O. Box 587, East Jordan, MI 49727. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier,* transporting (1) *castings and iron and steel products,* from the facilities of East Jordan Iron Works, Inc., at East Jordan, MI, to all points in the U.S. (except AK, HI, IL, IN, MI, MO, OH and WI), and (2) *materials and supplies* used in the manufacture, distribution and installation of the commodities in (1) above in the reverse direction, under continuing contract(s) with East Jordan Iron Works, Inc., at East Jordan, MI. (Hearing site: Lansing, MI.)

MC 147473 (Sub-No. 1F), filed June 13, 1980. Applicant: LEE C. SMITH, d.b.a., LEMAY DELIVERY, 1426 West 72nd Place, Chicago, IL 60636. Representative: Robert J. Gill, First Commercial Bk. Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. *Contract carrier* transporting (1) *foodstuffs, except frozen,* from the facilities of Fould's Inc. at Libertyville, IL, to points in IN, MI, and WI and (2) *cheese* from Beloit, WI to the facilities of Fould's Inc. at Libertyville, IL, under a continuing contract(s) with Fould's Inc. of Libertyville, IL. (Hearing site: Chicago, IL.)

MC 148183 (Sub-25F), filed June 18, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425—13th Street NW, Washington, DC 20004. Transporting *chocolate candy,* in vehicles, equipped with mechanical refrigeration, from West Reading and Wyomissing, PA, to points in AL, FL, GA, NC, and SC and those points in TN on and east of Interstate Hwy 65. (Hearing site: Atlanta, GA or Washington, DC.)

MC 148183 (Sub-26F), filed June 18, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th Street NW, Washington, DC 20004. *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Holsum Foods, Inc., at or near Albany, GA, Waukesha, WI, Albert Lea, MN, Navasota, TX, and Industrial Airport, KS, to: those points in the U.S. in and east of MN, IA, KS, OK, and TX. (Hearing site: Atlanta, GA or Washington, DC).

MC 150333 (Sub-1F), filed June 23, 1980. Applicant: KNOX CARTAGE COMPANY, INC., 2335 Texas Avenue, Knoxville, TN 37921. Representative: James Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities which because of size and weight require special equipment, between points in Anderson, Blount, Cocke, Hamblen, Jefferson, Knox, Loudon, McMinn, Roane and Sevier Counties, TN, restricted to traffic having prior or subsequent movement by rail.

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Decided: July 26, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 84212 (Sub-36F), filed May 11, 1980. Applicant: DORN'S TRANSPORTATION, INC., Railroad Ave., Ext. (Colonie), Albany, NY 12205. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. Over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between Champlain, NY and Burlington, VT: from Champlain over U.S. Hwy 11 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction VT Hwy 78, then over VT Hwy 78 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route. (2) between Plattsburgh, NY and Champlain, NY, over U.S. Hwy 9. (3) between Champlain, NY and Burlington, VT: from Champlain over U.S. Hwy 9 to Plattsburgh, NY, then over Route 314 to Ferry at Cumberland Head, NY, then via Ferry to VT Hwy 314, then over VT Hwy 314 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction with U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route, serving all intermediate points and the off-route points of Essex Junction, South Burlington and Winooski, VT, in (1) (2) and (3) above, in connection with carriers otherwise authorized regular-route operations.

MC 145402 (Sub-9F), filed June 25, 1980. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 1021, Appleton, WI 54912. Representative: Nancy J. Johnson, 103 East Washington, St., Box 218, Crandon, WI 54520. Transporting (1) *internal combustion engines and accessories* for internal combustion engines, from the facilities of Teledyne Continental Motors, Industrial Products Division, at or near Muskegon, MI, to points in WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

[Volume No. 313]

Decided: August 11, 1980.

By the Commission, Review Board Number 1, Members, Carleton, Joyce and Jones.

MC 263 (Sub-235F), filed July 1, 1980. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green, (same address as applicant). Regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Cheyenne, WY and Salt Lake City, UT over Interstate Hwy 80, serving no intermediate points and serving Cheyenne for purpose of joinder only; (2) between Junction Interstate Hwy 80/U.S. Hwy 30 and Montpelier, ID, over U.S. Hwy 30, serving Junction Interstate Hwy 80/U.S. Hwy 30 for purposes of joinder only; and (3) between Cheyenne, WY and Casper, WY, over Interstate Hwy 25, serving no intermediate points and serving Cheyenne for purpose of joinder only.

MC 10173 (Sub-19F), filed July 1, 1980. Applicant: MARVIN HAYS LINES, INC., Hayes Circle, Clarksville, TN 37040. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Regular Routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) between Hopkinsville, KY and Evansville, IN: from Hopkinsville, over the Pennyrile Parkway to Evansville, IN and return over the same route. (2) between Hopkinsville, KY and Evansville, IN: over U.S. Highway 41 and return over the same route, serving all intermediate points, restricted against traffic originating at, or destined to Evansville, IN.

Note.—Applicant intends to tack.

MC 16903 (Sub-82F), filed July 1, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *lumber and wood products,* (1) from ports of entry on the U.S. Canada International Boundary Line at or near Detroit, MI and Buffalo, NY to those points in the U.S. in and east of MN, IA, MO, AR, and LA and (2) between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 16903 (Sub-83F), filed June 30, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles,* from the facilities of Raritan River Steel Company at Perth Amboy, NJ to those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 52793 (Sub-66F), filed July 2, 1980. Applicant: BEKINS VAN LINES CO., New Products Division, a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Warren N. Grossman, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Transporting *new furniture and furnishings,* between points in OK, on the one hand, and, on the other, points in the US (except AK and HI).

MC 72242 (Sub-69F), filed July 2, 1980. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road, S.E., Box 350, Warren, OH 44482. Representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. Transporting (1) *refractories, refractory products,* (2) *insulation, insulating materials,* and (3) *materials, equipment and supplies* used in the manufacture, distribution, and installation of the commodities in (1) and (2) above, from the facilities of Kaiser Refractories at or near Mexico, MO, to points in DE, KY, MD, MI, MS, NJ, NY, ND, OH, PA, SD, TN, VA, WV and WI.

MC 80443 (Sub-36F), filed June 23, 1980. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) *Iron and steel articles,* from (1) Minneapolis, MN to points in the U.S. (except AK and HI), and (2) *materials, equipment and supplies used in the manufacture of (1) above,* in the reverse direction.

MC 103993 (Sub-1058F), filed July 1, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *agricultural cultivating equipment,* from Colchester, IL, to points in the U.S. (except AK and HI).

MC 103993 (Sub-1059F), filed June 16, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *lumber and lumber products,* between the facilities of C. L. Krug Lumber Company, at or near Evansville, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107012 (Sub-566F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *plastic netting,* from Buffalo, NY, to points in the U.S. (except AK and HI).

MC 107012 (Sub-567F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *toys and games,* from the facilities of Fisher-Price Toys at or near East Aurora, Medina, and Holland, NY,

Murray, KY, Brownsville, TX, and San Diego, CA, to Clearfield, UT.

MC 107012 (Sub-568F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *such commodities* as are dealt in or used in the distribution of products in the horticultural industry (except in bulk), from Bayonne, Passaic and Elmwood Park, NJ, Charleston and Travellers Rest, SC, Sunnyvale, CA, Dallas, TX, Little Falls, MN, West Chicago, IL, Reno, NV, Lawrence and Leominister, MA, East Jordan, MI, and Pine Bluff, AR to points in the U.S. (except AK and HI).

MC 107012 (Sub-569F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *footwear*, (1) from Seattle, WA, Los Angeles, CA, and Norfolk, VA, to Huntington, IN and Atlanta, GA, and (2) from points in AR, GA, FL, MA, ME, NC, NH, PA, TN and TX to Huntington, IN, Compton, CA, Atlanta, GA, and Lebanon, NJ.

MC 110683 (Sub-185F), filed June 25, 1980. Applicant; SMITH'S TRANSFER CORPORTION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., N.W., Washington, DC 20036. Transporting over *Regular routes, general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving points in Berrien and Jackson Counties, MI, as off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant indicates intention to tack and interline with existing authority.

MC 113362 (Sub-398F), filed June 23, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses as described in Sections A & C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766* (except hides, and skins and commodities in bulk), from the facilities used by John Morrell & Co., at or near Ft. Smith, AR, to points in AL, IL, KS, MS, TN, OH, and WI, restricted to traffic originating at the facilities of John Morrell & Co.

MC 113843 (Sub-285F), filed June 27, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). (1) *Such commodities* as are dealt in by wholesale or retail chain food, drug or department stores and (2) *materials, supplies and equipment* used in the distribution of commodities in (1) above, from Horsehead and Brockport, NY, to points in CT, IL, IN, KY, MA, ME, MI, MO, NH, RI, and VT.

MC 113843 (Sub-286F), filed June 30, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St. Boston, MA 02210. Representative: Lawrence T. Sheils (address same as applicant). *Foodstuffs* (except commodities in bulk) from Detroit, MI, to points in CT, DE, IA, IL, IN, KS, KY, MA, MD, ME, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VA, VT, WI, WV and DC.

MC 115413 (Sub-6F), filed June 30, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *ramps, stands,* and *scaffolding* (2) accessories and supplies for the commodities in (1) above, and (3) *equipment, materials, and supplies used* in the manufacture or distribution of the commodities in (1) and (2) above (except comodities in bulk) between Erin, TN and Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX, (except AK and HI).

MC 115413 (Sub-7F), filed July 1, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *ramps, stands, and scaffolding,* (2) *accessories* for the commodities in (1) above, and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (excpet commodities in bulk) between Erin, TN and Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI).

MC 116763 (Sub-675F), filed June 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). Transporting *animal feed and pet foods* (except commodities in bulk, in tank vehicles), from points in Lehigh County, PA, to points in CT, ME, RI and VT, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 120083 (Sub-9F), filed June 25, 1980. Applicant: LINCOLN COACH LINES, P.O. Box 369, Irwin, PA 15642. Representative: James W. Hagar, P.O. Box 1166, Harrisburg, PA 17108. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between points in Allegheny, Bedford, Butler, Somerset and Westmoreland Counties, PA, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI).

MC 124813 (Sub-227F), filed June 30, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *grain bins,* from Columbus, NE, to Eagle Grove, IA, and (2) *steel products,* from Broadview, IL, to points in Wright, Hancock, Cerro Gordo, Franklin, Hardin, Hamilton, Webster, Humboldt and Kossuth Counties, IA.

MC 124813 (Sub-228F), filed June 30, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *dry fertilizer,* from Omaha, NE, to points in IA.

MC 127303 (Sub-80F), filed June 25, 1980. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *adhesives; cleaning, preserving and sealing compounds and products; solvents; stains; plastic carpeting; carpet strip and moldings* and (2) *equipment and supplies* used in the installation of commodities in (1) above, (a) Kalamazoo, MI and (b) Dayton, OH, to those points in the U.S. in and east of MT, WY, CO, and NM.

MC 127303 (Sub-81F), filed June 25, 1980. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *carpet strip and adhesives,* from Asheville, NC, to those points in the U.S. in and east of MT, WY, CO, and NM; and (2) *nails,* from Savannah, GA, to Asheville, NC.

MC 128273 (Sub-400F), filed July 2, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as applicant).

Transporting *coffee* (except in bulk, in tank vehicles), from New Orleans, LA, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of ACLI International, Inc.

MC 134922 (Sub-334F), filed June 30, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, N. Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *foodstuffs* (except in bulk), between the facilities of Bannworth, Inc. at or near La Joya, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135803 (Sub-22F), filed June 30, 1980. Applicant: WALLACE TRANSPORT, a corporation, 9290 E. Hwy 140 (P.O. Box 67), Planada, CA 95365. Representative: Donald M. Finnel (same as applicant). Transporting *canned and preserved foodstuffs* from the facilities of Heinz USA, at or near Tracy and Stockton CA, to points in AZ, ID, MT, NV, OR, UT, WA, and WY, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 138313 (Sub-71F), (republication), previously published in the Federal Register issue of July 1, 1980, and republished this issue. Applicant: BUILDERS TRANSPORT, INC., 409 14th St., SW, Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *lumber, millwork, and wood products,* in foreign commerce only, from ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT to points in CA and CO.

Note.—This republication is to add "millwork" which was omitted from the commodity description in the prior publication.

MC 138882 (Sub-320F), (correction), filed October 31, 1979, published in the Federal Register, issue of March 25, 1980, and July 1, 1980, and republished, as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *furniture, furniture parts, components, and accessories* for furniture and furniture parts, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Leggett Platt Incorporated in the U.S. and its subsidiaries, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) and (2) against the transportation of commodities in bulk, in tank vehicles, and commodities which because of size or weight, require the use of special equipment, and further restricted to traffic originating at or destined to the named shipper facilities and its subsidiaries.

Note.—The purpose of this republication is to correct the restrictions.

MC 141532 (Sub-86F), filed June 30, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting *chemicals, in containers* from the facilities of PPG Industries, Inc., Chemicals Division at Lake Charles, LA to points in CA.

MC 141532 (Sub-87F), filed July 1, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting (1) *machinery and machinery parts* (2) *oil seals and motor mounts,* (3) *rubber products,* (4) *environmental control equipment, air conditioning units, air cooling, heating and purifying systems,* and (5) *materials, equipment and supplies* (except in bulk in tank vehicles) used in the manufacture, and distribution of the commodities in (1) through (4) above, between the facilities of LSB Industries, Inc., Summit Machine Tool, U.S. Discount Machine Tool, International Environmental Corp., L & S Bearing Co., American Bearing Company, Zenith Bearing Company, Tribonetics Corporation and Rotex, at or near Oklahoma City, OK, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA and WY.

MC 141652 (Sub-37F), filed October 1, 1979. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39207. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. Transporting *cleaning, buffing and polishing compounds, and toiletries,* (except commodities in bulk), from the facilities of American Cyanamid Company at Jackson, MS, to points in FL, restricted to traffic originating at the named facilities.

MC 142062 (Sub-38F), filed July 1, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier,* transporting *such commodities* as are dealt in or used by a manufacturer of plastics and polymer specialties (except in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Celanese Plastics & Specialties Company, a division of Celanese Corporation, of Louisville, KY.

MC 142672 (Sub-148F), filed June 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *meats, meat products, meat by-products and articles distributed by meat-packing houses* as described in sections A and C of appendix 1 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 used by John Morrell & Co., at or near East St. Louis, IL, to points in AR, restricted to traffic originating at the named origin.

MC 142672 (Sub-149F), filed June 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities* as are dealt in or used by discount and variety stores, from points in AL, CA, CT, IA, IL, IN, MO, OH, TX, VA and WV, to the facilities of Wal-Mart Stores, Inc., at or near (a) Bentonville and Searcy, AR, and (b) Palestine, TX.

MC 142873 (Sub-7F), filed June 25, 1980. Applicant: D & W TRUCK LINES, INC., 209 First Street, Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. Transporting (1) *carpet strip and adhesives,* from Asheville, NC, to those points in the U.S. in and east of MT, WY, CO, and NM; and (2) *nails,* from Savannah, GA, to Asheville, NC.

MC 143002 (Sub-20F), filed June 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. *Contract carrier* transporting (1) *household care and personal care products* and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above, between Ada, MI, on the one hand, and, on the other, Kent, WA under continuing contract(s) with the Amway Corporation of Ada, MI.

MC 143563 (Sub-9F), filed July 1, 1980. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. N.W., Washington, DC 20005. Transporting *shoes and materials and supplies* used in the manufacture of

shoes (except commodities in bulk), between Scarboro, ME and Santa Rosa, CA.

MC 144082 (Sub-19F), filed June 30, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Bldg., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as applicant). Transporting *such commodities* as are dealt in or used by auto service stores from Chicago, IL, to Atlanta, GA, under continuing contract(s) with Midas International Corporation, of Chicago, IL.

MC 144893 (Sub-3F), filed July 1, 1980. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, P.O. Box 502, St. George, UT 84770. Representative: J. Ralph Atkin, P.O. Box 339, 60 North 300 East, St. George, UT 84770. Contract carrier, transporting *newsprint* between Pomona, CA on the one hand, and on the other, Phoenix, Mesa, and Tempe, AZ and (2) from Pomona, CA to Albuquerque and Santa Fe, NM under continuing contract(s) with Garden State Paper Company of Pomona, CA.

MC 146293 (Sub-64F), filed July 1, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting *plastic scrap* (except in bulk), between the facilities of Trade Enterprises, Inc., at Greenville, SC on the one hand, and, on the other, points in the US (except AK & HI).

MC 146293 (Sub-65F), filed July 1, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting (1) *such commodities* as are dealt in by wholesale, retail and chain grocery business houses, and (2) *materials, equipment and supplies* used in their manufacture and distribution between those points in the U.S. in and east of NM, OK, KS, NE, SD, and ND, restricted (a) to traffic originating at or destined to facilities of The Clorox Company and (b) against the transportation of commodities in bulk and frozen foods.

MC 146573 (Sub-13F), filed June 25, 1980. Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting (1) *adhesives, cleaning, preserving and sealing compounds and products, solvents, stains, plastic carpeting, carpet strip and moldings, and* (2) *equipment and supplies* used in the installation of the commodities in (1) above, from Kalamazoo, MI, and Dayton, OH, to those points in the U.S. in and east of MT, WY, CO, and NM.

MC 146703 (Sub-1F), filed June 27, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of home products, personal health care products, and beauty aid products between Easthampton, MA, and Chicago, IL.

MC 146893 (Sub-10F), filed July 1, 1980. Applicant: BROWN TRANSPORT, INC., Box 327A; R.R. #3, West Alexandria, OH 45381. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Transporting *commodities in bulk,* between points in Butler, Clark, Champaign, Darke, Greene, Hamilton, Miami, Mercer, Montgomery, Preble, Shelby, and Warren Counties, OH, on the one hand, and, on the other, points in IN, KY, MI, PA, and WV.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146893 (Sub-11F), filed June 30, 1980. Applicant: BROWN TRANSPORT, INC., Box 327A; R.R. #3, West Alexandria, OH 45381. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting *fluorspar,* in bulk, between points in OH, KY, and IM.

MC 147323 (Sub-24F), filed June 9, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of iron and steel articles (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Whittaker Steel Corp.

MC 148412 (Sub-3F), filed June 25, 1980. Applicant: GRIBBLE TRUCKING, INC., R.D. 1, Somerset, PA 15501. Representative: Dixie C. Newhouse, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Contract carrier,* transporting (1) *air conditioner compressors,* from points in Frederick County, MD, to points in NJ, IL, MI, IN, OH, TN, and KY, and (2) *materials and supplies* used in the manufacture and distribution of air conditioner compressors, in the reverse direction, under continuing contract(s) with Fedders compressor company, of Eddison, NJ.

MC 149453F, filed June 9, 1980. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by Donaldson Company, Inc., its subsidiaries, divisions and vendors, under continuing contract(s) with Donaldson Company, Inc., of Minneapolis, MN.

MC 150042 (Sub-1F), filed June 23, 1980. Applicant: JOHN W. CAIN d.b.a. CAIN TRUCK LINE, P.O. Box 538, Sunland Park, NM 88063. Representative: John W. Cain (same address as applicant). *Contract carrier,* Transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration, (1) from points in CA to points in El Paso County, TX, and (2) from Clearfield, UT, to points in El Paso County, TX, under continuing contract(s) with SYSCO-H & R Food Service Company, of El Paso, TX.

MC 150163 (Sub-3F), filed June 25, 1980. Applicant: HORWITH TRUCKS, INC., R.D. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *In foreign commerce only* transporting (1) *aluminum concentrate,* in bulk, in dump vehicles, from South River, NJ, to ports of entry on the international boundary line between the U.S. and Canada in NY, and (2) *lead residue,* in bulk, in dump vehicles, from ports of entry on the international boundary line between the U.S. and Canada in NY to Nesquehoning, PA.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150283 (Sub-1F), filed July 1, 1980. Applicant: NORTHERN COMMODITIES TRANSPORTATION, INC., P.O. Box 2586, Martinez, CA 94553. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *clay* from the facilities of Industrial Minerals Ventures, at Imvite, NV, to points in Fresno, Imperial, Kern, Kings, Los Angeles, Monterey, San

Diego, Santa Barbara, Solano, Sonoma, Ventura, and Yolo Counties, CA.

MC 150902 (Sub-1F), filed June 30, 1980. Applicant: GORDON TRUCKING, INC., Box 389, Bassett, NE 68714. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. Transporting *petroleum and petroleum products*, from Phillipsburg, KS, Casper, WY, Yankton, SD, and Council Bluffs, IA, to points in Keya Paha, Rock, Brown, Holt, Hayes, Wheeler, and Lincoln Counties, NE.

[Volume No. 314]

Decided: August 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 112713 (Sub-305F), filed June 9, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Regular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), (1) between Jackson and Dyersburg, TN: from Jackson over TN Hwy 20 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route; (2) between Humbolt and Rutherford, TN, over U.S. Hwy 45W; and (3) between junction U.S. Hwy 45W and TN Hwy 77 and Dyersburg, TN: from junction U.S. Hwy 45W and TN Hwy 77, at or near Dyersburg, TN, over TN Hwy 77 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route; serving all intermediate points on routes (1) to (3) above.

MC 113362 (Sub-400F), filed June 30, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *petroleum and petroleum products, vehicle body sealer, sound deadener compounds*, and *filters*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk) from Franklin Park, IL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, AND TX, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 118202 (Sub-138F), filed October 1, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *thermosetting and thermoplastic molding materials* (except commodities in bulk), from Orange, CA, Winona, MN, and Delano, PA, to points in the U.S. (except AK and HI), and (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), in the reverse direction.

MC 120673 (Sub-1F), filed June 3, 1980. Applicant: ACME TRANSPORT COMPANY, a corporation, 3546 Vandalia Road, Des Moines, IA 50317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *alcohol*, in bulk, in tank vehicles, from points in IL, MO, KS, and NE, to points in IA, and (2) *gasohol*, in bulk, in tank vehicles, from Rock Port, MO, to points in IA. (Hearing site: Des Moines, IA.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 121733 (Sub-3F), filed April 28, 1980. Applicant: SEA-RAIL TRUCKLOADS, INC., 1225 South Jellick, City of Industry, CA 91748. Representative: Miles L. Kavaller, 315 South Beverly Dr., Beverly Hills, CA 90212. Transporting (1) *new furniture*, in cartons, from points in CA, MS, NC, IN, GA, TX, and TN, to points in AZ, CA, CO, NM, NV, TX, OK, OR, and WA, restricted to traffic originating at or destined to the facilities of Grantree Furniture Rental Corporation, and (2) *general commodities* (except commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and automobiles), between points in Los Angeles County, CA.

Note.—Part (2) above seeks conversion of applicant's certificate of registration. Conditions: (1) Issuance of a certificate of public convenience and necessity is subject to the coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC 121733. (2) Any certificate issued in this proceeding, to the extent it authorizes classes A and B explosives, shall be limited in time to a period expiring 5 years from its date of issue.

MC 144232 (Sub-2F), filed June 27, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box 1181, Roswell, GA 30075. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI) under continuing contract(s) with General Foods Corporation, of White Plains, NY.

MC 144483 (Sub-5F), filed May 22, 1980. Applicant: MAHER, INC., R.R. #14, Box 330, West Terre Haute, IN 47885. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *liquefied petroleum gas*, from Tuscola, IL, to Waynetown, IN, under continuing contract(s) with Pyrofax Gas Corp., of Houston, TX. Condition: The permit to be issued in this proceeding shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 147492 (Sub-3F), filed July 2, 1979. Applicant: MEL MOTOR EXPRESS, INC., a corporation, P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon III (same address as applicant). Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from the facilities of Lengsfield Brothers, Inc., at New Orleans, LA to points in AL, AK, MS, TN, TX, SC, NC, FL, KY, MI, LA, GA, VA, IL, OH, NY, WV, IN, MO, and WI, and (3) *Materials equipment and supplies*, used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, restricted in (1), (2) and (3) above to traffic originating at or destined to the facilities of Lengsfield Brothers, Inc.

MC 147523 (Sub-2F), filed June 11, 1980. Applicant: CAPITOL CITY WRECKER SERVICE, INC., 539 W. Monument St., Jackson, MS 39203. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting: (1) *wrecked, disabled, and repossessed motor vehicles and cargo trailers*, and (2) *replacement motor vehicles and cargo trailers*, by use of wrecker equipment only, between points in MS, on the one hand, and, on the other, points in AL, AR, LA, TN, and TX.

MC 148443 (Sub-8F), filed July 1, 1980. Applicant: SOUTH SHORE EQUIPMENT CORPORATION, 1284 Miller Rd., Avon, OH 44011. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *rust preventatives*, and *electroplating additives, metals, metal products, rubber, petroleum products, chemicals*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between Cleveland, OH, and points in CT, SC, FL, MI, MN, IL, MO,

TX, LA, CO, AZ, CA, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149233 (Sub-1F), filed June 23, 1980. Applicant: EDGAR SERVICE COMPANY, INC., P.O. Box 562, Avon, MA 02322. Representative: Arthur T. Flynn (address same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA, ME, NH, NJ, RI, VT, and Clinton and Essex Counties, NY, to points in AL, AZ, CA, FL, GA, IL, IN, KS, MD, MI, MN, MO, NV, NM, NC, OH, OR, PA, SC, TX, VA, WA, WV and WI. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 149493 (Sub-1F), filed June 16, 1980. Applicant: DARRELL MADDEN, d.b.a. DARRELL MADDEN TRUCKING, 2232 E. Maime Eisenhower Ave., Boone, IA 50036. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *pulpboard*, from the facilities of Sonoco Products Company, at or near Rockton, IL, to Boone, IA.

MC 150183 (Sub-1F), filed March 10, 1980. Applicant: CASSCO REFRIGERATED TRANSPORT, DIVISION OF CASSCO CORPORATION, 125 West Bruce St., Harrisonburg, VA 22801. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), between points in Frederick, Shenandoah, Rockingham, Bedford, and Albemarle Counties, VA, and Berkeley and Jefferson Counties, WV, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, WV, and DC.

MC 150552F, filed April 7, 1980. Applicant: RICHARD B. JONES d.b.a. DICK JONES TRUCKING, 2051 Geneva St., #43, Oceanside, CA 92054. Representative: Richard B. Jones (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY and VT, on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Champlain Valley International Shippers & Receivers Association Inc., of Rouses Point, NY.

MC 145203 (Sub-9F), filed May 5, 1980. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *containers and container ends* and (2) *equipment, materials, and supplies* used in the manufacture and use of the commodities in (1) above (except commodities in bulk), between points in IN, KY, MI, WV, PA, MD, NY, IL, WI, NJ, MO, DE, and OH, restricted to traffic originating at or destined to the facilities of American Can Company.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25253 Filed 8-18-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Delegation of Authority No. 137]

Authority Delegation: Assistant Adminstrator for Program and Management Services and Director, Office of Personnel Management

By virtue of the authority delegated to me by the Trade and Development Program Delegation of Authority No. 1, entitled "Contracting and Personnel Management Functions for the Trade and Development Program," effective July 1, 1980, it is hereby directed as follows:

Section 1. There is hereby delegated to the Assistant Administrator for Program and Management Services the authority to sign or approve, on behalf of the Trade and Development Program, contracts, grants and cooperative agreements financed under authority vested in the Trade and Development Program by Section 1-203 of the International Development Cooperation Agency ("IDCA") Delegation of Authority No. 4. This delegation includes the authority to negotiate, conclude and terminate agreements; to modify and amend agreements pursuant to Section 4 of Executive Order 11223, as amended, and to make determinations pursuant to Section 604(a) of the Foreign Assistance Act of 1961, as amended in regard to programs authorized under Sections 607(a) and 661 of the Act.

Section 2. There is hereby delegated to the Director, Office of Personnel Management, the authority necessary to implement sections 1-203 and 1-401 of IDCA Delegation of Authority No. 4 insofar as they relate to personnel of the Trade and Development Program. This includes the authority of the Foreign Service Act of 1946, as amended, to employ and designate personnel, which the Director is authorized to exercise pursuant to Section 625(d) of the Act and the provisions of the Foreign Service Act which apply to personnel so appointed or assigned, shall consist of:

(a) The authority available to the Secretary of State under the Foreign Service Act of 1946 (including Section 571 of that Act), relating to Foreign Service Reserve Officers, Foreign Service staff officers and employees, and alien clerks and employees;

(b) The authority available to the Secretary of State under Sections 1021 through 1071 of the Foreign Service Act of 1946;

(c) The authority available to the Board of Foreign Service and under the Foreign Service Act of 1946;

(d) The authority to prescribe or issue in pursuance of the Foreign Service Act of 1946 and the Act such regulations, orders and instructions as may be incidental to, or necessary for, or desirable in connection with, the carrying out of the provisions of Section 625(d)(2) of the Act or the provisions of this Delegation of Authority; and

(e) The prohibitions contained in Sections 1001 through 1005 of the Foreign Service Act of 1946.

Section 3. The authority delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of the designated officers on an acting basis.

Section 4. This delegation of authority shall be deemed effective as of July 1, 1980, and actions within the scope of this delegation and any redelegation hereunder undertaken prior hereto which are consistent with the terms and scope of this delegation are hereby ratified and confirmed.

Dated August 7, 1980.

Douglas J. Bennet, Jr.,
Administrator.

[FR Doc. 80-25455 Filed 8-20-80; 8:45 am]
BILLING CODE 4710-02-M

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committeee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on September 18 and 19, 1980 (from 9:00 a.m. to 5:00 p.m.), at the Biltmore Hotel, 515 South Olive Street, Los Angeles, California 90013.

The agenda will deal primarily with those aspects of the Report of the Presidential Commission on World Hunger which deal with the role of voluntary organizations. The Committee will also assess its activity during the previous 21 months and determine the priority areas of its interest for its meetings during 1981.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202-632-0108, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: August 13, 1980.

Frederick F. Simmons,

Acting Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 80-25453 Filed 8-20-80; 8:45 am]

BILLING CODE 4710-02-M

Housing Guaranty Program; Costa Rican Ministry of Finance; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan to the Costa Rican Ministry of Finance (Borrower) in an approximate amount of Eleven Million Four Hundred Thousand U.S. Dollars ($11,400,000) to finance housing projects in Costa Rica. By this notice of investment opportunity the borrower solicits expressions of interest from U.S. underwriters or lenders to counsel them on loan timing, structure, features, and manage this underwriting by presenting proposals to borrower from eligible investors, as defined below, for borrowers selection. Interested underwriters or lenders should contact the borrower describing their services before the termination of fifteen (15) working days from the date of this advertisement.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 515-HG-006.

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D.

Underwriters or lenders are invited to consult with the borrower and, if selected by borrower, to manage this underwriting thereafter by submitting proposals to the borrower. Selection of an eligible lender and the terms of the loan are subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower. Interested parties should communicate with the borrower at the following address: Raul Fernandez Bianchi, Director de Financiamiento Externo, Ministerio de Hacienda, Apartado 10104, San Jose, Costa Rica, Telephone: 23-86-54, Telex: 2277 MINHAC-CR.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate the renotification process copies of expressions of interest made to the borrower shall be sent to A.I.D. at the above address.

Dated: August 14, 1980.

David McVoy,

Assistant Director for Operations, Office of Housing.

[FR Doc. 80-25454 Filed 8-20-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[TA-201-44]

Certain Motor Vehicles and Certain Bodies Chassis Therefor; Receipt of Ford Motor Co.; Petition

On August 4, 1980, the Commission received a petition for import relief filed by the Ford Motor Company (Ford) under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) with respect to imports of passenger cars, light trucks, vans, and utility vehicles. In its petition Ford refers to the Commission's ongoing investigation, instituted June 30, 1980, following receipt of a petition filed by the UAW. Ford urges the "expeditious completion" of the investigation and stated its intention to participate in the Commission's public hearing set to begin October 8, 1980. Ford does not ask for a second investigation or change in scope of the present investigation or Commission procedures with respect to the investigation. Ford states that it is filing its own petition "to provide the Commission with an additional perspective on the nature and extent of the industry's injury and to emphasize the importance of the requested relief to the domestic producers."

Since the imported articles against which Ford requests relief are already the subject of an investigation, and since Ford is not seeking a second investigation or a change in scope of the present investigation, the Commission considers Ford to be a copetitioner for import relief in the investigation that is already under way.

Notice of institution of the investigation and public hearings was published in the Federal Register of July 7, 1980 (45 FR 45731); notice of change in Commission procedures was published in the Federal Register of July 22, 1980 (45 FR 48996); and notice of place of the Commission hearing was published in the Federal Register of August 6, 1980 (45 FR 52280).

Issued: August 18, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-25381 Filed 8-20-80; 8:45 am]

BILLING CODE 7020-02-M

LIBRARY OF CONGRESS

Copyright Office

[Docket LPR 80-4]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Public Hearing

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of public hearing.

SUMMARY: The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report is the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archives. This notice announces and invites participation in the fourth of a series of regional public hearings designed to elicit views, comments, and information from all interested persons, including copyright proprietors, librarians, and users of all types of libraries. The Copyright Office actively seeks the participation not only of organizational representatives, but also of any individual whose informed opinion may contribute to the preparation of the report and the possible recommendation of changes in the copyright law.

DATES: The hearing will be held on October 8, 1980 in Anaheim, California at the Disneyland Hotel, the Magnolia "B" Room, beginning at 9:30 a.m. The hearing will take place during the same week as the annual meeting of the American Society for Information Sciences.

Anyone desiring to testify should submit a written request to present testimony by October 1, 1980, to the address set forth below. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m. on October 1, 1980.

Supplemental statements will be entered into the record until November 8, 1980. Ten copies of such statements should be submitted.

ADDRESSES: Written requests to present testimony and ten copies of written statements or of supplementary statements should be submitted as follows:

If sent by mail: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

If delivered by hand, the copies should be brought to: Office of the General Counsel, Room 519, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time desired. The Copyright Office will try to contact all witnesses to confirm the times of their appearances.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 Telephone: (703) 557-8731.

SUPPLEMENTAL INFORMATION:

1. Background and purpose of the report.

The Copyright Act of 1976, 17 U.S.C. 101 et. seq., was a product of many years of effort by Congress to replace what many felt was a copyright law which was ill-suited to such technological developments of the twentieth century as cable television, computers, and photocopying machines. One of the most difficult problems to resolve concerned the photomechanical reproduction, in whole or in part, of copyrighted works by libraries and archives. In addition to codifying the doctrine of fair use for the first time (17 U.S.C. 107), the Copyright Act of 1976 contains provisions authorizing certain acts of reproduction and distribution by qualifying libraries (17 U.S.C. 108).

These provisions represent a balance between the positions forcefully advocated by the proprietor and user communities in testimony before Congress during the legislative effort that resulted in the current Act. Because of the uncertainty about their effect, at present and in the future, Congress provided that the Register of Copyrights should prepare at five-year intervals, reports concerning the effectiveness of the balance created by the Copyright Act. The first such report, the subject of the hearing here announced, is due January 1, 1983. An advisory committee composed of ten representatives of concerned interests meet regularly with the Copyright Office to plan the preparation of the report. In addition to public hearings, the Copyright Office has under consideration the possibility of conducting an empirical survey to provide objective data on the effects of section 108.

The purpose of this hearing is to examine practices under section 108 as they have developed since January 1, 1978, when the Copyright Act of 1976 became effective. It would therefore be most helpful if witnesses not simply reiterate positions previously taken with respect to library copying, but amplify their remarks with a discussion of ways in which the Act has or, of equal importance, has not affected their practices.

2. Summary of section 108

Under section 106 of the Copyright Act of 1976, authors and other owners of copyright are given the exclusive rights, among others, to reproduce the copyrighted work in copies or phonorecords and to distribute copies or phonorecords of the copyrighted work to the public. These exclusive rights are subject to several exemptions, including those contained in section 107 ("fair use") and section 108 ("reproduction by libraries and archives").

Section 108 deals with a variety of situations involving photocopying and other forms of reproduction by libraries and archives. Subsection (a) provides that "* * * it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such a copy or phonorecord, under the conditions specified by this section if—

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) The collections of the library or archives are open to the public or specialized researchers; and

(3) The reproduced or distributed material includes a notice of copyright.

Thus, paragraph (a) of section 108 establishes the basic conditions under which a library or archives may claim an exemption from the exclusive rights of copyright proprietors. In addition, for the library activity to be exempt under section 108, one of the other conditions set forth in paragraphs (b) through (f) must be satisfied. Moreover, under paragraph (h), the exemptions for nonprint copyrighted works are modified substantially. Very generally, with the exception of facsimile duplication for preservation purposes and to replace damaged, deteriorating, or lost copies, the exemptions of section 108 apply primarily to books and periodicals.

Archival preservation [section 108(b)]. This exemption applies only to unpublished works in the current collection of a library or archives. It allows reproduction only in facsimile form and only for "purposes of preservation or security or for deposit for research use in another library or archives."

Replacement [section 108(c)]. Libraries or archives are authorized to

duplicate a published work in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost or stolen *but* only if they find that an unused replacement copy cannot be obtained at a fair price. The legislative reports offer some guidance as to what is meant—they indicate that a reasonable investigation will always require recourse to commonly known trade sources in the United States, and in the normal situation also to the publisher or copyright owner or an authorized reproducing service.

Journal articles, small excerpts, etc. [section 108(d)]. This paragraph applies to "no more than one article or other contribution to a coprighted collection or periodical issue, or to * * * a small part of any other copyrighted work." The only conditions for supplying a reproduction are that: "the copy becomes the property of the user"; there is no reason to suppose that it "would be used for any purposes other than private study, scholarship, or research"; and the library or archives must display prominently, at the place where orders are accepted, and include on the order form, a warning of copyright in language prescribed by a Copyright Office regulation.

Entire works or substantial parts [section 108(e)]. With one addition, the conditions applicable under paragraph (d), as discussed above, apply under paragraph (e) to the "entire work," or "a substantial part of it." The added condition is that "the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of a copyrighted work cannot be obtained at a fair price." This paragraph applies essentially to out-of-print works.

General exemptions [section 108(f)]. In addition to the specific exemptions described above, paragraph (f) makes clear that no copyright liability attaches to a library or its employees for copying done on unsupervised copying machines provided the machines bear a warning that certain copying activity may represent an infringement of the copyright law. Also, nothing in section 108 "in any way affects the right of fair use as provided by section 197," and a small number of copies of an audiovisual news program may be made and distributed by lending.

Multiple and systematic copying [section 108(g)]. Section 108 does not permit copying when the library or archives, or its employee—

(1) Is aware or has substantial reason to believe that it is making or distributing multiple copies of the same material, whether on one or several occasions, or

(2) Engages in the systematic reproduction or distribution of copies of peridocial articles or excerpts from other copyrighted works; however, certain copying for interlibrary loan purposes is permissible, even if it might otherwise appear "systematic."

Copying for interlibrary loan purposes is authorized to the extent that libraries receiving copies so made do not do so "in such aggregate quantities as to substitute for a subscribpiton to or purchase of such work." Guidelines for interpretation of the language " such aggregate quantities * * *" were adopted by Congress during its enactment of the Copyright Act, and their effectiveness is a subject of this hearing. They, as the act, represent a compromise between proprietary and user interests. Because they were drafted by the interested parties with the administrative support of the National Commission on New Technological Uses of Copyrighted Works (CONTU), they have come to be known as the "CONTU Guidelines." (CONTU was a temprary commission which examined certain copyright issues related to computers and photocopying in order to permit Congress to proceed with its revision of the copyright law in general.)

The guidelines which were adopted provide, essentially, that copying for interlibrary loans is permissible—

(1) If no more than five requests for copies of periodical articles from any given peridocial are filled for a requesting library during a calendar year, with respect to articles less than five years old (There is no provision covering the copying of older articles);

(2) if no more than five requests for copies of excerpts of any given work are filled for a requesting library within a calendar year; and

(3) if requesting libraries state that their requests comply with the act and keep records of their requests for three years.

3. Copyright Clearance Center

In an attempt to establish a centralized mechanism to facilitate payment of royalty fees for copying activities not exempt under the Coyright Act, publishers, with planning assistance by authors and librarians, established the Copyright Clearance Center, Inc. The Center, which is a not-for-profit organization, does not provide copies or grant permission to copy. Each publisher sets its own article copying fees and, to the extent feasible, publishes an article-fee code on the first page of articles to inform users of the appropriate charges for copying.

Participating libraries register with the Center and obtain a user-registration number for use in reporting copying. They submit periodic reports of copying activities and pay the applicable royalty fees on the basis of their chosen payment method, including deposit accounts, billing, and possible prepayment through a stamping meter or stamp.

Presently, this clearance system operates with respect to works in journals, magazines, newsletters, proceedings, symposia, and similar works. Its operating costs are borne by participating publishers.

4. Specific questions.

The Copyright Office is interested in receiving comments and testimony about any issues relevant to section 108 which concern copyright owners, librarians, and their patrons. Of particular interest are answers to the following questions:

1. To what extent has section 108 changed library procedures? Has there been any significant effect on users' and librarians' access to information?

2. To what extent has section 108 affected established patterns in the publishing industry and the relationship between authors, libraries, and library users?

3. Depending upon the type of library involved, describe the effect, if any, of section 108 upon the type and amount of copying performed by the library on its own behalf or on behalf of users. To what extent have publishers and authors experience a change in the number of requests from libraries to reproduce works since the present law went into effect?

4. In what manner has the establishment of the Copyright Clearance Center affected your experience under section 108? Would the creation of a National Periodical Center affect your operations? (The intent of these questions is to elicit responses from publishers and authors on the one hand and libraries and library users on the other.)

5. Describe the impact, if any, that section 108 has had upon the replication of nonprint materials, including the ability of libraries to reproduce phonorecords and audio visual works dealing with news. In response to this

question describe any problems which have been encountered as the result of the narrower exemptions for nonprint materials under section 108.

6. How have the CONTU guidelines worked in practice? How should peridocials more than five years old be treated?

7. What is your opinion of the relationship between section 107 ("fair use") and section 108 ("reproduction by libraries and archives")?

8. How should foreign copyrighted works and requests from foreign libraries be treated under section 108 and, in practice, how are they treated now?

9. If problems do exist, can they be resolved without resort to legislative amendment? If so, what are the problems, and how could they best be resolved? If not, what changes should be made in the law?

(17 U.S.C. 108)

Dated: August 14, 1980.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 80-25540 Filed 8-20-80; 8:45 am]

BILLING CODE 1410-03-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting

August 18, 1980.

The National Commission on Social Security will hold public meetings in Washington, D.C. on Friday, September 12 and Saturday, September 13 at the Washington Hilton Hotel for the purpose of reconsidering tentative recommendations made by the Commission.

The meetings will begin both days at 9:00 a.m. and adjourn at 5:00 p.m. In the event the Commission does not conclude its business by 5:00 p.m. Saturday, it will meet Sunday, September 14 at the Washington Hilton beginning at 9:00 a.m.

Additional information about the meeting may be obtained from the Commission office: Room 126—Pension Building, 440 G Street, NW., Washington, D.C., Phone: 376-2622.

Francis J. Crowley,

Executive Director.

[FR Doc. 80-25411 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-34]

Reports, Safety Recommendations and Responses; Availability

Pipeline Accident Report

Washington Gas Light Company, Natural Gas Explosion, 215 Third Street SE, Washington, D.C., October 30, 1979 (NTSB-PAR-80-4).—The National Transportation Safety Board on August 13 released its formal investigation report concerning this accident. The explosion and fire demolished a townhouse and damaged nearby buildings and cars. No one was inside the townhouse at the time, but three persons in a stopped car were injured when debris from the explosion shattered a car window.

Investigation indicated that a contractor had worked in the area for 4 to 6 weeks until September 27, 1979, and another contractor had worked in the same location for 1½ hours on the morning of the accident. In both cases, some of the work involved the use of mechanized excavating equipment. After the accident, an inspection of the gas service line that served the townhouse revealed that it had been struck by excavating equipment. The steel casing had been broken at one point, and the plastic pipe inside the casing was exposed. Also, the plastic pipe had been pulled out of a transition compression coupling under the pavement in the alley near the gas meter that served the townhouse. The Washington Gas Light Company, operator of the gas service line, had not been notified by either contractor of the excavation work. No "one-call" system was in operation in Washington, D.C., at the time of the accident.

The Safety Board determined that the probable cause of the accident was the separation of a 1-inch-diameter plastic service line from its compression coupling in all alley next to a townhouse in the course of work involving excavation and paving in an adjacent street. Escaping natural gas under 5 inches water column pressure migrated into the townhouse and was ignited by an unknown source. Contributing to the accident was the failure of the contractors to request the gas company to mark its lines in the excavation area.

During the investigation of this accident, the Safety Board last November 14 issued two safety recommendations, Nos. P-79-38 and P-79-39, urging prompt action by the District of Columbia City Council to pave the way for the same "one-call" notification system in Washington that has sharply reduced hazardous underground utility damage incidents in nearby Maryland and Virginia suburbs. (See 44 FR 67256, November 23, 1979.) The District of Columbia responded January 9, advising that a bill entitled "Underground Facilities Protection Act of 1979," Bill 3-240, has been introduced before the city council for passage. (See 45 FR 8392, February 7, 1980.) The Board believes that the proposed bill should establish an effective system not only by requiring notification before excavating, but also by requiring the utilities in the District to participate in the "one-call" system. Because of the safety benefits that will result, the Safety Board urges the city council to move expeditiously to enact the proposed bill.

The Safety Board issued one recommendation, No. P-79-40, on November 14, 1979, jointly to the Washington Gas Light Company, the Potomac Electric Power Company, and the Chesapeake and Potomac Telephone Company to expand, in cooperation with the District of Columbia Government, the "Miss Utility one-call" system now serving areas of Maryland and Virginia to include the District of Columbia. The Board received positive response to this recommendation from the gas company and the C&P Telephone Company. The Potomac Electric Power Company responded that it did not believe that a "one-call" system was necessary. (See 44 FR 76607, December 27, 1979.) Because the "one-call" notification system has been proven effective nationwide in the reduction of excavation damage incidents, the Safety Board reiterates its recommendation to Potomac Electric Power Company and asks that it cooperate with the other utilities in the District of Columbia to expand the existing "one-call" notification system.

As a further result of its investigation of this accident, the Safety Board on July 15 issued additional recommendations, No. P-80-59 to the Research and Special Programs Administration of the U.S. Department of Transportation and No. P-80-60 to the Washington Gas Light Company, which would require preservation of evidence at the accident site until onscene investigations have been completed. (See 45 FR 52517, August 7, 1980.)

Railroad Accidents in Brief Format

Issue No. 4, 1978 Supplement (NTSB-RAB-80-2).—The Safety Board on August 12 released in fourth issued of reports of railroad accidents which occurred in 1978. The 135-page report contains brief summaries of 127 railroad

accidents which involved either a fatality, a passenger train operations or substantial property damage. The report includes the Safety Board's findings of probable cause of each accident. Sixty-eight of the 127 accidents were trains striking either railroad employees or others. Of the remander, 41 were derailments, 12 were collisions and six were rail-highway grade crossing accidents.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in Washington office of the Safety Board. Upon request, factual reports will be reproduced commerically at a average cost of 7 cents per page for printed matter, $1 per page for black-and-white photographs, and $1.50 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of Issue No. 4 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA., 22161.

Aviation Safety Recommendation Letters

A-80-64 through—75 to the Federal Aviation Administration, August 8, 1980.—Following an extensive 4-month special investigation of the commuter industry and the elements which affect commuter airline safety, the Safety Board held a 4-day public hearing, ended last January 31. The special investigation included an on-site survey of 45 commuter airlines throughout the United States, a study of the role and effectiveness of the Federal Aviation Administration and the Civil Aeronautics Board, the influence of the airport environment, financial posture and management structure on individual airlines and on commuter airline safety, and an evaluation of the operational, maintenance, and training programs of the commuter airline industry. The Safety Board used its 1972 "Air Taxi Safety Study" and its commuter aircraft accident investigation experience as a basis to determine the safety issues which were involved and to evaluate the progress the commuter airline industry and the FAA are making toward correcting the deficiencies.

The Board's study of FAA's role is surveillance of the commuter airline industry indicates a need for special training of FAA inspectors, to conduct surveillance of commuter airlines. In addition, the staffing levels at FAA offices responsible for commuter airline surveillance and the workload requirements of the individual inspectors generally do not provide for accomplishing effective commuter airline surveillance unless other safety-related, general aviation activities are curtailed. Findings concerning FAA workloads were the subject of several Board recommendations in previous years and were an important finding in the recent special investigation and hearing. The Board also received much testimony that FAA should standardize surveillance procedures so that each region, district office, and inspector has the same interpretation of FAA regulations and procedures. Also, the Board concluded that procedures should be revised to provide surveillance of maintenance activities during the work shifts when maintenance is performed. For example, there were indications that very little maintenance surveillance was conducted during the night shifts when the bulk of maintenance activities were performed.

The Safety Board believes that revision of 14 CFR Part 135 has upgraded safety standards for commuter airlines. However, the Board believes that Part 135 should be amended to strengthen the requirements for the training of pilots, especially for training in emergency procedures, weight and balance, and center of gravity. These safety deficiencies, coupled with a lack of knowledge by some flight operations personnel on dispatch procedures, have contributed to several accidents in recent years. Finally, the Board believes that 14 CFR Part 135 should be amended to increase the frequency of determining the aircraft empty weight and center of gravity for aircraft used in commuter operations.

Further, the Safety Board believes that 14 CFR Part 135 should be revised to establish a minimum number of multiengine flight hours for a pilot-in-command of a multiengine aircraft used in commuter operations. The Universal Airways accident at Gulfport, Miss., on March 1, 1979, and the Comair accident at Cincinnati, Ohio, on October 8, 1979, reinforced the Board's belief that a pilot's inexperience in reciprocating multiengine aircraft can affect performance in emergency situations.

Board survey of commuter-served airports revealed that those airports served by certificated route air carriers are better equipped with approach and landing aids, e.g., 67 percent of the airports served exclusively by commuter airlines do not have a precision instrument approach facility, while 16 percent of these airports have no instrument approach facility. The Board believes that the safety of the public which travels on commuter airlines requires equivalent levels of service, and that there should not be an appreciable difference in airport facilities. The qualification criteria for instrument approach facilities, approach lights, visual approach slope indicators, and other facilities should be revised to allow commuter-served airports to achieve a level of safety equivalent to those airports served by certificated route aircarriers. The Board believes that the funding for many of the commuter airport improvements could come from the Aviation Trust Fund if the ADAP criteria were amended to provide a larger share of the revenues to commuter-served airports.

As a result of its study, the Safety Board reiterates the following "Class II, Priority Action" recommendations to FAA:

Require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certificated gross weight or to the limits of their c.g. envelope, or both. (A-79-80)

Expedite rulemaking which would make the flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air crewmembers under 14 CFR Part 121. (A-79-81)

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage. (A-78-27)

Draft specifications and fund research and development for a low-cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended. (A-78-28)

In the interim, amend 14 CFR to require that no operaton (except for maintenance ferry flights) may be conducted with turbine-powered aircraft certificated to carry six passengers or more, which require two pilots by their certificate, without an operable CVR capable of retaining at least 10 minutes of intracockpit conversation when power is interrupted. Such requirements can be met with available equipment to facilitate rapid implementation of this requirement. (A-78-29)

In addition, the Safety Board now recommends that FAA:

Establish a separate classification of commuter airline inspectors to conduct commuter airline surveillance. (A-80-64)

Provide specialized training for inspectors assigned to commuter airlines to insure that inspectors are qualified in the equipment operated and are knowledgeable regarding commuter airline operations. (A-80-65)

Allocate GADO resources to insure that all commuter surveillance and general aviation requirements can be accomplished. (A-80-66)

Establish a procedure for distributing surveillance of commuter airline maintenance

evenly during all periods when maintenance is performed. (A-80-67)

Require that only actual passenger weights be used in weight and balance computations for reciprocative engine aircraft used in Part 135 flights which are certificated for nine or less passengers. (A-80-68)

Amend 14 CFR 135.243 to require a minimum number of multiengine flight hours for a pilot-in-command of a multiengine commuter airline flight. (A-80-69)

Amend 14 CFR 135 Subpart B to require that dispatch and flight operations duties are supervised by personnel trained in those functions. (A-80-70)

Amend 14 CFR 135.185 to require that aircraft empty weight and center of gravity be determined more frequently. (A-80-71)

Evaluate and revise as appropriate the criteria for the authorization of single-pilot IFT operations for commuter airlines. (A-80-72)

Expand the ADAP program to support the development of commuter-served airports. (A-80-73)

Revise the qualifying criteria to insure that a larger percentage of commuter-served airports are equipped with instrument landing systems. (A-80-74)

Insure, to the extent possible, that airports which are served by commuter airlines are equipped with instrument approach facility. (A-80-75)

The Safety Board's August 8 recommendation letter to FAA designates recommendations A-80-64, A-80-66, A-80-71, and A-80-72, above, "Class III, Longer-Term Action." All other recommendations in this series are designated "Class II, Priority Action." Printed copies of the Safety Board's special investigation report on commuter airline safety are being prepared for distribution and will be available in the near future.

A-80-76 and -77 to the Federal Aviation Administration, August 14, 1980.—On March 8, 1980, a Swearingen SA-226AT aircraft, N72OR, experienced a rapid decompression near Albany, N.Y., at 16,000 ft. after part of the aft cargo compartment door separated in flight. The aircraft cabin had just attained a pressure differential of about 7 psi to maintain a sea level cabin altitude. Some interior furnishings, including an unoccupied passenger seat, were ejected from the aircraft. During the decompression, two passengers were injured slightly by flying debris. The dorsal fin and upper fuselage were damaged sightly when the upper portion of the cargo door rotated upward about its hinge, broke the overcentering arm link attachments, separated, and struck the fuselage. The aircraft landed safely at Glen Falls, N.Y. The separated portion of the cargo door was recovered on May 14, 1980.

On March 14, 1980, the Safety Board issued recommendations A-80-20 and -21 which asked FAA to issue airworthiness directives to require an immediate inspection to assure proper adjustment and structural integrity of the door latches and to assure safe operation of the aircraft by restricting pressurization until appropriate corrective action was taken. Airworthiness Directive T80SW 14 and 15, issued by FAA, and Service Bulletin 52-009, issued by the manufacturer, during March 1980 accomplished these urgent actions.

The Safety Board's examination of the separated portion of the cargo door confirmed the previous indications that misadjustment of a latch was a major factor in the separation of the door. The examination also revealed that the "click-clacks" (split barrel) on one of the highly loaded latches had been filed or ground down, which reduced the diametrical engagement of the latch in its receptable. The Board could not determine who had performed the unauthorized maintenance procedure. The airworthiness of the fuselage depends on the integrity of the passenger and cargo door latches to withstand flight and pressurization loads, and it is imperative that the latch components and the sill receptacles be maintained dimensionally so that proper engagement takes place.

Additionally, the examination revealed a broken latch actuator rod which prevented one latch from being engaged. The Board's analysis indicated that the rod was probably broken when someone forced the handle to the closed position while the latch was not properly engaged. The compression buckling of the rod cause stress which resulted in the failure of the rod end in its threaded shank.

Since the additional unsafe conditions found on the accident aircraft might be present on other aircraft in the Swearingen fleet, the Safety Board issues the following "Class II, Priority Action" recommendations to FAA:

Issue a telert maintenance bulletin to alert operators of Swearingen Models SA226-AT and SA226-TC aircraft of the dangers of machining or filing any component of the latch or receptacle to ease the engagement. (A-80-76)

Issue an addition to the General Aviation Airworthiness Alerts, Advisory Circular 43-16, to alert operators of SA226 aircraft to the unsafe condition which can result from forcing the latching mechanism while the latches are not properly engaged. (A-80-77)

Responses to Safety Recommendations

Aviation

A-80-35, from the Federal Aviation Administration, August 6, 1980.—Response is to a recommendation issued May 7 as a result of Board investigation of an incident involving a Piper Model PA-31-350, at Washington National Airport, Washington, D.C., on September 19, 1978. The incident occurred when the pilot taxied forward a short distance for a brake check. Upon brake application, the nose wheel failed and then cocked against the gear fork assembly, resulting in damage to the gear retract mechanism and subsequent collapse of the nose gear assembly. The recommendation asked FAA to amend Airworthiness Directive 72-12-06 to require periodic nondestructive inspections of Cleveland P/N 40-76B and P/N 40-120A nose wheels on Piper model PA-31 aircraft. (See 45 FR 32147, May 15, 1980.)

In response, FAA notes that Airworthiness Directive 78-12-06, which was issued May 9, 1979, required only a visual inspection of Piper Model PA-31T aircraft nose wheel assemblies, Cleveland P/N 40-120A, before each flight, as contrasted to the request made by recommendation A-80-35. FAA says its initial analysis of Service Difficulty Reports related to these parts indicates a variety of causes of the failures experienced, such that additional investigation is required to determine whether some specific corrective action(s) is needed and what, if any, that action should be. FAA anticipates completing this review and analysis so that a decision as to FAA's course of action can be made within the next 30 days.

A-80-36 and -37, from the Federal Aviation Administration, August 6, 1980.—Reponse is to recommendations issued May 8 following investigation of Safety Board investigation of three air taxi/commuter accidents which disclosed significant medical problems involving pilots over 60 years of age. The recommendations asked FAA to determine through a study of the operating environment and rules for Part 135 operators whether the working conditions of Part 135 pilots are sufficiently different to warrant an age limitation different from that established for Part 121 pilots (A-80-36), and to amend 14 CFR 135.95 to include as an interim measure, pending completion of an appropriate study, an upper age limit for airmen under this Part which provides a level of safety equivalent to air carrier operations (A-80-37). (See 45 FR 34476, May 22, 1980.)

FAA reports that it is now evaluating these recommendations in detail and that input from its regional offices has been solicited and is currently under review. The National Institutes of Health is now conducting a study of pilot aging which is scheduled for

completion in late 1980. FAA provided a copy of Pub. L. 96-171, dated December 29, 1979, which established the requirement for this research, and notes that a report of the results is to be submitted directly to the Congress within 1 year. This study is being conducted to determine:

—whether an age limitation which prohibits all individuals who are 60 years of age or older from serving as pilots is medically warranted;
—whether an age limtiation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;
—whether rules governing eligibility for first- and second-class medical certification, as set forth in Part 67 of Title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to determine an individual's physical condition in light of existing medical technology;
—whether rules governing the frequency of first- and second-class medical examinations, as set forth in Part 67 of Title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and
—the effect of aging on the ability of individuals to perform the duties of pilots with the highest level of safety.

FAA will await the results of this study before acting on recommendations A-80-36 and -37.

Pipeline

P-80-16 and -17, from the U.S. Coast Guard, August 7, 1980.—Response is to recommendations issued last March 13 following investigation into the rupturing of a high-pressure gas line by a grappling hook from the anchor-handling vessel PETE TIDE II, while the vessel was grappling for an anchor pendent from the semisubmersible drilling rig OCEAN QUEEN near New Orleans, La., July 15, 1979. (See 45 FR 20255, March 27, 1980.)

Recommendation P-80-16 asked Coast Guard to require companies conducting anchor-handling activities in the vicinity of submarine pipelines to require specific information as to the location of submarine pipelines and other known hazards before conducting anchor-handling activities. In response, Coast Guard notes that its regulations for self-propelled U.S. mobile offshore drilling units (MODU) (46 CFR 109.565) and other vessels (46 CFR 97.05-05) provide that the unit have adequate and up-to-date "charts, sailing directions, coast pilots, light lists, notices to mariners, tide tables, current tables, and all other nautical publications necessary." In the context of a unit conducting anchor-handling operations, other necessary nautical publications would include appropriate charts or survey reports with information on submarine pipelines and other known hazards. Because this may not be clear to users from the language of the regulations, the Coast Guard will include in an amendment package to the MODU regulations clarifying language in light of P-80-16. Coast Guard will also propose that the revised requirements apply to all MODU's and other vessels which require anchoring in the vicinity of pipelines, subsea completions, or other production equipment on the seabed in the area where the vessel is operating. This amendment will be in the form of a notice of proposed rulemaking, to be published by January 1, 1981. No docket number has been assigned to the project.

With respect to recommendation P-80-17, which asked Coast Guard, in coordination with the Department of the Interior and and the Research and Special Programs Administration of the Department of Transportation, to develop facility marking and coordination requirements, Coast Guard says it concurs. Since pipelines do not normally constitute a hazard to general purpose navigation, Coast Guard does not require pipelines to be marked with aids to navigation. In the interest of safety, however, Coast Guard has no objection to offshore operators establishing temporary floats to mark the location of the pipelines in the immediate vicinity of an offshore facility. If the float itself presents a hazard to navigation, the owner must submit a private aid application in accordance with 33 CFR 66.01-5, and mark it as prescribed by the District Commander.

Railroad

R-79-73, from the Federal Railroad Administration, August 7, 1980.—Response is to the Safety Board's letter of June 26 commenting on FRA's previous response of last Feburary 21 to this recommendation, issued as a result of investigation of the collision of Amtrak train No. 111 with a track machine at Edison, N.J., April 20, 1979. (See 45 FR 14723, March 6, 1980.)

The Safety Board by its June 26 letter agrees that for train operations to be safe, there must be adequate operating rules. However, the Board knows from years of accident investigation that operating employees do not comply consistently with the rules, and sometimes it becomes expedient to use available means of communication, such as radio or telephone, to prevent a disaster. The Board has investigated a number of accidents which could have been prevented if a functioning radio system had been available. The Board's conclusion, "If the radio on the locomotive had been operable, the accident may have been prevented," is a valid one which resulted from thorough, legitimate analysis of the facts in this accident and cannot be characterized as conjecture. The Board notes that the history of the use of voice radio in train operations on the most effectively run systems suggests that radio can be one of the most effective tools in accident prevention. Additionally, although economic analysis is not an area of Safety Board consideration, the Board understands that the radio can be of economic benefit as a time-saving device.

In June 1978, the Safety Board recommended (R-78-5) that FRA analyze accident data in order to evaluate the role which radio plays in accidents. Additionally, the Board recommended (R-75-6) that unless refuted by the analysis, FRA should require the installation of radios. The Board does not believe the statistics produced by FRA offered a meaningful analysis, and as FRA clearly stated its intention not to take further action, the Board classified both recommendations as "Closed—Unacceptable Action." The present accident has raised the issue again, however, and even without statistical data, a safety analysis should indicate the effectiveness of using voice radios in train operations.

The Board's June 26 letter further expreses the belief that operating rules are the backbone of railroad safety. However, the statement in FRA's letter of February 21 that "railroad operating rules are the means by which railroads *guarantee* (emphasis added) a safe and functioning train operation," clearly ignores the operational and mechanical realities of how accidents do occur. Operating rules are not fail-safe. The Board's recommendation is based on a basic principle of safety: redundancy. The Board reiterates its belief that operable radios should be required equipment on trains which operate in main tracks, and while FRA is reconsidering this issue, recommendation R-79-73 is retained in an "Open—Unacceptable Action" status.

FRA's August 7 response refers to its February 21 letter which indicated that FRA does not have data which will support promulgation of a recommendation requiring all trains operating on a main track to be equipped with an operable radio, but the FRA has taken positive action to insure correction of certain deficiencies

involving Amtrak train operations" in the Northeast Corridor. FRA's August 7 letter notes that Amtrak has voluntarily equipped all of their locomotives operating in the Northeast Corridor with radios and has undertaken an effort to provide radios compatible with carrier frequencies on all passenger routes nationwide. Also, procedures have been developed to provide additional checks relative to the operability of on-board radios. FRA will monitor this action by Amtrak. FRA further notes that on January 31, 1980, the United Transportation Union filed a petition with FRA "to require that operating radios be required in locomotives and cabooses and that radios be required to be on the operating frequency of the railroad." This petition will be acted upon in the near future, and the Safety Board will be notified when the decision has been reached. FRA recommends that this recommendation be changed to "Open-Acceptable Alternate Action."

NOTE: Single copies of Safety Board reports are avilable without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906).

Margaret L. Fisher,

Federal Register Liaison Officer.

August 15, 1980.

[FR Doc. 80-25382 filed 8-20-80; 8:45 a.m.]

BILLING CODE 4910-58-M

[Docket No. DCA-80-AR-045]

Railroad Accident Investigation Hearing: Philadelphia, Pa.

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m., (local time) September 10 through September 12, 1980, in Room 231 of the Civic Center Plaza, 34th Street at Civic Center Blvd., Philadelphia, Pennsylvania 19104.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the rear end collision of SEPTA commuter trains Nos. 406 and 472 on Conrail tracks which occurred at North Wales, Pennsylvania, on July 17, 1980.

Elmer Garner,

Hearing Officer.

August 13, 1980.

[FR Doc. 80-25383 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389-A]

Florida Power and Light Co., City of Orlando, Fla. and the Orlando Utilities Commission; Receipt of Additional Antitrust Information Time for Submission of Views of Antitrust Matters

Florida Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), filed on June 13, 1980, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of the City of Orlando, Florida and the Orlando Utilities Commission, as an owner of the St. Lucie Plant, Unit 2, located on Hutchinson Island in St. Lucie County, Florida. The Orlando Utilities Commission was created by the Florida State Legislature and is a part of the City of Orlando, Florida.

The information was filed in connection with Florida Power and Light Company's application for an amendment to Construction Permit No. CPPR-144 to the St. Lucie Plant, Unit 2. Construction Permit No. CPPR-144 was issued on May 2, 1977 and construction of the plant is underway.

The original Notice of Receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the Federal Register on June 16, 1971, (36 FR 11473).

A copy of the Florida Power and Light Company letter, dated June 13, 1980 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Any person who wishes to have his views on the antitrust matters with respect to the City of Orlando, Florida and Orlando Utilities Commission presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation on or before September 29, 1980.

Dated at Bethesda, Maryland this 18th day of July, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief Licensing Branch No. 1 Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-22794 Filed 7-29-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

August 18, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents are available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Richard J. Schrimper—447-6201)

Revisions

Farmer's Home Administration
7 CFR 1945-B, Emergency Loan Policies, Procedures, and Authorizations and 7 CFR 1945-C, Insured Economic Emergency Loan
FMHA 1940-38 and 1945-22
On occasion
Farmers suffering from economic emergency, 928,940 responses, 230,949 hours
Charles A. Ellett, 395-7340

Revisions

Food and Nutrition Service
Commodity Supplemental Food Program
On occasion
State dist. or comp. agen. loc. health or welf. agenc., 321,478 responses, 120, 128 hours
Charles A. Ellett, 395-7340

Extensions

Food and Nutrition Service
Report of Improperly Manufactured, Mutilated, or Shortage/Overage of Food Coupon Books
FNS-43
On occasion
Issuance/shipping points, 3,786 responses, 631 hours
Charles A. Ellett, 395-7340

Reinstatements

Food and Nutrition Service
Annual Report of Meal Service in Schools
FNS-47
Annually
State educational agencies, 59 responses, 17,416 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals—377-3627)

New Forms

Bureau of the Census
CPS Supplement Match P-Sample Followup Questionnaire
D-8053
Single time
Households in the U.S., 16,800 responses, 5,600 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
November 1980 CPS Registration and Voting Supplement
CPS-1
Single time
Interviewed households in November 1980 CPS, 68,000 responses, 3,400 hours Off. of Federal Statistical Policy and Standard, 673-7974

Maritime Administration
Supplementary Training Course Application
MA-823
On occasion
Marine operating personnel, 7,000 responses, 350 hours
William T. Adams, 395-4814

Extensions

Industry and Trade Administration
Jewel Bearings and Related Components
ITA-941 (formerly DIB-941)
Annually
Producers, consumers and importers of jewel bearings, 500 responses, 1,500 hours
William T. Adams, 395-4814

Reinstatements

Economic Development Administration
Application for Financial Assistance-Private Sector Investments, Loans, and Guarantees
ED-201
On occasion
Firms expanding or starting new operations, 300 responses, 48,000 hours
Wiliam T. Adams, 395-4814

Economic Development Administration
Certification by Contractor or Subcontractor Regarding Equal Employment Opportunity
ED-120
On occasion
Contractors and subcontractors, 1,750 responses, 1,750 hours
William T. Adams, 395-4814

Economic Development Administration
Certificate as to Project Site, Right of Way and Easements
ED-152
On occasion
Engineers/Attorneys, 200 responses, 1,400 hours
William T. Adams, 395-4814

Economic Development Administratrion
Employment Schedule and Assurances of Job Opportunities
ED 223
On occasion
Business entities expanding or building new activities, 300 responses, 1,500 hours
William T. Adams, 395-4814

Economic Development Administration
Marketing and Capacity Information Report
ED-220
On occassion
Commercial and industrial firms, 300 responses, 600 hours
William T. Adams, 395-4814

Economic Development Administration
Potential Project Report for Field Staff Screening of Business Loan Applicants
ED-233
On occasion
Firms planning new expanded plants, 800 responses, 800 hours
William T. Adams, 395-4814

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Diane W. Lique—633-8526)

New Forms

Permanent Exemption for New Powerplant Based on Inability To Obtain Adequate Capital
ERA 307-A
Single time
Electric utilities, 10 responses, 10,000 hours

Jefferson B. Hill, 395-7340

Revisions

Annual Report for Electric Utilities and Licensees, and Others (Class A and B)
FERC 1
Annually
Elec. util. with elec. operat. reve. of $1 million or more, 287 responses, 296,471 hours
Jefferson B. Hill, 395-7340

Annual Report for Natural Gas Companies (Class A and B)
FERC 2
Annually
Interst. nat. gas pipelines with gas oper. rev. of $1 M, 95 responses, 154,565 hours
Jefferson B. Hill, 395-7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Agency Clearance Officer—Joseph J. Strnad—245-7488)

New Forms

Social Security Administration
Summary Report on the Low Income Energy Assistance Program
SSA-4473
Monthly
States and others administering energy assistance prog., 800 responses, 5,600 hours
Barbara F. Young, 395-6880

Social Security Administration
1981 Low Income Energy Assistance Program Household Survey
SSA-4472
Single time
Households applying for energy assistance programs, 42,000 responses, 73,500 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Revisions

National Institutes of Health
Cost of Cancer Care
Single time
Cancer patients in Illinois, 360 responses, 677 hours
Elsinger, Richard, 395-6880

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—Bruce H. Allen—426-1887)

New Forms

Coast Guard
Heavy Weather Plan
Annually
Small vessels, 125 responses, 1,000 hours
Hayward, Corinne D., 395-7340

ACTION

(Agency Clearance Officer—James B. Lancaster—254-3172)

New Forms

Management Information System (MIS) for ACTION/OVCP—YES
On occasion
Participant is receiving job serv. in 12 sites in 5 States, 81,575 responses, 12,650 hours
Arnold Strasser, 395-6880

GENERAL SERVICES ADMINISTRATION

(Agency Clearance Officer—John F. Gilmore—566-1164)

New Forms

Report of Sales for Brand Products, Price Offers, and Product Characterization
Other (see SF-83)
Description not furnished by agency, 400 responses, 200 hours
Kenneth B. Allen, 395-3785

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

(Agency Clearance Officer—Malcolm C. McCormack—395-4831)

New Forms

Harry S. Truman Scholarship Foundation
Payment Request
PR-2
Semi-annually
250 Truman scholars, 750 responses, 375 hours
Edward C. Springer, 395-4814

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

(Agency Clearance Officer—C. Michael Hathaway—395-5070)

New Forms

United States Trade Representatives
Survey of Automotive Investment Expenditures in U.S. and Canada
Single time
Motor vehicle and parts manufacturers, 30 responses, 720 hours
Phillip T. Balazs, 395-4814

PENSION BENEFIT GUARANTY CORPORATION

(Agency Clearance Officer—Robert E. Geiger—254-4776)

New Forms

PBGC Audience Survey
Single time
Pension recipients and pension plan sponsors, 700 responses, 84 hours
Arnold Strasser, 395-6880

VETERANS ADMINISTRATION

(Agency Clearance Officer—R. C. Whitt—389-2146)

Reinstatements

Compliance Report of Proprietary Institutions Apprenticeship Programs and on the Job Training Programs
VA 27-4274
Annually
VA approved proprietary inst. and job training estab., 11,760 responses, 5,880 hours
Laverne V. Collins, 395-6880

C. Louis Kincannon,
Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80-25515 Filed 8-20-80; 8:45 am]
BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties, Panel I (Energy, Natural Resources, and the Environment); Meeting

August 15, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of the staff of Panel I (Energy, Natural Resources, and the Environment) of the President's Commission for a National Agenda for the Eighties, scheduled August 28, 1980, from 2:00 p.m. to 6:00 p.m. at William James Hall, Room 1550, Harvard University, Cambridge, Massachusetts.

The purpose of the meeting is to discuss the contents of the draft report to the full commission.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006 (202) 275-0616.

Brenda Mayberry,
Acting Budget and Management Officer.

[FR Doc. 80-25361 Filed 8-20-80; 8:45 am]
BILLING CODE 3110-01-M

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to

Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals . . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between June 13, and August 7, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Defense

System Name:

Medical Evaluation Files.

Report Date:

June 13, 1980.

Point of Contract:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg—Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Department of the Army proposes to alter a system of records by placing certain information contained in paper files on ADPE magnetic diskettes to effect better management control. The magnetic diskettes will contain personal information on members, certain codes of specific type of injuries for research study purposes, and Veterans Administration Schedule for Rating Disability Diagnostic Codes. The paper files will contain the proceedings of the Physical Evaluation Board describing the medical problem, findings and recommendation, and adjudicative decision.

System Name:

Pentagon and Federal Building 2 Carpool Locator.

Report Date:

July 21, 1980.

Point of Contact:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg—Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Department of Defense proposes to amend a system of records to include Federal Building 2 personnel and associated carpool records in the Pentagon's automated carpool system, and to announce a manual self-help carpool locator board system to be made operational at Federal Building 2.

Executive Office of The President, Office of Administration

System Name:

Security Clearance System.

Report Date:

July 18, 1980.

Point of Contact:

Richard Harden, Director, Office of Administration, 726 Jackson Place NW., Washington, D.C. 20503.

Summary:

The Office of Administration proposes to establish a new system of records that will be used to verify the level of security clearance; identify individuals whose security investigations need updating; and control the issuance and renewal of building passes. Individuals in the system will be applicants for employment and employees (including contractor employees and detailees from other agencies) of the Office of Administration, the Council on Wage and Price Stability, the Council on Environmental Quality, the U.S. Regulatory Council on Environmental Quality, the U.S. Regulatory Council and the Office of the U.S. Trade Representative.

Department of Health And Human Services

System Name:

Health Professions Planning and Evaluation.

Report Date:

June 27, 1980.

Point of Contact:

Ms. Kay Clary, HRA Privacy Act Coordinator, Center Building, Room 9-22, 3700 East-West Highway, Hyattsville, MD 20782.

Summary:

The Department of Health and Human Services proposes to establish a new system of records that will cover records relating to studies conducted for the Department on the national health care delivery system. The Health Resources Administration uses various records in the system to identify problems in the health care training and delivery systems, plan programs to correct the problems, and evaluate the effectiveness of the resultant programs. The categories of individuals in the system include health professionals and students in the various health professions.

Department of Justice

System Name:

Regional Automated Intelligence Data System (RAIDS).

Report Date:

July 24, 1980.

Point of Contact:

The Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530.

Summary:

The Drug Enforcement Administration (DEA) proposes to establish a new automated system of records to maintain information relating to narcotics law enforcement and narcotics intelligence in the DEA Southeastern Region. The system will provide for rapid retrieval of information from a composite regional data file. All of the information in the system will be extracted from previously compiled investigative reports. The Department also proposes to extempt the system from the provisions of 5 U.S.C. 552a(c) (d) (3) and (4), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g), and (h) pursuant to 5 U.S.C. 552a(j) and (k).

Federal Trade Commission

System Name:

Discrimination Complaint Files.

Report Date:

July 8, 1980.

Point of Contact:

Ms. Brenda Hull, Office of the General Counsel, Room 521, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Summary

The Federal Trade Commission proposes to establish a new system of records to centralize all EEO complainant files in the Office of the Equal Employment Opportunity Director. The data is used to resolve issues related to discrimination because

of race, national origin, religion, sex, age, and physical or mental handicap presented in formal complaints. The data is also used to produce reports for the Merit Systems Protection Board, the Office of Management and Budget, and the Equal Employment Opportunity Commission.

System Name:

Consumer Education Mailing List

Report Date:

July 8, 1980.

Point of Contact:

Ms. Brenda Hull, Office of the General Counsel, Room 521, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Summary

The Federal Trade Commission proposes a new system of records which will consist of a mailing list of the names and addresses of individuals who have indicated they wish to receive Commission consumer information.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25423 Filed 8-20-80; 8:45 am]

BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the fourth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in Room 2010 of the New Executive Office Building, 1726 Jackson Place NW, Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Monday, September 15, 1980, and from 9:00 a.m. to 4:00 p.m. on Tuesday, September 16, 1980.

The meeting will be open to the public, subject to limitations of available space. The agenda of this Commission meeting will include, among other things, the following issues:

Monday, September 15: Ethical Issues in and Mechanisms for Compensation of Injured Research Subjects.

Tuesday, September 16: Need for Commission Study of the Ethical Issues in Genetic Engineering; Advisability of Legislation on the Standards for Determining Death.

During the afternoon of Monday, September 15, one-half hour will be devoted to comments from the floor on the subject of Compensation of Research Subjects, limited to three minutes per comment. Written suggestions and comments will be accepted from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept of all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street NW, Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653-8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 80-25410 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-7906]

Basic Resources Corp., Common Stock, $.05 Par Value; Application To Withdraw From Listing and Registration

August 14, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Basic Resources Corporation's (the "Company") common stock has been listed and registered for trading on the American Stock Exchange since December 14, 1979 and, pursuant to a Registration Statement on Form 8-A which became effective on August 5, 1980, the New York Stock Exchange ("NYSE"). The company has determined that the additional fees and administrative burden of dual listing do not justify maintaining the common stock on the Amex and the NYSE, and believes that dual listing would not be in the best interest of its shareholders.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 5, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25474 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11304; (812-4561)]

Capital Corp. of America, et al.; Filing of Application for Order Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder Permitting Joint Transaction

August 13, 1980.

Notice is hereby given that Capital Corporation of America ("CCA"), 1521 Walnut St., Philadelphia, Pennsylvania 19102, registered under the Investment Company act of 1940 ("Act") as a non-diversified, closed-end, management investment company and also a federal licensee under the Small Business Investment Act of 1958, Martin M. Newman ("Newman"), president and director of CCA, and Barton M. Banks ("Banks"), secretary and director of CCA (hereinafter, CCA, Newman and Banks are referred to collectively as "Applicants"), filed an application on November 2, 1979, and an amendment thereto on June 16, 1980, for an order of the Commission, pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting Banks and Newman to enter into, and perform prusuant to, employment agreements with CCA, which agreements were negotiated in connection with the sale of a controlling interest in CCA. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that CCA was organized in 1971 and that as of March 13, 1979: (1) its 100,000 common shares

outstanding were held by 345 shareholders, and (2) to CCA's knowledge, only Banks, Newman, and Harriet R. Banks beneficially owned 5 percent or more of CCA's outstanding common shares. Applicants further state that on March 13, 1979, CCA entered into a Stock Purchase Agreement ("Agreement") to sell, in a transaction not involving a public offering, 219,320 of its authorized but unissued common shares to ten persons ("Purchasers"). Because of the resulting change of control of CCA, the sale of CCA shares pursuant to the Agreement was subject to approval of the Small Business Administration ("SBA"). On July 18, 1979, SBA approval was issued and the 219,320 shares were released to the Purchasers for $503,090.23 ($2.294 per share). according to the application, the shares were sold at their net asset value in accordance with the provisions of Section 23(b) of the Act, and such net asset value was calculated by valuing the securities in CCA's portfolio at fair value as determined in good faith by its board of directors. At the time of the share price calculation, CCA's shares were being traded in the over-the-counter market at $1.25 bid and $2.00 ask per share.

The Agreement also provided that Banks and Newman would enter into employment agreements with CCA to provide management and financial advice to CCA and, in Newman's case, to oversee the daily operation of CCA. Applicants state that under the employment agreements Newman will be required to perform his duties on a full-time basis, but may engage in other business activities which do not interfere with his CCA duties. Banks will be required to devote as much of his time as he believes necessary to accomplish the work of CCA, recognizing that Banks will continue to engage in other business and professional activities. According to the application, the employment contracts were to become effective on April 1, 1979, and were to continue in effect until March 31, 1984. However, as agreed by the parties, the employment agreements have not yet become effective. Applicants represent that Banks, Newman and CCA do not intend to enter into the employment agreements absent the issuance of the requested order of the Commission.

The application states that CCA has never utilized an external investment adviser to manage its daily affairs or to effect portfolio investments, and that these functions are performed by Newman and Banks. Banks and Newman have been executive officers, employees, directors and substantial shareholders of CCA since at least 1962. As such, they have managed CCA's affairs subject to the overall supervision of CCA's board of directors. Since his election as a director of CCA on September 17, 1979, Henry Ginsberg ("Ginsberg"), one of the Purchasers, has also actively participated in the management of CCA. The application states that Ginsberg's responsibilities include identifying investment opportunities, seeking and analyzing loan applications, negotiating financial packages and researching new investment areas.

according to the application the salaries of Banks and Newman were set in 1974 at $20,000 per year. The proposed employment agreements provide for salaries of $22,727 for CCA's 1979 fiscal year and for increases of $5,000 per year for each of the next two succeeding fiscal years. Any increases in salaries applicable to subsequent years of the employment agreements will be determined in the future, taking into consideration economic conditions, the financial performance of CCA, and the prevailing salaries for persons with similar qualifications. Applicants represent that the salaries proposed in the employment agreements, when compared to the salaries paid to comparably positioned executive employees by other small business investment companies (with assets comparable in size to CCA's assets), will be approximately equal to the industry median.

Banks and Newman, in their executive capacities, negotiated the terms of the Agreement with Ginsberg, the agent for the Purchasers. Because Banks and Newman, affiliated persons of CCA, negotiated the Agreement which provides that they shall enter into certain employment agreements with CCA, Applicants state that the execution of the employment agreements, and their performance, might be considered to be a joint enterprise or joint arrangement as defined by Rule 17d-1(c) under the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. As noted above, Applicants have requested an order pursuant to Rule 17d-1 under the Act permitting the execution and performance of the employment agreements.

In support of the requested order, Applicants state that the proposed transaction is fair and reasonable to the parties and that the participation by CCA, on the basis proposed, is consistent with the provisions, policies and purposes of the Act and is not on a basis less advantageous than that of other participants. Applicants state that the Agreement, including its requirement concerning the employment agreements, was subject to the approval of, and was approved by, the board of directors of CCA prior to entry of CCA into the Agreement. In addition, Applicants state that the employment agreements where thereafter approved by a new board of directors which included representatives of the Purchasers.

The application states that Banks and Newman have been responsible for the management of CCA's business on a daily basis. They review loan applications, make recommendations to CCA's board of directors concerning loans, and are responsible for taking steps to bring delinquent loans to a current basis and for maintaining a reasonably detailed knowledge of the business condition of CCA's borrowers. CCA believes that the services of managers who have experience with its particular portfolio are necessary to realize the full value ascribed to its current investment portfolio, and that the retention of Banks and Newman will enhance its ability to realize that value. CCA also states that with the experience and knowledge of Banks and Newman it will be albe to expand effectively its loan portfolio. Applicants state that such expansion is now feasible because of the infusion of new capital from the sale of the additional shares to the Purchases and the resulting expanded capacity to borrow from the SBA.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if

the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-25472 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11305; (811-2975)]

Federated Trust for Short-Term Municipal Obligations; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Federated Trust for Short-Term Municipal Obligations ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219; a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on February 25, 1980, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on December 13, 1979, and that on that date it also filed a registration statement pursuant to the Securities Act of 1933 ("Securities Act") with respect to the issuance of an indefinite amount of shares of capital stock. Applicant states that the Securities Act registration statement was never declared effective, and further states that it has never made a public offering of its securities. Applicant represents that it has retained no assets, has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant further represents that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-25473 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-22]

Exemption Petitions, Summary and Dispositions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 8, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

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

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20493	Electrospace Systems, Inc	14 CFR 65.91(c)(2)	To enable Ronald J. Spatafora to become eligible for an Inspection Authorization without meeting the requirement of being actively engaged, for at least a 2-year period, in maintaining aircraft before the date of application.
20295	Ozark Airlines	14 CFR 61.39 (a)(1) and (b)	To allow certain of the petitioner's pilots to take the flight test for an airline transport pilot certificate even though they have not passed the written test for that certificate within the previous 24 months.
20399	Flying Boat, Inc	CAR 4b.604(r)	To permit the petitioner to operate Grumman G-111 aircraft without complying with the requirement that a means exist for each reversing propeller to indicate to the pilot when the propeller is in reverse pitch.
20559	Pan American World Airways	14 CFR 91.32(b)(1)(ii) and 121.333(c)(2).	To permit operation of B-747-100/200 and L-1011 aircraft up to and including their respective maximum certificated of altitudes 45,000 and 43,000 feet, without requiring one pilot to don and use an oxygen mask when above 41,000 feet.
20549	Boeing Commercial Airplane Company	14 CFR 25.1301 and 37.120	To permit location of the flap position indicator in the lower left hand corner of the pilot's center instrument panel and servo altimeters configures with dial markings at 50-foot increments rather than at 20 feet.
20498	Rogers Helicopters	14 CFR 91.39(b)	To permit the use of a Bell UH1B helicopter in emergency air ambulance service for compensation while the aircraft is certificated in the restricted category.
20519	Continental Airlines, Inc	14 CFR 121.291(a)(2)(ii)	To permit an increase of the passenger seating capacity of two B-727-100 aircraft by more than five percent without conducting the required full-scale emergency evacuation demonstration of passengers and crew.
16955	American Airlines Training Corp	14 CFR 61.58(c)	To allow pilots to conduct the entire 24-month pilot in command proficiency check in a digital flight simulator.
20411	G. C. Marden	14 CFR 61.129(a)	To allow Mr. Marden, to carry passengers for hire on flights of more than 50 nautical miles. (Petitioner does not hold an instrument rating on his commercial pilot certificate.)
20486	United Airlines	14 CFR 21.93	To allow an "acoustical change" on their JT9D-3A powered 747 fleet without prior approval.
20495	Midwest Piper Flight	14 CFR 135.261(b)	To allow Midwest Piper pilots, conducting helicopter emergency flights in conjunction with Wesley Medical Center, to have rest periods of four hours duration instead of 10 hours in 24 consecutive hours.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20048	Chalk's Int'l. Airlines, Inc	14 CFR 135.175(a)	To allow operation of large transport category aircraft in passenger carrying Day VFR operations without Airborne Weather Radar Equipment. *Granted 7/25/80.*
19753	Antilles Air Boats, Inc	14 CFR 135.175(a)	To allow the operation of large transport category passenger-carrying aircraft without the required airborne weather radar equipment installed. *Granted 8/1/80.*
20396	A.L.E.R.T. Kalispell Regional Hospital	14 CFR 121.261(b)	To allow frequent rest periods between flights rather than a 10 consecutive hour block of rest. *Granted 8/5/80.*
20355	Aeroamerica, Inc	14 CFR 121.48, 121.49, and 121.55.	To provide relief from a requirement to prepare, certify, and provide certain financial reports to the Federal Aviation Administration (FAA). *Denied 8/1/80.20422*
20422	Sun Land Airlines, Inc	14 CFR 121.291(a)	To allow petitioner to commence pasenger carrying operations in its DC-8-31 aircraft without first conducting a full seating capacity emergency evaucation demonstration. *Granted 7/25/80.*
20579	Compania Dominicana De Aviancion, C. Oor A	14 CFR portions of Parts 21 and 91.	To allow to use an FAA-approved B-727 master minimum equipment list while operating B-727 aircraft under Part 91 of the FAR. *Granted 8/1/80.*

[FR Doc. 80-24848 Filed 8-20-80; 8:45 am]
BILLING CODE 4910-13-M

Airports Division, Southwest Region, Fort Worth, Tex.; Change of Geographical Area of Responsibility

Notice is hereby given that on October 1, 1980, the Airports Division at Fort Worth, Texas, will assume direct field jurisdiction of the following Texas counties:

Aransas
Atascosa
Bandera
Bastrop
Bee
Bell
Bexar
Blanco
Brewster
Brooks
Burnet
Caldwell
Calhoun
Cameron
Cherokee
Childress
Coke
Comal
Concho
Cottle
Crane
Crockett
Culberson
De Witt
Dimmit
Duval
Edwards
Fayette
Fisher
Frio
Gillespie
Goliad
Gonzales
Guadalupe
Hayes
Hidalgo
Hudspeth
Irion
Jackson
Jeff Davis
Jim Hogg
Jim Wells
Karnes
Kendall
Kenedy
Kent
Kerr
Kimble
Kinney
Kleberg
Lampasas
La Salle
Lavaca
Lee
Live Oak
Llano
Loving
Mason
Maverick
McCulloch
McMullen
Medina
Menard
Milam
Mitchell
Nolan
Nueces
Panola
Pecos
Presidio
Reagan
Real
Reeves
Refugio
Rusk
San Patricio
San Saba
Schleicher
Scurry
Starr
Sterling
Stonewall
Sutton
Terrell
Tom Green
Travis
Upton
Uvalde
Val Verde
Victoria
Ward
Webb
Willacy
Williamson
Wilson
Zapata
Zavala

Services to the general public of these counties (formerly provided by the Airports District Offices, Houston, Texas, and Albuquerque, New Mexico) will be provided by the Airports Division, Fort Worth, Texas, as well as Northeast Texas counties now being served.

Address: Department of Transportation, Federal Aviation Administration, Airports Division, ASW-600, P.O. Box 1689, Fort Worth, Texas 76101.

Issued in Fort Worth, Texas on August 8, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25071 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13

[Summary Notice No. PE-80-23]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 10, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 17, 1980.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20499	Frank E. Morris	14 CFR Part 123	To permit Part 123 operation of a Vickers Vicount aircraft without a flight recorder, cockpit voice recorder, and a ground proximity warning glide slope deviation alerting system.
20522	Aerofab, Inc	14 CFR § 37.21	To permit a TSO authorization to be transferred to DeVore Aviation Corp. from petitioner.
19113	Capitol International Airways	14 CFR § 121.3	Extension of the Sept. 30, 1980 expiration date of Exemption No. 2740A which permits continued scheduled passenger service under the supplemental air carrier rules of Part 121.
20477	Evergreen International Airlines	14 CFR §§ 121.311(f) and 121.547	To allow petitioner, to the extent necessary, to operate its DC-8 aircraft with a non-essential flight attendant occupying a cockpit jump seat during takeoffs and landings.
20463	Wabash Enterprises Inc	14 CFR § 135.89(b)(3)	To permit operation of Learjet Model 35A aircraft above FL350 and up to FL410 under the provisions of § 121.333.
20313	Bell Helicopter	14 CFR § 29.1323(c)(1) and (c)(2)	To permit the following: For multi-engine rotorcraft, the airspeed error of the installation, excluding the airspeed indicator instrument error, may not exceed three percent or five knots, whichever is greater, throughout the speed range in level flight at forward speeds equal to the minimum power required speed and above; and ten knots throughout the speed range from 30 knots to the speed for minimum power, and throughout the speed range in climb from 10 knots below takeoff safety speed to 10 knots above the best rate of climb speed.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20412	Royal Hawaiian Air Service (RHAS)	14 CFR § 91.27(b)	To allow non-revenue ferry flights to a maintenance base for repairs without a special flight authorization physically aboard the aircraft. *Granted 8/12/80.*
20314	Flight Training Devices	14 CFR §§ 61.157(d)(1) and 61.63(d)(2).	To allow petitioner's trainees to complete a practical test, for the issuance of a type rating to be added to any grade of pilot certificate, in an airplane simulator as set forth in Appendix A of Part 61. *Granted 8/13/80.*
20371	W. F. Probst Co	14 CFR § 61.58(c)	To allow petitioner's pilots to perform all the required maneuvers for a 24 month check in a FAA approved BAC-111 Visual Flight Simulator. *Granted 8/14/80.*
18934	United States Dept	14 CFR § 91.79 (b) and (c)	To permit aircraft to conduct low altitude operations at distances closer to persons and property than allowed by the regulations. *Partial Grant 8/5/80.*

[FR Doc. 80-25513 Filed 8-20-80; 8:45 am]
BILLING CODE 4910-13-M

Environmental Impact Statement; Boulder and Larimer Counties and City of Estes Park, Colo.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Boulder and Larimer Counties and city of Estes Park, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Budwig, Division Administrator, Central Direct Federal Division, P.O. Box 25246, Denver, CO 80225, Attention: Mr. Robert Arensdorf or Mr. E. C. Samuelson (303-234-4798).

SUPPLEMENTARY INFORMATION: The Colorado Forest Highway Program agencies (Federal Highway Administration—lead agency, U.S. Forest Service, Colorado Division of Highways) are proposing to improve approximately 12 miles of Forest Highway 26 (Colorado Route 7) from Meeker Park to U.S. 36 East in Estes Park, Colorado. The project area crosses portions of Boulder and Larimer Counties, the Arapaho-Roosevelt National Forest, and the town of Estes Park. The proposed action generally would follow the alignment of the existing 20-24-foot paved road and would entail regrading, widening, paving, and drainage features to improve capacity and safety features of the existing road and provide additional recreational parking. Five minor creek drainages and some associated wetlands would be crossed.

Alternatives currently being considered for this proposed action include:

No-Action, maintain the existing road with no structural or geometric improvement;

Reconstruct and widen the existing road with minor realignments on most curves for safety improvement. This alternative would also include addition of a 2000-foot (approx.) climbing lane (three-lane section) along Lily Mountain above the Estes Valley, and a four-lane urban section with bikepath within the city limits of Estes Park;

Reconstruct as above but realign the northern portion of the existing road onto possible new alignments as follows:

—Down Old Fish Creek Road from Wind River Pass to U.S. 36 East in Estes Park;

—Down Aspen Brook Valley from Wind River Pass to U.S. 36 West in Estes Park;

—Down Marys Lake Road from Colorado 7 to U.S. 36 West in Estes Park.

Provide other transportation modes to serve the transportation needs in this corridor.

Much of the scoping process for this proposed action has already been undertaken. In late 1978, letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies and to private organizations and citizens who were interested or were expected to be interested in this proposal. Two meetings with involved governmental/private agencies and one public meeting were held in Estes Park in late 1978 to discuss the project and related issues. Future meetings are expected with individual agencies or interested groups to analyze specific issues. Additional interagency and/or public meetings may be held if significant new concerns are raised during the location/environmental analysis process. FHWA and program agencies are presently conducting location and environmental analyses of the proposed action which will be documented in a Draft Environmental Impact Statement likely to be used in late 1980. A corridor/design public hearing(s) will be held before the Forest Highway Program agencies make a final decision on implementing the proposed action. Questions or comments concerning the proposed project can be addressed to the individuals noted above.

Issued on: August 13, 1980.

Jerry L. Budwig,
Division Administrator, Central Direct Federal Division, Denver, Colo.

[FR Doc. 80-25386 Filed 8-20-80; 8:45 am]
BILLING CODE 4910-22-M

Federal Highway Administration

Environmental Impact Statement; Gloucester County, N.J.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Gloucester County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Lloyd J. Jacobs, Staff Specialist for Environment, Federal Highway Administration, 25 Scotch Road, Second Floor, Trenton, New Jersey 08628, Telephone: (609) 989-2291.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), will be preparing an Environmental Impact Statement on a proposal to complete construction of 9.7 miles of I-295 as a six-lane, grade-separated facility from Hessian Avenue to Repaupo Road, Gloucester County, New Jersey. The proposed project would construct two lanes for 7.4 miles within the existing I-295 median from Delaware Street to Repaupo Road (I-295-1(52) and a widening or new alignment for 2.3 miles from Hessian Avenue to Delaware Street (I-295-1(43). The latter section is now combined with U.S. Route 130 as an unlimited access roadway carrying local residential and commercial traffic.

The purpose of this project is to relieve congestion on existing I-295/U.S. Route 130 while improving traffic flow and reducing accident rates. Further, the completed Route I-295 brought up to Interstate standards will meet regional planning needs, Federal military highway objectives, and will add an additional link in the Interstate network.

Adjacent land use is suburban/rural with scattered large industrial employers in the project area. Alternatives under consideration include (1) widening existing alignment; (2) widening and 2.3 mile realignment to west of existing facility; (3) widening and 2.3 mile realignment to east of existing facility with two major interchanges; (4) widening 2.3 mile realignment to east of existing facility with one major interchange; (5) the no-action alternative.

The FHWA and NJDOT issued a Notice of Planned Action on March 8, 1978 to all government agencies with areas of responsibility for early coordination describing the proposed project and inviting those agencies to comment. Informational meetings with the public were held on March 1, 1978, March 29, 1978, and November 27, 1979, at the Municipal Building, West Deptford, New Jersey. A formal scoping meeting is planned and Federal and State agencies with permit or commenting responsibilities will be invited.

(Catalog of Federal Domestic Assistance Program Number 20.205; (Highway Research, Planning, and Construction). The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: August 13, 1980.

John J. Kessler, Jr.,

Division Administrator, Trenton, N.J.

[FR Doc. 80-25368 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: New Castle County, Del.

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in New Castle County, Delaware.

FOR FURTHER INFORMATION CONTACT: Michael Otto, Area Engineer, Federal Highway Administration, Delaware Division, P.O. Box 517, Dover, Delaware, 19901, Telephone: (302) 736-5616; Therese M. Coghlan, Environmental Planner, Environmental Studies Office, Delaware Department of Transportation, P.O. Box 778, Dover, Delaware, 19901, Telephone (302) 736-4642.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Delaware Department of Transportation, will prepare an environmental impact statement (EIS) as part of a planning study for a proposal to improve Naamans Road, Delaware Route 92 in northeastern New Castle County, Delaware. The proposed improvement would involve the reconstruction of Naamans Road, Delaware Route 92, from Concord Pike (U.S. Route 202) to Philadelphia Pike (U.S. Route 13) a distance of approximately 5.8 miles. Improvements to the corridor are considered necessary to provide adequate capacity for existing and projected traffic demand and incorporate modern design features to provide safe and efficient transportation service.

Alternatives under consideration include (1) taking no action; and (2) widening the existing two-lane roadway to four lanes. Alignment and design variations will be incorporated into and studied with the various build alternatives.

Letters describing the proposed action and soliciting cooperation into the study through the incorporation of scoping will be sent to appropriate Federal, State, and Local agencies. A formal scoping meeting is planned for August 27, 1980 at a location near the corridor area. A public notice announcing the undertaking of the planning study has appeared in the local newspapers and has been distributed to private organizations and citizens who have previously expressed interest on the proposal. A series of public meetings will be held in the corridor area from September through December, 1980. In addition a public hearing is scheduled for early 1981. Public notice and individual mailing from an established list will be utilized to announce the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued August 7, 1980.

John F. Sullivan, Jr.,

Division Administrator, Dover, Del.

[FR Doc. 80-25365 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held September 19, 1980, at 10:00 a.m. until 12:00 p.m. at the Atlanta Hilton Hotel, Courtland and Harris Streets, NE in the Milan Room, Atlanta, Ga. 30303. The agenda for the meeting is as follows:

—Review and Discuss MESBIC Program
—Status of MBRC Budget
—General Overview of MBRC Programs

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later that the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, SW, Washington, D.C. 20590, telephone: (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 12, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 80-25298 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-06-M

Feasible Ownership Plan Under the Railroad Revitalization and Regulatory Reform Act of 1976; Extension of Deadline

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice.

SUMMARY: The deadline for submitting a feasible ownership plan to FRA under section 505(h)(3)(A)(ii) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Act) is extended from August 20, 1980 to September 10, 1980.

FOR FURTHER INFORMATION CONTACT: James W. Hanscom, Acting Director, National Freight Assistance Programs, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Room 5415, Washington, D.C. 20590, (202) 426-9657.

SUPPLEMENTARY INFORMATION: Section 112 of the Rock Island Railroad Transition and Employee Assistance Act (Pub. L. 96-254) amended section 505 of the Act to add a new subsection (h) authorizing FRA to provide assistance to noncarrier entities to purchase, lease or rehabilitate properties of the Chicago, Rock Island & Pacific Railroad Company and to purchase properties of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company. Under section 505(h)(3)(A)(ii) of the Act Applicants are required to submit a feasible ownership plan to FRA no later than August 20, 1980, or such later date as the Administrator of FRA by delegation from the Secretary of Transportation considers appropriate. Due to a number of applicants' concerns that they would be unable to prepare such a plan in so little time, the Administrator of FRA is extending the submission closing date to September 10, 1980. A feasible ownership plan shall be an explanation of applicant's plan for owning and managing the subject property to provide for a prudent common carrier rail operation.

Issued in Washington, D.C. on August 14, 1980.

Robert E. Gallamore,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 80-25649 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Motor Vehicle Safety Standards; General Motors Corp. Front Wheel Bearing Defect; Petition Denied

This notice sets forth the reasons for the denial of a petition for a hearing on the question of whether a manufacturer has reasonably met its obligation to remedy a safety-related defect.

On May 10, 1980, David L. Cox of Springfield, Virginia, petitioned the agency to hold a public hearing pursuant to 49 CFR 557.3(c) to determine if General Motors Corp. had reasonably met its responsibility to correct a safety-related defect in his 1978 Pontiac Grand Am, specifically to correct a front wheel bearing defect. General Motors had notified him of the safety-related defect in his car but his local dealer allegedly had not performed the repairs.

Information received from General Motors on July 16, 1980, indicated that the vehicle had been properly repaired at the time it was serviced and that the petitioner now understood how the repairs were performed. Based upon the fact that the problem was resolved without holding a hearing, the petition was denied on July 25, 1980.

(Sec. 156, Pub. L. 93-492, 38 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 13, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-25131 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Measures That Could Be Used To Restrain U.S. Imports of Ethyl Alcohol for Use in Gasohol

AGENCY: U.S. Treasury Department.

ACTION: Report to Congress on possible import barriers for ethyl alcohol.

SUMMARY: The Treasury Department was mandated by the Crude Oil Windfall Profits Tax Act (Pub. L. 96-223, Section 5181) to report to Congress the measures that might be used to

—Deny the excise tax exemption for any gasohol made with imported alcohol;

—Limit U.S. imports of ethyl alcohol; or

—Monitor imports of ethyl alcohol.

Because measures to restrain imports could have serious consequences for large segments of the population, the Treasury Department is seeking written comments from affected parties concerning imports of alcohol fuels.

DATES: Comments will be accepted until September 15, 1980.

ADDRESS: Secretary of the Treasury, Attention: International Trade Office, U.S. Department of the Treasury, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: William E. Barreda, International Trade Office, U.S. Treasury Department, (202) 566-5305.

SUPPLEMENTARY INFORMATION:

Background

In order to create an incentive for domestic producers of fuel alcohol, Congress exempted gasohol from the 4 cent/gallon excise tax to which sales of conventional gasoline are subject. Under the Windfall Profits Act, this exemption was extended until 1992.

The Treasury Department report to Congress will examine ways in which the government can limit to domestic alcohol producers the benefit of this tax incentive. These measures could include:

—Denial of tax exemption for gasohol made from imported alcohol;

—Tariff barriers for imported alcohol;

—Quantitative import restraints; or

—Both quantitative and tariff measures.

In inviting written comments from affected parties, Treasury wishes to obtain information on:

—The structure of the domestic market;

—The administrative feasibility of a tax exemption limited to gasohol made from domestic alcohol;

—The need (if any) for imports to ease regional shortages of ethyl alcohol and help develop markets;

—The price competition that imports induce;

—The cost of production; and

—Domestic demand for gasohol.

Dated: August 18, 1980.

Approved:

Charles Schotta,

Acting Assistant Secretary, International Affairs.

[FR Doc. 80-25358 Filed 8-20-80; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 18, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from First State Bank of Northern California, San Leandro, California.

The Board further determined, by that same majority vote, that no earlier notice of the change in the subject matter of the matter was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1569-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 25, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: 1974 Privacy Act Notice—"Grievance Records" System of Records.

Memorandum re: Proposed Revision to the Corporation's Employee Grievance Procedure.

Memorandum re: Uniform Commercial Bank Performance Report.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Office of Corporate Audits regarding 15 liquidation sites.

Report of the Office of Corporate Audits regarding a summary analysis of Examination Reports Processing System.

Memorandum re: Attorneys' Fees Paid During Second Quarter 1980.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W. Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1570-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 25, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Sanger Community Bank, a proposed new bank, to be located at 1601 Seventh Street, Sanger, California, for Federal deposit insurance.

Bank of the Northwest, a proposed new bank, to be located at 2220 Oklahoma Avenue, Woodward, Oklahoma, for Federal deposit insurance.

Houston North Side Bank, a proposed new bank, to be located at 2010 North Main Street, Houston, Texas, for Federal deposit insurance.

Application for consent to establish a branch:

Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, for consent to establish a branch on the south side of East Bay Drive, approximately 600 feet west of its intersection with Belcher Road, Unincorporated Pinellas County (P.O. Largo), Florida.

Notice of acquisition of control:

The Bank of Lexington, Inc., Lexington, Kentucky.

Applications for consent to merge and establish branches:

Bank of Stockton, Stockton, California, an insured State nonmember bank, for consent to merge, under its charter and title, with Mid-Cal National Bank, Lodi, California, and for consent to establish the five offices of Mid-Cal National Bank as branches of the resultant bank.

Continental Bank, Norristown, Pennsylvania, and insured State nonmember bank, for consent to merge, under its charter and title, with The Solebury National Bank of New Hope, New Hope, Pennsylvania, and for consent to establish the three offices of The Solebury National Bank of New Hope as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as

receiver, liquidator, or liquidating agent of those assets:

Case No. 44,387-NR—United States National Bank, San Diego, California.
Case No. 44,419-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.
Case No. 44,428-L—The Hamilton Bank and Trust Company, Atlanta, Georgia.
Case No. 44,429-L—Reserves for losses, 86 Open Liquidations.
Case No. 44,432-L—International City Bank & Trust Company, New Orleans Louisiana.
Case No. 44,433-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 44,434-L—Donahue Savings Bank, Donahue, Iowa.
Case No. 44,436-L—Franklin National Bank, New York, New York.
Case No. 44,439-SR—Citizens State Bank, Carrizo Springs, Texas.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of the Director, Office of Corporate Audits, re: Status of Auditee Corrective Actions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1571-80 Filed 8-19-80; 12:19 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 18, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum requesting an extension of a lease of space at a warehouse facility in Capital Heights, Maryland.
Recommendation regarding modifications to the Interagency Policy Regarding the Assessment of Civil Money Penalties.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[S-1572-80 Filed 8-19-80; 12:19 pm]

BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54517, August 15, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., August 20, 1980.

CHANGES IN THE MEETING: Addition of the following items to the open session:

4. Docket No. 76-11—In Re Agreement Nos. 150 DR-7 and 3103 DR-7—Compliance With Decision.
5. Docket No. 80-13—Licensing of Independent Freight Forwarders—Request for Oral Argument.
6. U.S. North Atlantic/Continental Europe, United Kingdom, Baltic Scandanavia trades—Request for Information Concerning the Impact of Pricing Policies on U.S. Exporters.

Addition of the following item to the closed session:

2. Military Rates of Farrell Lines—RFP-1400, Second Cycle.

[S-1567-80 Filed 8-19-80; 9:30 am]

BILLING CODE 6730-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., August 27, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Report on Notation Items disposed for during July 1980.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during July 1980.
3. Report of the Secretary on Applications for Admission to Practice approved during July 1980 pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during July 1980.
5. Section 15 Agreements which fail to meet the requirements of General Order 7, Revised.
6. Cosmos Shipping Co., Inc.—FMC Independent Ocean Freight Forwarder License No. 722—Proposed Order of Investigation.
7. Proposed Rulemaking—Revision of General Order 17, "Time For Filing and Commenting on Certain Agreement".
8. Docket No. 77-23—Agreement No. 10294—Motion to Discontinue.
9. Docket No. 80-32—Exemption of Leases or Arrangements Solely Involving Terminal Facilities Located in Foreign Countries—Consideration of Comments.
10. Docket No. 80-33—Exemption of Tariff Matter covering the Movement of Cargo Between Foreign Countries Either Transshipped from One Water Carrier to Another at U.S. Ports or Transported Overland Through the United States—Consideration of Comments.
11. Special Docket No. 724—Application of Sea-Land for Benefit for Star-Kist Foods—Consideration of Exceptions to Initial Decision.
12. Docket No. 69-57—Agreement No. T-2336—New York Shipping Association Cooperative Working Arrangement—Reopening of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523-5725.

[S-1578-80 Filed 8-19-80; 3:36 pm]

BILLING CODE 6730-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 18, 1980.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published August 13, 1980, 45 FR 53941.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, August 20, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item should be deleted:

1. Ronald McCracken v. Valley Camp Coal Company, Docket No. WEVA 79–116–D (Petition for Discretionary Review).

No earlier announcement of this change was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1568–80 Filed 8–19–80; 10:12 am]

BILLING CODE 6820–12–M

8

PAROLE COMMISSION.

United States Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters)

TIME AND DATE: 9:30 a.m., Wednesday, August 13, 1980.

PLACE: Room 826A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: The above meeting had been previously continued to August 15, 1980. On August 15, 1980, the Commission determined that the above meeting be further continued to 9:30 a.m. on Monday, August 18, in Room 724, 320 First Street, NW., for consideration of case referrals from regional Commissioners. The above change was necessitated by the illness of one of the Commissioners and is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S–1575–80 Filed 8–19–80; 2:05 pm]

BILLING CODE 4410–01–M

9

PAROLE COMMISSION.

United States Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters)

TIME AND PLACE: 9:30 a.m., Thursday, August 28, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Case Analyst, National Appeals Board, (202) 724–3094.

[S–1574–80 Filed 8–19–80; 2:05 am]

BILLING CODE 4410–01–M

10

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., September 4, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED:

(1) OPM survey of Bureau of Unemployment and Sickness Insurance.
(2) OPM study of personnel management at the Board.
(3) Headquarters relocation.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S–1573–80 Filed 8–19–80; 1:40 pm]

BILLING CODE 7905–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 45 FR 53942, August 8, 1980.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Monday, August 11, 1980.

CHANGES IN THE MEETING: Deletion:

The following item will not be considered at an open meeting scheduled for Thursday, August 21, 1980, at 10 a.m.: Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

August 18, 1980.

[S–1566–80 Filed 8–19–80; 9:30 am]

BILLING CODE 8010–01–M

Federal Register

Thursday
August 21, 1980

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the Linden Hill Hotel, Linden Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014, on September 25 1980, from 9:00 a.m. to recess at approximately 6:00 p.m., and on September 26, 1980, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public on September 25 from 9:00 a.m. to recess at approximately 6:00 p.m., and on September 26 from 8:30 a.m. to approximately 3:00 p.m. to discuss:

Amendment of Guidelines
Procedures for review of proposals for large-scale production
Voluntary compliance with guidelines
Institutional Biosafety Committees
Exceptions to prohibitions
Exemptions for organism that exchange genetic information
Review of large-scale proposals
E. coli K–12 host-vector systems
Host-vector systems other than *E. coli* K–12
NIH risk-assessment plan
Review of protocols for required containment levels
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public for approximately two hours for the review, discussion and evaluation of proposal(s) from a commerical concern(s) for scale-up of recombinant DNA experiments. It is anticipated that this will occur on September 26, from approximately 3:00 p.m. until adjournment. The proposal(s) and the discussion could reveal confidential trade secrets or commerical property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–6051, will provide materials to be discussed at the meeting, rosters of committees members and substantive program information. A summary of the meeting will be available at a later date.

Dated: August 14, 1980.

Donald S. Fredrickson, M.D.,
Director, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcement the number and title of affected individual programs for the guidance of the public because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that circular.

[FR Doc. 80–25288 Filed 8–20–80; 8:45 am]
BILLING CODE 4110–08–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under NIH guidelines for research involving recombinant DNA molecules.

SUMMARY: This notice sets forth proposals for actions to be taken under the 1980 NIH Guidelines for Research Involving Recombinant DNA Molecules [Federal Register of January 29, 1980 (45 FR 6724)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its September 25–26, 1980, meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by September 22, 1980.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules (45 FR 6724), as well as actions under these Guidelines.

1. *Requests for permission to transform chlamydomonas reinhardi with E. colisaccharomyces cerevisiae plasmids.* Dr. John Carbon of the University of California, Santa Barbara, and Dr. Stephen Howell, University of California, San Diego, request permission to introduce *Escherichia coli-Saccharomyces cerevisiae* hybrid plasmids containing defined segments of DNA into the unicellular flagellate *Chlamydomonas reinhardi* under P2 physical containment conditions.

2. *Request for permission to transform candida albicans with E. Coli-S. Cerevisiae plasmids.* Dr. P. T. Magee of Michigan State University, and Dr. W. LaJean Chaffin of Texas Tech University, have requested consideration of the appropriate containment level for the return of *Candida albicans* DNA to the host of origin. The *Candida albicans* DNA will be cloned in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing a hybrid plasmid vector derived from *E. coli* K–12–*S. cerevisiae* or the yeast 2 micron plasmid.

3. *Proposal to introduce genes cloned in E. Coli K–12 into Arabidopsis plants through the use of Agrobacterium tumefaciens carrying an E. Coli/Ti hybrid plasmid vector.* Employing the following protocol, Dr. Donald J. Merlo of the University of Missouri-Columbia, requests permission to introduce genes into *Arabidopsis thaliana:*

(a) A hybrid plasmid vector, constructed from the *E. coli* plasmid pBR325 and the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, will be cloned in *E. coli K–12.*

(b) *Arabidopsis* DNA will be introduced into the *E. coli*/Ti hybrid plasmid and cloned in *E. coli* K–12.

(c) The thiamine gene of *E. coli* will be introduced into the *E. coli*/Ti vector

carrying *Arabidopsis* DNA and cloned in *E. coli* K-12.

(d) The hybrid plasmid into which *Arabidopsis* DNA and the thiamine gene have been ligated will be transformed into *Agrobacterium tumefaciens.*

(e) *Agrobacterium tumefaciens* will be used to introduce the *E. coli*/Ti plasmid vector carrying the *E. coli thiamine gene and Arabidopsis* DNA into *Arabidopsis* plants.

According to Section III-O of the Guidelines, steps, (a), (b) and (c) of the protocol may be performed under P1 containment; according to Appendix E, steps (d) and (e) may be conducted under P3 containment. Dr. Merlo requests permission to perform steps (d) and (e) at P1 or P2 containment. He suggests that the DNA combination to be generated could occur in nature, albeit at very low frequency.

4. *Request for certification of a Bacillus subtilis strain as the host-vector component of an HV2 host-vector system.* On March 28, 1980, Dr. William F. Burke, Jr., of Arizona State University, requested certification of *Bacillus subtilis* strain ASB298 as the host component of an HV2 host-vector system. Dr. Burke's proposal was evaluated by a working group and subsequently presented to the RAC at the June 5-6, 1980 meeting. The RAC discussed the characteristics of a *Bacillus subtilis* HV2 system and recommended that consideration of the proposal be deferred until additional information concerning transfer of recombinant DNA through transformation was received. The RAC will continue the evaluation of additional information received on strain ASB298 at the September meeting.

5. *Request for HV1 certification of a Bacillus stearothermophilus derived plasmid vector in Bacillus subtilis.* Dr. David B. Wilson of Cornell University, requests HV1 certification of a host-vector system based on a *Bacillus subtilis* host and a plasmid isolated from *Bacillus stearothermophilus.*

6. *Proposed revision of subsections of section III-C-1-e.* A notice appeared in the Federal Register of January 31, 1980 concerning proposed revision of Section III-C-1-e, and its subsections. It was recommended that Sections II-C-1-e, III-C-1-e-(1), III-C-1-e-(1)-(a), and III-C-1-e-(1)-(b), of the Guidelines be changed and that a new Section III-C-1-e-(1)-(c) be added. Section III-C-1-e-(2) would remain unchanged. The RAC, at its March 6-7, 1980 meeting, recommended adoption of Sections III-C-1-e, III-C-1-e-(1), and III-C-e-(1)-(a) as published in the Federal Register of January 31, 1980, with certain modifications in Section III-C-1-e-(1)-(a).

The Director, NIH, accepted this recommendation and promulgated the following sections in the Federal Register of April 14, 1980:

"III-C-1-e. All Viral Vectors.

III-C-1-e-(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III-C-1-e-(1)-(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus [all viruses form a single Family (36) being considered identical (50)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragment of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome."

At its March 6-7, 1980 meeting, the RAC voted to defer consideration until the June 5-6, 1980 meeting of the new Sections III-C-1-e(1)-(b) and III-C-1-e-(1)-(c) as proposed in the Federal Register of January 31, 1980, and requested that a working group develop additional information. Accordingly, a working group met on May 13, 1980 during the annual meeting of the American Society for Microbiology in Miama Beach, Florida. The report of the working group was considered briefly at the June 5-6 RAC meeting and will be considered again by the RAC at its September 25-26, 1980 meeting.

The Working Group discussed the question of the appropriate containment conditions for experiments involving recombinant DNA molecules containing less than two-thirds of the genome of any eukaryotic virus which may be rescued with helper virus. On the basis of the consensus of the virologists, the following recommendation was proposed, as a revision of Section III-C-1-e-(1)-(b) of the Guidelines

"III-C-l-e-(1)-(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents (1)."

7. *Procedures for review of large-scale experiments.* Section I-D-6 of the Guidelines prohibits "large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNAs, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established."

Section IV-E-l-b-(3)-(d) of the Guidelines states that the Director, NIH, is responsible for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Part VI of the Guidelines, "Voluntary Compliance," encourages institutions not otherwise covered by the Guidelines to follow the standards and procedures set forth in the Guidelines.

At its September 1979 meeting, the RAC adopted the following procedures to be followed by applicants proposing to exceed the 10-liter limit:

"Application Procedures For Large-Scale Recombinant DNA Experiments

1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

b. A statement of the rationale for wishing to exceed the 10-liter limit.

c. A specification of the total volume of the fermenter to be used.

d. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

e. A description of the applicant's laboratory practices, containment equipment, and facilities relevant to the containment of large volumes of culture.

f. Evidence of the applicant's or applicant institution's previous experience in handling large volumes of culture. Applicants should exhibit knowledge of state-of-the-art procedures for working with large volumes of microorganisms.

g. A description of procedures to be employed for the inactivation and disposal of large volumes of culture.

h. A description of procedures for containing and inactivating accidental spills, should they occur.

2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

4. Following review and approval by the RAC, each request shall be

submitted to the Director, NIH, for final review.

5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

At the last few RAC meetings, there have been extensive discussions of the role of the RAC and NIH in the review of large-scale proposals submitted by industry. (Minutes of RAC meetings are available from ORDA.) At the June 1980 meeting, the RAC passed a motion by a vote of seventeen to zero with one abstention that the following proposal be published in the Federal Register for consideration at the September, 1980 meeting:

The following procedures should be adopted for approval of requests to grow greater than 10 liters of organisms containing recombinant DNA. The RAC will determine if a given recombinant DNA-containing strain is rigorously characterized and the absence of harmful sequences established. Such a determination shall include specification of a containment level (P-LS). These determinations should not in any way be construed as RAC certification of safe laboratory procedures for industrial scale-up. Adherence to the specified containment conditions is the responsibility of the local IBC.

If the above proposal is accepted, it would have the effect of changing the application procedures to read as follows:

"Application Procedures for Large-Scale Recombinant DNA Experiments

1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

b. A statement of the rationale for wishing to exceed the 10-liter limit.

c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

d. Specification of the P-LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules.* (Federal Register, April 11, 1980).

2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

4. Following review and approval by the RAC, each request shall be submittd to the Director, NIH, for final review.

5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provision of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

8. *Proposed changes in registration requirements.* Dr. Maxine Singer, National Cancer Institute, National Institutes of Health, has proposed a series of changes in the administrative requirements specified by the Guidelines. In brief, Dr. Singer's proposal eliminates NIH review, registration, and approval for all experiments assigned containment conditions in the Guidelines. The reasons for the proposed changes are discussed in a letter to ORDA.

Specifically, the proposal would revise several sections of the Guidelines. The proposed revisions are discussed below.

A. *Section III.* Section III of the Guidelines would be amended to read as follows:

"III. *Containment Guidelines for Covered Experiments.*

Part III discusses experiments covered by the Guidelines. The reader must first consult Part I, where listings are given of prohibited and exempt experiments.

Containment guidelines for permissible experiments are given in Part III. For these experiments no registration with NIH is necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene in the cloning vehicle and if so, what protein, and (e) the containment conditions specified by these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals but such review is not required prior to initiation of experiments except as noted in Sections III-A-3-a, III-A-3-b, or for experiments where containment procedures are not explicitly described in these Guidelines.

Changes from the levels specified in Part III for specific experiments (or the assignment of levels to experiments not explicitly considered here) may not be instituted without the express approval of the Director, NIH. (See Sections (IV-E-1-b(1)-(a), IV-E-1-b-(1)-(b), IV-E-1-b-(2)-(b), IV-E-1-b-(2)-(c), and IV-E-1-b-(3)(b).)

In the following classification of containment criteria for different kinds of recombinant DNAs, the stated levels of physical and biological containment are minimal for the experiment designated. The use of higher levels of biological containment (HV3>HV2>HV1) is encouraged if they are available and equally appropriate for the purposes of the experiment.

Experiments involving recombinant DNA from Class 3 organisms [1] or from cells known to be infected with these agents may be conducted at P3 containment in *E. coli* K-12 EK1 hosts (see Section III-O). Containment levels for all other expriments with Class 3 organisms or with recombinant DNA which increases the virulence and host range of a plant pathogen beyond that which occurs by natural genetic exchange will be determined by NIH. (See Section IV-E-1-b-2-(e)).

B. *Section III-O.* Section III-O of the Guidelines would be amended to read as follows:

"III-O. *Classification of Experiments Using E. coli K-12 and Saccharomyces cerevisiae Host-Vector Systems.* Most recombinant DNA experiments currently being done employ *E. coli* K-12 host-vector systems; others employ the *S. cerevisiae* host-vector systems. These are the systems for which we have the most experience and knowledge.

Some experiments using *E. coli* K-12 and *S. cerevisiae* host-vector systems are prohibited (see Section I-D).

Some experiments using *E. coli* K-12 and *S. cerevisiae* host-vector systems are exempt from the Guidelines (see Section I-E).

Experiments using *E. coli* K-12 host-vector systems and DNA from Class 3 organisms [1] or from cells known to be infected with these agents will be

conducted at P3 containment or at a lower level as specified by NIH (See Section IV-E-1-b-2-(e)).

Other experiments using *E. coli* K-12 or laboratory strains of *S. cerevisiae* shall use P1 physical containment and, except as specified in the last paragraph of this section, an HV1 host-vector system [i.e., for experiments using *E. coli* K-12 (a) the *E. coli* host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or nonconjugative plasmids [49] shall be used as vectors. For experiments in *S. cerevisiae*, laboratory strains shall be used].

Experiments involving the insertion into *E. coli* K-12 of DNA from prokaryotes that exchange genetic information with *E. coli* by known phsyiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I-E-4).

For those not on the Appendix A list but which exchange genetic information [35] with *E. coli*, experiments may be performed with any *E. coli* K-12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K-12 host may contain conjugation-proficient plasmids, either autonomous or integrated, or generalized transducing phases."

C. *Section III-A-3-a.* The last sentence of Section III-A-3-a would be amended to read as follows:

"IBC approval is sufficient for such a reduction except for any lowering of containment under Section III-A-3-a to levels below P1+HV1, which requires prior consultation with NIH."

D. *Section III-A-3-b.* The last sentence of the second paragraph of Section III-A-3-b would be amended to read as follows:

"IBC approval is sufficient for such a reduction except for any lowering of containment under Section III-A-3-b to levels below P1+HV1, or reduction of containment levels by more than one step, which requires prior consultation with NIH."

E. *Section IV-C-3.* Section IV-C-3 would be deleted. This Section currently reads as follows:

"IV-C-3. "Memorandum of Understanding and Agreement" or "MUA" is a document that (i) provides to NIH or other Federal funding agency an Institution's certification that the recombinant DNA research project complies with the NIH Guidelines and (ii) contains other essential data as required in the Administrative Practices Supplement."

F. *Section IV-D-1-c.* Sections IV-D-1-c and IV-D-1-c-(1) through IV-D-1-c-(5) would be deleted. These Sections currently read as follows:

"IV-D-1-c. Submit, for each recombinant DNA project that meets with its approval, a Memorandum of Understanding and Agreement (MUA) to the funding agency for approval and registration. (Note: No MUA is required for experiments described in Section III-O). All projects, however, can proceed upon IBC approval (before submission of the MUA to the funding agency) except for the following, which require prior approval by NIH (or other funding agency designated by NIH for this purpose):

"IV-D-1-c(1). Projects for which containment levels are not specified by the Guidelines or NIH,

IV-D-1-c-(2). Projects requiring P4 containment,

IV-D-1-c-(3). Certain reductions of containment levels for characterized or purified DNA preparations or clones (see Section III-A-3),

IV-D-1-c-(4). The first project conducted in a facility at P3 containment, or,

IV-D-1-c-(5). The first project conducted by an Institution.

Note.—The MUA shall be submitted to the funding agency within 30 days of the IBC approval. If the funding agency does not routinely register recombinant DNA projects with NIH, the MUA must be submitted to NIH as well as to the funding agency. Authority to submit MUAs (or addenda) for which prior approval is not required may be delegated to the IBC chairperson. All MUAs that require NIH approval before the work can proceed shall be submitted to the NIH by the institutional official to whom the IBC is responsible."

G. *Section IV-D-1-d.* Section IV-D-1-d would be deleted. This section currently reads as follows:

"IV-D-1-d. Take appropriate action to bring protocols into compliance when advised by NIH or other funding agency that IBC-approved projects do not conform to standards set forth in the Guidelines. This responsibility may be delegated to the IBC. (See Administrative Practices Supplement for further details)."

H. *Section IV-D-2-f.* Section IV-D-2-f would be amended to read as follows:

"IV-D-2-f. Central to implementation of the Guidelines is the review of experiments by the IBC. In carrying out this responsibility, the Institution shall comply with instructions and procedures specified in the Administrative Practices Supplement."

I. *Section IV-D-2-h.* Reference to MUAs would be deleted in Section IV-D-2-h. The revised Section would read as follows:

"IV-D-2-h. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public (e.g., reports of Guideline violations and significant research-related accidents, and agency directives to modify projects). If comments are made by members of the public on IBC actions, the Institution shall forward to HIH both the comments and the IBC's response."

J. *Section IV-D-3-a.* Section IV-D-3-a would be amended to read as follows:

"IV-D-3-a. Reviewing for compliance with the NIH Guidelines all recombinant DNA research conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. (See Administrative Practices Supplement for prior NIH approval requirements.) This review shall include:"

K. *Section IV-D-3-b.* Section IV-D-3-b would be amended to read as follows:

"IV-D-3-b. Notifying the Principal Investigator (PI) of the results of their review."

The "Note" following IV-D-3-b would be deleted.

L. *Section IV-D-3-f.* Section IV-D-3-f would be renumbered to IV-D-3-g, and a new Section IV-D-3-f would be added as follows:

"IV-D-3-f. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH, (with the advice of the RAC when required) establishes the containment requirements."

M. *Amendment of Section IV-D-5-a-(1).* Section IV-D-5-a-(1) would be amended to read as follows:

"IV-D-5-a-(1). Initate or modify no recombinant DNA research subject to the Guidelines until the Institutional Biosafety Committee (IBC) has been appropriately notified and all other requirements of the Guidelines and the Administrative Practices Supplement (APS) have been met. Modify containment and experimental protocol according to recommendations of the IBC."

N. *Proposed Section IV-D-5-b-(4).* A new Section IV-D-5-b-(4) would be added as follows:

"IV-D-5-b-(4). Petition NIH for recommendations regarding containment for experiments requiring case-by-case review."

O. *Proposed Section IV-D-5-b-(5).* A new Section IV-D-5-b-(5) would be added as follows:

"IV-D-5-b-(5). Petition NIH for recommendations regarding

containment for experiments not covered by the Guidelines."

P. *Amendment of Section IV-D-5-c-(3).* Section IV-D-5-c-(3) would be amended to read as follows:

"IV-D-5-c-(3). Submit the initial research protocol (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval;"

Q. *Amendment of Section IV-D-5-d.* The heading of Section IV-D-5-d would be amended to read:

"IV-D-5-d. *PI Responsibilites Prior to Initiating the Research."*

R. *Amendment of Section IV-D-5-e.* The heading of Section IV-D-5-e would be amended to read:

"IV-D-5-e. *PI Responsibilities During the Conduct of the Research."*

S. *Section IV-D-5-e-(6).* A new Section, IV-D-5-e-(6), would be added to read as follows:

"IV-D-5-e-(6). Initiating no recombinant DNA research for which containment is not specified by the Guidelines until approval is received from the IBC."

T. *Deletion of Section IV-E-1-b(3)-(e).* Section IV-E-1-b(3)-(e) would be deleted. This section currently reads as follows:

"IV-E-1-b-(3)-(e). Lowering containment levels for characterized clones or purified DNA (See Sections III-A-3-a and -b, and Footnotes 3 and 41);"

U. *Deletion of Sections IV-E-3-b, IV-E-3-c, and IV-E-3-c-(1) through IV-E-3-c-(3).* Sections IV-E-3-b, IV-E-3-c, IV-E-3-c-(1), IV-E-3-c-(2), and IV-E-3-c-(3) would be deleted. These sections currently read as follows:

"IV-E-3-b. Registration of recombinant DNA projects; and

IV-E-3-c. Review of Memoranda of Understanding and Agreement (MUAs), and approval of those that conform to the Guidelines. In so doing, ORDA shall:

IV-E-3-c-(1). Conduct an independent evaluation of the containment levels required for the research covered by these Guidelines;

IV-E-3-c-(2). Determine whether the physical and biological containment levels approved by the IBC are in accordance with the requirement of the Guidelines;

IV-E-3-c-(3). Notify Institutions and the IBC chairperson in a timely fashion when MUAs (including changes in ongoing projects) do not conform to the Guidelines, and inform them of corrective measures to be taken;"

V. *Deletion of Section IV-E-4-a.* Section IV-E-4-a would be deleted. This Section currently reads as follows:

"IV-E-4-a. Awarding no grant or contract involving recombinant DNA techniques unless a properly executed MUA has been received;"

W. *Deletion of Sections IV-F-1 and IV-F-2.* Sections IV-F-1 and IV-F-2 would be deleted. These sections currently read as follows:

"IV-F-1. *Required Registration.* Institutions receiving NIH funds for recombinant DNA projects shall inform NIH of all recombinant DNA projects at the Institution. A non-NIH project, after approval by the Institutional Biosafety Committee, shall be registered with NIH within 30 days of initiation. Applications for NIH projects must be accompanied by a Memorandum of Understanding and Agreement (MUA)."

"For information on MUAs or equivalent documents that must be submitted for registration of recombinant DNA projects, see the Administrative Practices Supplement (APS)."

"IV-F-2. *Federal Agency Registration.* Institutions at which recombinant DNA research projects funded by other Federal agencies are conducted need not register such projects with NIH when the Federal agency maintains a registry and provides such information to NIH. Registration of non-NIH-funded research with the NIH Office of Recombinant DNA Activities (ORDA) is described in the APS. (The information required is similar to that in an MUA for NIH-supported research.)"

X. *Amendment of Section IV-F-3.* Section IV-F-3 could be amended to read as follows:

"IV-F-3. *Voluntary Registration and Certification.* Any institution that it not require to comply with the Guidelines may nevertheless register its intent to comply by submitting the appropriate information to ORDA. NIH will accept requests for certification of host-vector systems proposed by the institution. The submitter must agree to abide by the physical and biological containment standards of the NIH Guidelines."

9. *Proposed amendment of appendix E of the guidelines.* Dr. Fritz Reusser of the Upjohn Company, has requested that two sections of Appendix E be amended in order to include additional *Streptomyces* species. The proposed revised sections would read as follows:

"*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K-12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus* and *S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions."

"*Streptomyces coelicolor, S. Aureofaciens, S. rimosus, S. griseus, S. cyaneus* and *S. Venezuelae* can be used as hosts for the cloning of DNA derived from *B. Subtilis, E. Coli,* K-12, or from *S. Aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indignous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

10. *Request for exemption under Section I-E-4.* Dr. Walter R. Guild of Duke University, has proposed that *Streptococcus sanguis* and *Streptococcus pneumoniae* be included under the exemption category of Section I-E-4, and added to Appendix A of the Guidelines on the basis that these bacteria exchange chromosomal genes in both directions by known physiological processes.

11. *Proposed amendments of Section IV-E-2.* Dr. Irving Johnson of Eli Lilly and Company, submitted a number of proposals for changes in the Guidelines for consideration at the June 5-6, 1980 RAC meeting. Some were deferred. He has now resubmitted two proposed revisions of the Guidelines.

A. Following the first sentence of the second paragraph of IV-E-2, the following sentence would be inserted:

"Appropriate representatives of industry shall also be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

[When this proposal was discussed at the June 1980 meeting, objections were raised to inclusion of the words "of industry." A motion passed to include a modification of this sentence in the Guidelines as follows:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

This was followed, however, by passage of a motion to reconsider, and then passage of a motion to defer consideration until the September RAC meeting].

B. A new Section IV-E-2-b would be added to read as follows:

"A permanent subcommittee of the RAC shall be responsible for advising the Director, NIH, on the actions, listed in Section IV-E-1-b-[3]-[d] pertaining to large-scale applications. Submissions that are in compliance with the *Guidelines* may be recommended by the subcommittee to the Director of NIH for approval. The subcommittee shall also be authorized to consider preliminary plans for large-scale operations and to recommend approval contingent upon

completion of the large-scale facility according to those plans. The subcommittee will be responsible for expeditiously processing applications."

12. *Request to include Vibrio cholerae in Appendix A.* Dr. John A. Mekalanos, of Harvard Medical School, has requested the NIH to consider the addition of *Vibrio cholerae* to Sublist A in Appendix A of the Guidelines. The organisms on this list are those that are exempt from the Guidelines on the basis that they have been shown to exchange genetic material by known physiological processes.

13. *Request for consideration of appropriate containment levels.* Drs. B. S. Montencourt and D. E. Eveleigh of Rutgers University, have requested permission to clone DNA derived from *Pseudomonas* strains that are non-pathogenic to plants or animals in an *E. coli* K-12 host and to be returned to *Zymomonas mobilis.*

14. *Proposed containment for cloning between members of the actinomycetes group.* Dr. Dean Taylor of the Smith Kline and French Laboratories, has proposed that the third entry in Appendix E of the Guidelines be modified to read:

"P2 physical containment shall be used for DNA recombinants produced between members of the *Actinomycetes* group except for those species which are known to be pathogenic for man, animals, or plants."

This proposal was made previously by the RAC Working Group on Prokaryotic Host-Vectors Other Than *E. coli* and appeared in the Federal Register, April 13, 1979 *44* (73): 22316. The RAC considered the proposal at its May 21-23, 1979 meeting and recommended to restrict this so that it did not include the entire *Actinomycetes* group but rather only the genera *Streptomyces* and *Micromonospora.* The Director, NIH, accepted this recommendation and the action was published in the Federal Register, July 20, 1979 *44* (141): 42916, and appears as the third entry in Appendix E of the Guidelines.

15. *Request to clone Schizosaccharomyces pombe* DNA in *Schizosaccharomyces pombe.* Dr. Benjamin Hall of the University of Washington, requests permission to clone *Schizosaccharomyces pombe DNA in Schizosaccharomyces pombe* using approved HVI *Saccharomyces/E. coli* hybrid plasmids as vectors. Dr. Hall requests that Pl be established as the appropriate level of physical containment. Dr. Hall points out that *Schizosaccharomyces pombe* has been the subject of intense genetic studies in the laboratory and traditionally has been used to ferment beverages for human consumption.

Additional Announcements of the Director, NIH

Section IV-E-1-b-(3)-(d) of the Guidelines gives responsibility to the Director, NIH, for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Accordingly, several requests for authorization to culture, on a large-scale, recombinant DNA host-vector systems have been received and reviewed by the NIH.

1. *Genentech, Inc.* On the recommendation of the RAC, the following requests from Genentech, Inc., have been approved by the Director, NIH:

A. On July 22, 1980, the Director, NIH, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 host-vector systems containing plasmids into which have been ligated a combination of chemically synthesized DNA and cloned cDNA coding for human growth hormone.

B. On July 22, 1980, the Director, NIH, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 Host-vector systems containing plasmids into which have been ligated a combination of chemically synethesized DNA and cloned cDNA coding for human leukocyte or fibroblast interferon.

Both requests were approved with the understanding that Genentech, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site, and to certain additional stipulations.

The principal investigators are Drs. Michael Ross and Norm S. C. Lin. The work is to be done, as stipulated by the Genentech, Inc. submission, at the P1-LS level of containment at the research and development facility at 460 Point San Bruno Boulevard, South San Francisco, California 94080.

2. *Burns-Biotec Laboratories, Inc.* On July 22, 1980, The Director, NIH, approved a request from Burns-Biotec Laboratories, Inc., a wholly-owned subsidiary of Schering Corporation, for large-scale culture of an EK1 host-vector system containing a plasmid coding for human leukocyte interferon in a 1000 liter fermentor (up to 750 liter working volume) at the P1-LS level of containment.

This request was approved with the understanding that Burns-Biotec Laboratories, Inc., has agreed to permit an observer, designed by NIH, to visit the facilities if NIH should choose to inspect the site. The principal investigator for this project is Dr. Donald E. Baldwin. The large-scale growth of the organisms is to be carried out at plant facilities located in Elkhorn, Nebraska.

OMB's "Manadatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: August 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80-25289 Filed 8-20-80; 8:45 am]

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federal register

Thursday
August 21, 1980

Part III

Department of the Interior

Bureau of Land Management

Outer Continental Shelf—Gulf of Mexico, Oil and Gas Lease Sale No. A62 and Notice of Leasing Systems, Sale No. A62

80 25386

United States
Department of the Interior
Bureau of Land Management

Outer Continental Shelf, Gulf of Mexico

Notice of Leasing Systems, Sale No. A62

Sec. 8(a)(8) [43 U.S.C. 1337 (a)(8)] of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. A62, tracts will be offered under the following four bidding systems as authorized under Sec. 8(a)(1) [43 U.S.C. 1337 (a)(1)]: (1) bonus bidding with a fixed 33 1/3 percent royalty on 22 tracts, (2) bonus bidding with a fixed sliding scale royalty on 59 tracts, (3) bonus bidding with a fixed net profit share on 40 tracts, and (4) bonus bidding with a fixed 16 2/3 percent royalty on 71 tracts.

(1) Bonus Bidding with 33 1/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This higher royalty type system was first tested in OCS Sale 35 held December 11, 1975, and used again in Sale 40 held August 17, 1976. This system is designed to reduce the bonus bids as a result of the high royalty rates and thereby may increase competition for these leases. Our simulation analysis for the tracts selected for this system indicated that the assignment of the high royalty costs had very little effect on production decisions and therefore on the amount of oil and gas extracted. These results suggest the benefits of possible increases in competition are worth testing when compared to the slight risks of making production less economic.

(2) Bonus Bidding with Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(c) of the OCS Lands Act, as amended. The use of the sliding scale royalty system was introduced in OCS Sale 43 (March 28, 1978) and used again in the last nine OCS lease sales.

The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The sliding scale formula provided for Sale A62 is based on the current assumed range of costs and wellhead prices for this area.

The sliding scale used in Sales #43 and #45 was linear in form. Although this form is easy to describe it has three disavantages which may affect the socially optimal level of production. At certain levels of production, a linear schedule causes erratic fluctuations in the royalty charged on increments in output which may lead producers to make socially non-optimal production decisions in order to minimize these royalty impacts on net revenues. Marginal royalty rates also can reach very high levels even though the average rates are low. In addition, because production costs are non-linear it can be shown that the royalty rate schedule should conform more closely to the functional form of these costs in order to minimize production losses from non-development of otherwise profitable tracts.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value is given by the formula

$$Rj = b(\ln (Vj/S))$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.0

then the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the "Survey of Current Business," by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold.

(3) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. Sale A62 will be the first test of this bidding system, which was established by Department of Energy (DOE) regulations effective May 14, 1980. This profit share system is intended to increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It is designed to increase the volume of production, because certain allowable capital costs may be deducted prior to any liability for profit share payments. In addition, the system may foster the development of marginal fields when compared to a royalty system since the government shares more of the risk and the lessees incremental costs are lower in the presence of a capital recovery.

The initial experiment with a profit share system uses cash bonus as the bid variable principally to avoid percentage bids at too high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that the most efficient firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

Firms will be permitted to recover a factor of 1.00 over their actual allowable costs before any profit share payments are due. The profit share rate selected for this sale is 50 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, government receipts, gross production, minimal economic tract sizes, and part-

icularly on the incentive to alter the production profile.

(4) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This relatively low royalty system has been used extensively since the passage of the OCS Lands Act in 1953 and results in greater risks to the lessee from finding a dry hole, but more rewards (i.e., lower contingency payments to the government) if a commercial field is discovered. The use of this system will also provide data to compare the performance of the alternative systems.

B. Designation of Tracts. The selection of tracts to be offered under the four systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforeseen problems which could arise in the use of any new bidding system. The number of tracts must also be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes for each system. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the location of tracts across trends.

The enclosed list shows the particular system selected for each tract.

Enclosure

Associate Director, Bureau of Land Management

AUG 7 1980

Approved:

Secretary of the Interior

8-15-80

TENTATIVE TRACT LIST
OCS SALE #A62

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Bidding System A/	Acreage
A62-1	12	All	FS	5000
A62-2	14	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-3	53	All	FS	5000
A62-4	54	All	FS	5000
A62-5	58	All	FS	5000
A62-6	59	All	FS	5000
A62-7	64	All	FS	5000
A62-8	68	N½	FS	2500
A62-9	79	All	FS	5000
A62-10	90	All	FS	5000
A62-11	91	All	FS	5000
A62-12	97	All	SS	5000
A62-13	166	All	SS	5000
A62-14	167	All	SS	5000
A62-15	203	All	FS	5000
A62-16	211	All	FS	5000
A62-17	240	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957)

Tract	Block	Description		Acreage
A62-18	157	All	SS	2170.32
A62-19	289	All	SS	5000
A62-20	290	All	SS	5000
A62-21	291	All	SS	5000
A62-22	293	All	SS	5000
A62-23	298	All	SS	5000
A62-24	299	All	SS	5000
A62-25	300	All	SS	5000
A62-26	315	All	SS	5000
A62-27	317	All	SS	5000
A62-28	363	All	SS	5000

A/ FS is one-sixth fixed royalty system
FT is one-third fixed royalty system
SS is sliding schedule royalty system
FS is fixed net profit share system

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-29	489	All	SS	5000
A62-30	490	All	SS	5000
A62-31	518	All	FS	5000
A62-32	519	All	FS	5000
A62-33	523	All	FS	5000
A62-34	547	All	FS	5000
A62-35	548	All	FS	5000
A62-36	553	All	FS	5000
A62-37	646	All	SS	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description		Acreage
A62-38	2	1/	FS	2413.83
A62-39	16	1/	FS	2417.35
A62-40	43	All	FS	5000
A62-41	50	All	FS	5000
A62-42	65	All	FS	5000
A62-43	66	S½	FS	2500

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-44	348	All	SS	5000
A62-45	349	All	SS	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-46	77	All	FS	5000
A62-47	78	All	FS	5000
A62-48	89	All	SS	5000
A62-49	91	All	SS	5067.26
A62-50	221	All	FS	5204.83

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-51	275	All	SS	5000
A62-52	280	All	SS	5000
A62-53	304	All	PS	5000
A62-54	305	All	PS	5000
A62-55	306	All	PS	5000
A62-56	317	All	PS	5000
A62-57	318	All	PS	5000
A62-58	326	All	FS	5000
A62-59	336	All	FS	5000
A62-60	341	All	FS	5000
A62-61	350	All	FS	5000
A62-62	396	All	FS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description		Acreage
A62-63	24	All	FS	5000
A62-64	34	All	FS	5000
A62-65	62	All	SS	5000
A62-66	64	All	SS	2965.03

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-67	100	All	SS	5000
A62-68	122	All	FS	5000
A62-69	160	All	SS	5000
A62-70	198	All	SS	3545.99

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Bidding System	Acreage
A62-71	231	7/	FT	3592.72
A62-72	232	All	FT	4818.68
A62-73	234	2/	FT	1756.63
A62-74	236	8/	FT	2070.72
A62-75	242	9/	FT	3068.22
A62-76	247	All	SS	4926.98
A62-77	274	All	FS	5035.27

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-78	76	All	FS	5000
A62-79	90	N½; SW¼	FS	3750
A62-80	113A	All	FS	5000
A62-81	116	W½	FT	2500
A62-82	117	All	FT	5000
A62-83	129A	All	FT	3824.72
A62-84	133	All	FS	5000
A62-85	142	All	PS	5000
A62-86	143	All	PS	5000
A62-87	146	All	PS	5000
A62-88	147	All	PS	5000
A62-89	148	All	PS	5000
A62-90	159	All	FS	5000
A62-91	160	All	FS	5000
A62-92	181	All	FS	5000
A62-93	182	All	FS	5000
A62-94	226	All	FS	5000
A62-95	240	All	FS	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-96	396	All	SS	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-97	12	All	FS	5000
A62-98	13	3/	FS	4357.81
A62-99	14	4/	FS	3237.50
A62-100	50	All	SS	5000
A62-101	67	1/	FS	587.05
A62-102	173	All	FS	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-103	319	All	FS	5000
A62-104	332	All	SS	5300.60

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-105	76	All	SS	5000
A62-106	77	All	SS	5000
A62-107	96	All	SS	5000
A62-108	97	All	SS	5000
A62-109	160	All	FS	5000
A62-110	174	All	FS	3772.18
A62-111	192	All	FS	5000
A62-112	200	All	SS	5000
A62-113	208	All	FT	5000
A62-114	209	All	FT	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Bidding System	Acreage
A62-115	227	All	FT	5000
A62-116	228	All	FT	5000
A62-117	246	All	SS	5000
A62-118	269	All	SS	5000
A62-119	274	All	SS	5000
A62-120	284	All	PS	5000
A62-121	285	All	PS	2148.46
A62-122	287	All	PS	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-123	2	1/	SS	3344.50
A62-124	3	1/	SS	4756.82
A62-125	4	All	SS	5000
A62-126	7	All	SS	5000

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description		Acreage
A62-127	34	All	FS	5000

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
(Approved September 8, 1959; Revised March 7, 1961)

Tract	Block	Description		Acreage
A62-128	91	All	SS- PS	5000
A62-129	100	All	FT	4539.89
A62-130	101	All	FT	4539.89

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-131	27	All	FS	5000
A62-132	102	All	FS	5000

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description		Acreage
A62-133	143	All	PS	5000
A62-134	144	All	PS	5000
A62-135	147	All	PS	5000
A62-136	148	All	PS	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO. 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description		Acreage
A62-137	35	1/	FS	741.73
A62-138	38	1/	FS	4747.92
A62-139	45	All	FS	4999.96
A62-140	56	5/	FS	2999.84

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-141	(77 (78	1/	FS	4655.15
A62-142	108	All	SS	4994.55
A62-143	126	All	SS	4994.55
A62-144	150	All	SS	4994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-145	265	All	SS	4994.55
A62-146	301	All	FS	4999.96
A62-147	315	All	SS	4999.96

OCS LEASING MAP, BRETON SOUND AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	---	Acreage
A62-148	39	1/	FT	1237.37
A62-149	40	1/	FT	4877.32
A62-150	41	All	FT	4994.55
A62-151	42	1/	FT	4551.83
A62-152	43	1/	FT	1994.61
A62-153	54	N½; N½SW¼; N½S½SW¼; SW¼SW¼SW¼; N½SE¼; N½S½SE¼	FT	4448.27
A62-154	55	N½	FT	2497.27

OCS LEASING MAP, CHANDELEUR AREA, LOUISIANA MAP NO. 11
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-155	17	All	SS	5000
A62-156	25	All	SS	5000
A62-157	32	All	SS	5000
A62-158	33	All	SS	5000
A62-159	34	All	SS	5000

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-160	24	All	SS	5760
A62-161	68	All	SS	5760
A62-162	864	All	PS	5760
A62-163	865	All	PS	5760
A62-164	908	All	PS	5760
A62-165	909	All	PS	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Bidding System	Acreage
A62-166	304	All	SS	3140.42

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-167	149	All	FS	5611.56

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-168	89	All	PS	5760
A62-169	90	All	PS	5760
A62-170	91	All	PS	5760
A62-171	133	All	PS	5760
A62-172	134	All	PS	5760
A62-173	135	All	PS	5760
A62-174	136	All	PS	5760
A62-175	137	All	PS	5760
A62-176	138	All	PS	5760
A62-177	139	All	PS	5760
A62-178	140	All	PS	5760
A62-179	179	All	PS	5760
A62-180	180	All	PS	5760
A62-181	181	All	PS	5760
A62-182	182	All	PS	5760
A62-183	183	All	PS	5760
A62-184	184	All	PS	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-226	69	S½	FS	2500

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-227	171	All	SS	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-228	34	All	FS	3772.18

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description		Acreage
A62-229	78	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-230	575	All	FS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUUISANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description		Acreage
A62-231	26	All	SS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description		Acreage
A62-232	235	6/	FT	3633.65

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-233	123	All	4994.55

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

2/ That portion of the lease block located landward of a line three marine leagues seaward of a line extending from a point on Shell Keys at a latitude 29°24'32.15"N., Longitude 91°51'16.59"W., (X = 1,834,019.00, Y = 270,301.00), northwesterly in a straight line to Tigre Point at latitude 29°32'23.13"N., longitude 92°14'57.15"W., (X = 1,708,756.00, Y = 318,661.00). The coordinates used refer to the Louisiana (Lambert) Coordinate System (South Zone).

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2SE1/4.

4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2S1/2.

5/ That portion of the lease block located landward of a line which is three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, December 13, 1965, United States vs. Louisiana No. 9 Original (382 U.S. 288).

6/ A portion of Block 235, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the northwest corner of Block 235, the coordinates of which referred to the Louisiana (Lambert) coordinate System (South Zone) are: X = 1,765,446.562 and Y = 246,149.987;

From the initial corner,

South	8,033.742	ft.	to X=1,765,446.562	Y=238,116.245
S.68°53'25"E.	15,819.67	ft.	to X=1,780,204.612	Y=232,418.716
North	11,981.284	ft.	to X=1,780,204.612	Y=244,400.00
N.56°36'22"W.	3,179.53	ft.	to X=1,777,550.00	Y=246,149.987
West	12,103.438	ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

7/ A portion of Block 231, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Northwest Corner of Block 231, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,750,688.512; Y=260,908.037.

From the initial corner,

South	14,758.05	ft.	to X=1,750,688.512	Y=246,149.987
East	14,758.05	ft.	to X=1,765,446.562	Y=246,149.987
North	5,700.013	ft.	to X=1,765,446.562	Y=251,850.00
N.58°17'31"W.	4,756.54	ft.	to X=1,761,400.00	Y=254,350.00
N.55°58'50"W.	4,825.97	ft.	to X=1,757,400.00	Y=257,050.00
N.50°00'48"W.	6,003.70	ft.	to X=1,752,800.00	Y=260,908.037
West	2,111.488	ft.	to the point of beginning	

8/ A portion of Block 236, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of Block 236, the coordinates of of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,780,204.612 and Y = 231,391.937;

From the initial corner,

East	13,495.388	ft.	to X=1,793,700.00	Y=231,391.937
N.46°26'43"W.	5,381.42	ft.	to X=1,789,800.00	Y=235,100.00
N.40°36'05"W.	3,687.82	ft.	to X=1,787,400.00	Y=237,900.00
N.46°41'05"W.	4,810.41	ft.	to X=1,783,900.00	Y=241,200.00
N.49°06'33"W.	4,888.34	ft.	to X=1,780,204.612	Y=244,400.00
South	13,008.063	ft.	to the point of beginning	

9/ A portion of Block 242, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of block 242, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South

Zone) are: X = 1,794,962.662 and Y=216,633.887;

From the initial corner,

East	14,758.05	ft.	to X=1,809,720.712	Y=216,633.887
North	4,635.811	ft.	to X=1,809,720.712	Y=221,269.698
Northwesterly along the arc of a 54,721.8 ft. radius circle to				
			X=1,804,097.05	Y=224,484.49
N.56°51'08"W	10,909.83	ft.	to X=1,794,962.662	Y=230,450.00
South	13,816.113	ft.	to the point of beginning.	

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4310-84

Department of the Interior
Bureau of Land Management

1

Outer Continental Shelf-Gulf of Mexico

Oil and Gas lease Sale No. A62

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300) as well as the Department of Energy Organization Act (91 STAT. 565) and the regulations issued thereunder (10 CFR Parts 376 and 390).

2. Filing of Bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Carp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., September 29, 1980; or by personal delivery to the Louisiana Superdome, Gate "C", Hyatt Ramp, Level 200, Rooms 4 and 5, 1500 Poydras Street, New Orleans, Louisiana between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., September 30, 1980. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., September 30, 1980. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 45 FR 26827, April 21, 1980, as corrected in 45 FR 27836, April 24, 1980 and 45 FR 28822, April 30, 1980.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., September 30, 1980" must be submitted for each tract. A suggested form appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix A. Bidders are advised that tract numbers are assigned solely for

administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft on a solvent bank, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix B. Other documents may be required of bidders under 43 CFR 3316.4 Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. Except for the fixed net profit share tracts listed in paragraph 4 of this notice, all leases awarded will provide for a minimum annual royalty payment of $3 per acre or fraction thereof. The following systems will be utilized.

(a) Bonus Bidding with 33 1/3 Percent Royalty. Bids on tracts A62-71, A62-72, A62-73, A62-74, A62-75, A62-81, A62-82, A62-83, A62-113, A62-114, A62-115, A62-116, A62-129, A62-130, A62-148, A62-149, A62-150, A62-151, A62-152, A62-153, A62-154, and A62-232 must be on a cash bonus basis with a fixed royalty of 33 1/3 percent.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts A62-12, A62-13, A62-14, A62-18, A62-19, A62-20, A62-21, A62-22, A62-23, A62-24, A62-25, A62-26, A62-27, A62-28, A62-29, A62-30, A62-37, A62-44, A62-45, A62-48, A62-49, A62-51, A62-52, A62-65, A62-66, A62-67, A62-69, A62-70, A62-76, A62-96, A62-100, A62-104, A62-105, A62-106, A62-107, A62-108, A62-112, A62-117, A62-118, A62-119, A62-123, A62-124, A62-125, A62-126, A62-142, A62-143, A62-144, A62-145, A62-147, A62-155, A62-156, A62-157, A62-158, A62-159, A62-160, A62-161, A62-166, A62-227, and A62-231

must be submitted on a cash bonus basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way; when the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[\ln(Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 13.0$

$\ln$ = natural logarithm

Vj = the value of production in quarter j adjusted for inflation, in millions of dollars

$S = 3.0$

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis,

Figure 1
Form of the Sliding Royalty Schedule

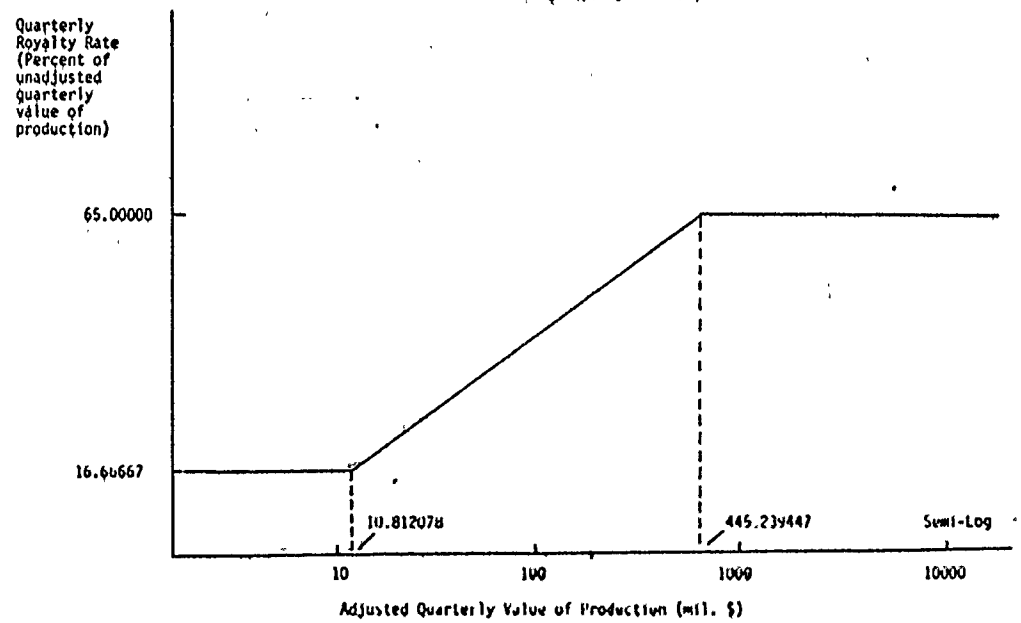


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	26.19374	7.858122
90.000000	200.0	4/3	67.500000	40.47570	36.428130
270.000000	200.0	4/3	202.500000	54.75766	147.845682
810.000000	200.0	4/3	607.500000	65.00000	526.500000
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	23.29287	6.987861
90.000000	250.0	5/3	54.000000	37.57483	33.817347
270.000000	250.0	5/3	162.000000	51.85679	140.013333
810.000000	250.0	5/3	486.000000	65.00000	526.500000

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts A62-53, A62-54, A62-55, A62-56, A62-57, A62-85, A62-86, A62-87, A62-88, A62-89, A62-120, A62-121, A62-122, A62-128, A62-133, A62-134, A62-135, A62-136, A62-162, A62-163, A62-164, A62-165, A62-168, A62-169, A62-170, A62-171, A62-172, A62-173, A62-174, A62-175, A62-176, A62-177, A62-178, A62-179, A62-180, A62-181, A62-182, A62-183, A62-184, and A62-233 must be submitted on a cash bonus basis with a fixed net profit share rate of 50 percent and a 1.00 capital recovery factor. (Note: The capital recovery factor represents the actual capital recovery premium that is debited to the net profit share lease capital account, which is made in addition to the debit for actual expenses). The net profit share payment shall be calculated according to the Department of Energy regulations 10 CFR 390.

(d) Bonus Bidding with a 16 2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16 2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., September 30, 1980, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on September 30, 1980, beginning at 10:00 a.m., c.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September 30, 1980, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts on a solvent bank, submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office at the address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for $5 per set; and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagrams:

NI 15-12 Ewing Bank

NI 16-7 Viosca Knoll

NI 16-10 Mississippi Canyon

NG 15-3 Green Canyon

These sell for $2 each.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice. Some of the blocks are included in prior environmental statements rather than the environmental statement for this sale.

TENTATIVE TRACT LIST
OCS SALE #A62

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Acreage
A62-1	12	All	5000
A62-2	14	All	5000

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-3	53	All	5000
A62-4	54	All	5000
A62-5	58	All	5000
A62-6	59	All	5000
A62-7	64	All	5000
A62-8	68	N 1/2	2500
A62-9	79	All	5000
A62-10	90	All	5000
A62-11	91	All	5000
A62-12	97	All	5000
A62-13	166	All	5000
A62-14	167	All	5000
A62-15	203	All	5000
A62-16	211	All	5000
A62-17	240	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957)

Tract	Block	Description	Acreage
A62-18	157	All	2170.32
A62-19	289	All	5000
A62-20	290	All	5000
A62-21	291	All	5000
A62-22	293	All	5000
A62-23	298	All	5000
A62-24	299	All	5000
A62-25	300	All	5000
A62-26	315	All	5000
A62-27	317	All	5000
A62-28	363	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-29	489	All	5000
A62-30	490	All	5000
A62-31	518	All	5000
A62-32	519	All	5000
A62-33	523	All	5000
A62-34	547	All	5000
A62-35	548	All	5000
A62-36	553	All	5000
A62-37	646	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
A62-38	2	1/	2413.83
A62-39	16	1/	2417.35
A62-40	43	All	5000
A62-41	50	All	5000
A62-42	65	All	5000
A62-43	66	S 1/2	2500

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-44	348	All	5000
A62-45	349	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-46	77	All	5000
A62-47	78	All	5000
A62-48	89	All	5000
A62-49	91	All	5067.26
A62-50	221	All	5204.83

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-51	275	All	5000
A62-52	280	All	5000
A62-53	304	All	5000
A62-54	305	All	5000
A62-55	306	All	5000
A62-56	317	All	5000
A62-57	318	All	5000
A62-58	326	All	5000
A62-59	336	All	5000
A62-60	341	All	5000
A62-61	350	All	5000
A62-62	396	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-63	24	All	5000
A62-64	34	All	5000
A62-65	62	All	5000
A62-66	64	All	2965.03

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-67	100	All	5000
A62-68	122	All	5000
A62-69	160	All	5000
A62-70	198	All	3545.99

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-71	231	7/	3592.72
A62-72	232	All	4818.68
A62-73	234	2/	1756.63
A62-74	236	8/	2070.72
A62-75	242	9/	3068.22
A62-76	247	All	4926.98
A62-77	274	All	5035.27

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-78	76	All	5000
A62-79	90	N1/2; SW1/4	3750
A62-80	113A	All	5000
A62-81	116	W1/2	2500
A62-82	117	All	5000
A62-83	129A	All	3824.72
A62-84	133	All	5000
A62-85	142	All	5000
A62-86	143	All	5000
A62-87	146	All	5000
A62-88	147	All	5000
A62-89	148	All	5000
A62-90	159	All	5000
A62-91	160	All	5000
A62-92	181	All	5000
A62-93	182	All	5000
A62-94	226	All	5000
A62-95	240	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-96	396	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-97	12	All	5000
A62-98	13	3/	4357.81
A62-99	14	4/	3237.50
A62-100	50	All	5000
A62-101	67	1/	587.03
A62-102	173	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-103	319	All	5000
A62-104	332	All	5300.60

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-105	76	All	5000
A62-106	77	All	5000
A62-107	96	All	5000
A62-108	97	All	5000
A62-109	160	All	5000
A62-110	174	All	3772.18
A62-111	192	All	5000
A62-112	200	All	5000
A62-113	208	All	5000
A62-114	209	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
A62-115	227	All	5000
A62-116	228	All	5000
A62-117	246	All	5000
A62-118	269	All	5000
A62-119	274	All	5000
A62-120	284	All	5000
A62-121	285	All	2148.46
A62-122	287	All	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-123	2	1/	3344.50
A62-124	3	1/	4756.82
A62-125	4	All	5000
A62-126	7	All	5000

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-127	34	All	5000

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
(Approved September 8, 1959; Revised March 7, 1961)

Tract	Block	Description	Acreage
A62-128	91	All	5000
A62-129	100	All	4539.89
A62-130	101	All	4539.89

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-131	27	All	5000
A62-132	102	All	5000

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
A62-133	143	All	5000
A62-134	144	All	5000
A62-135	147	All	5000
A62-136	148	All	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO. 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description	Acreage
A62-137	35	1/	741.73
A62-138	38	1/	4747.92
A62-139	45	All	4999.96
A62-140	56	5/	2999.84

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-141	(77 (78	1/	4655.15
A62-142	108	All	4994.55
A62-143	126	All	4994.55
A62-144	150	All	4999.96

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-145	265	All	4994.55
A62-146	301	All	4999.96
A62-147	315	All	4999.96

OCS LEASING MAP, BRETON SOUND AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-148	39	1/	1237.37
A62-149	40	1/	4877.32
A62-150	41	All	4994.55
A62-151	42	1/	4551.83
A62-152	43	1/	1994.61
A62-153	54	N1/2; N1/2SW1/4; N1/2S1/2SW1/4; SW1/4SW1/4SW1/4; N1/2SE1/4; N1/2S1/2SE1/4	4448.27
A62-154	55	N1/2	2497.27

OCS LEASING MAP, CHANDELEUR AREA, LOUISIANA MAP NO. 11
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-155	17	All	5000
A62-156	25	All	5000
A62-157	32	All	5000
A62-158	33	All	5000
A62-159	34	All	5000

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NI 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-160	24	All	5760
A62-161	68	All	5760
A62-162	864	All	5760
A62-163	865	All	5760
A62-164	908	All	5760
A62-165	909	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-166	304	All	3140.42

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-167	149	All	5611.56

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-168	89	All	5760
A62-169	90	All	5760
A62-170	91	All	5760
A62-171	133	All	5760
A62-172	134	All	5760
A62-173	135	All	5760
A62-174	136	All	5760
A62-175	137	All	5760
A62-176	138	All	5760
A62-177	139	All	5760
A62-178	140	All	5760
A62-179	179	All	5760
A62-180	180	All	5760
A62-181	181	All	5760
A62-182	182	All	5760
A62-183	183	All	5760
A62-184	184	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-226	69	S1/2	2500

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-227	171	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-228	34	All	3772.18

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-229	78	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-230	575	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-231	26	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-232	235	6/	3633.65

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-233	123	All	4994.55

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

2/ That portion of the lease block located landward of a line three marine leagues seaward of a line extending from a point on Shell Keys at a latitude 29°24'32.15"N., Longitude 91°51'16.59"W., (X = 1,834,019.00, Y = 270,301.00), northwesterly in a straight line to Tigre Point at latitude 29°32'23.13"N., longitude 92°14'57.15"W., (X = 1,708,756.00, Y = 318,661.00). The coordinates used refer to the Louisiana (Lambert) Coordinate System (South Zone).

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2SE1/4.

4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2S1/2.

5/ That portion of the lease block located landward of a line which is three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, December 13, 1965, United States vs. Louisiana No. 9 Original (382 U.S. 288).

6/ A portion of Block 235, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the northwest corner of Block 235, the coordinates of which referred to the Louisiana (Lambert) coordinate System (South Zone) are: X = 1,765,446.562 and Y = 246,149.987;

From the initial corner,

South	8,033.742 ft.	to X=1,765,446.562	Y=238,116.245
S.68°53'25"E.	15,819.67 ft.	to X=1,780,204.612	Y=232,418.716
North	11,981.284 ft.	to X=1,780,204.612	Y=244,400.00
N.56°36'22"W.	3,179.53 ft.	to X=1,777,550.00	Y=246,149.987
West	12,103.438 ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

7/ A portion of Block 231, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Northwest Corner of Block 231, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,750,688.512; Y=260,908.037;

From the initial corner,

South	14,758.05 ft.	to X=1,750,688.512	Y=246,149.987
East	14,758.05 ft.	to X=1,765,446.562	Y=246,149.987
North	5,700.013 ft.	to X=1,765,446.562	Y=251,850.00
N.58°17'31"W.	4,756.54 ft.	to X=1,761,400.00	Y=254,350.00
N.55°58'50"W.	4,825.97 ft.	to X=1,757,400.00	Y=257,050.00
N.50°00'48"W.	6,003.70 ft.	to X=1,752,800.00	Y=260,908.037
West	2,111.488 ft.	to the point of beginning	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

8/ A portion of Block 236, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of Block 236, the coordinates of of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,780,204.612 and Y = 231,391.937;

From the initial corner,

East	13,495.388 ft.	to X=1,793,700.00	Y=231,391.937
N.46°26'43"W.	5,381.42 ft.	to X=1,789,800.00	Y=235,100.00
N.40°36'05"W.	3,687.82 ft.	to X=1,787,400.00	Y=237,900.00
N.46°41'05"W.	4,810.41 ft.	to X=1,783,900.00	Y=241,200.00
N.49°06'33"W.	4,888.34 ft.	to X=1,780,204.612	Y=244,400.00
South	13,008.063 ft.	to the point of beginning	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

9/ A portion of Block 242, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of block 242, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,794,962.662 and Y=216,633.887;

From the initial corner,

East	14,758.05	ft.	to X=1,809,720.712	Y=216,633.887
North	4,635.811	ft.	to X=1,809,720.712	Y=221,269.698
Northwesterly along the arc of a 54,721.8 ft. radius circle to				
			X=1,804,097.05	Y=224,484.49
N.56°51'08"W	10,909.83	ft.	to X=1,794,962.662	Y=230,450.00
South	13,816.113	ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6 Royalty on Production. (a) The lessee agrees to pay the lessor royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(c), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first profit share payment becomes due".

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of 50 percent with a 1.00 capital recovery factor, calculated pursuant to 10 CFR 390.

(c) Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term DCM refers to the Deputy Conservation Manager for Field Operations, Gulf of Mexico OCS Region, U.S. Geological Survey and the term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the DCM, having reason to believe that a site, structure or object of historical or archaeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager for review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2

(To be included only in the leases resulting from this proposed sale for Tracts A62-53, A62-54, A62-55, A62-56 and A62-57).

a. No structures, drilling rigs, or pipelines will be allowed within the 55 m isobaths of Sonnier Banks as shown in Figure 2 attached to and made a part of this lease.

b. Operations within the areas shown as "1 Mile Zone" in Figure 2 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 2 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 3

(To be included only in the lease resulting from this proposed sale for Tract A62-62).

Operations within the area shown as "3 Mile Zone" in Figure 3, (Rezak Bank), attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The

monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 4

(To be included only in the lease resulting from this proposed sale for Tract A62-104.)

Operations within the area shown as "3 Mile Zone" in Figure 4, (Diaphus Bank), attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 5

(To be included only in the leases resulting from this proposed sale for Tracts A62-133, A62-134, A62-135 and A62-136.)

a. No structures, drilling rigs, or pipelines will be allowed within the 85 m isobath of Sackett Bank as defined in Figure 5 attached to and made a part of this lease.

b. Operations within the areas shown as "1 Mile Zone" in Figure 5 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 5 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 6

(To be included only in the leases resulting from this proposed sale for Tracts A62-37, A62-54, A62-70, A62-96, A62-128, A62-136 through A62-141, A62-144, and A62-166 through A62-184.)

All or portions of this lease may be subject to mass movement of sediments, unstable slopes, shallow faults, or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DCM's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

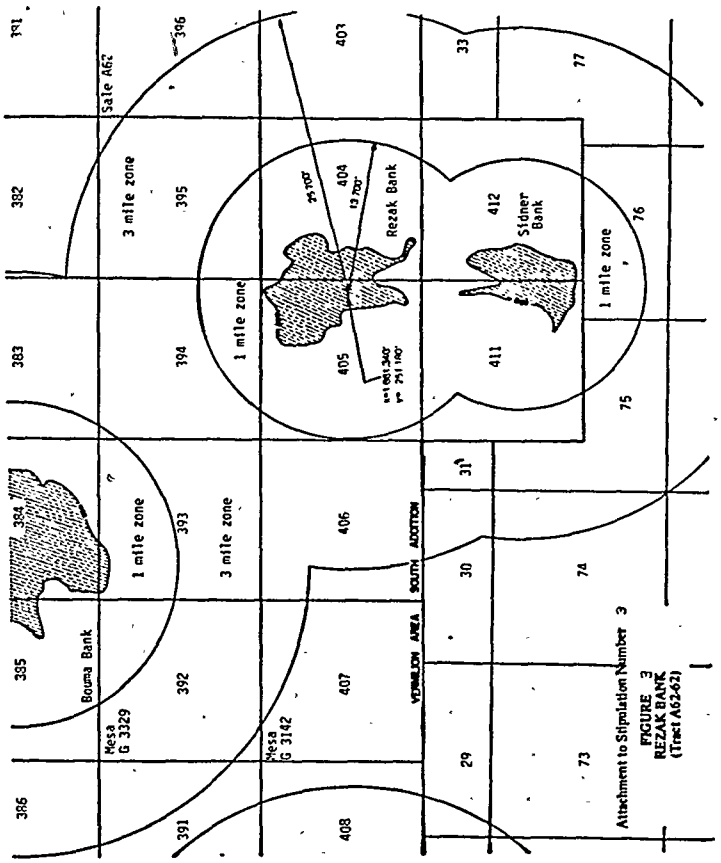
If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The DCM may also require soil testing before exploration and production operations are allowed.

Stipulation No. 7

(To be included only in the leases resulting from this proposed sale for the fixed sliding scale and the 33 1/3 percent royalty tracts listed in paragraph 4 of this notice.)

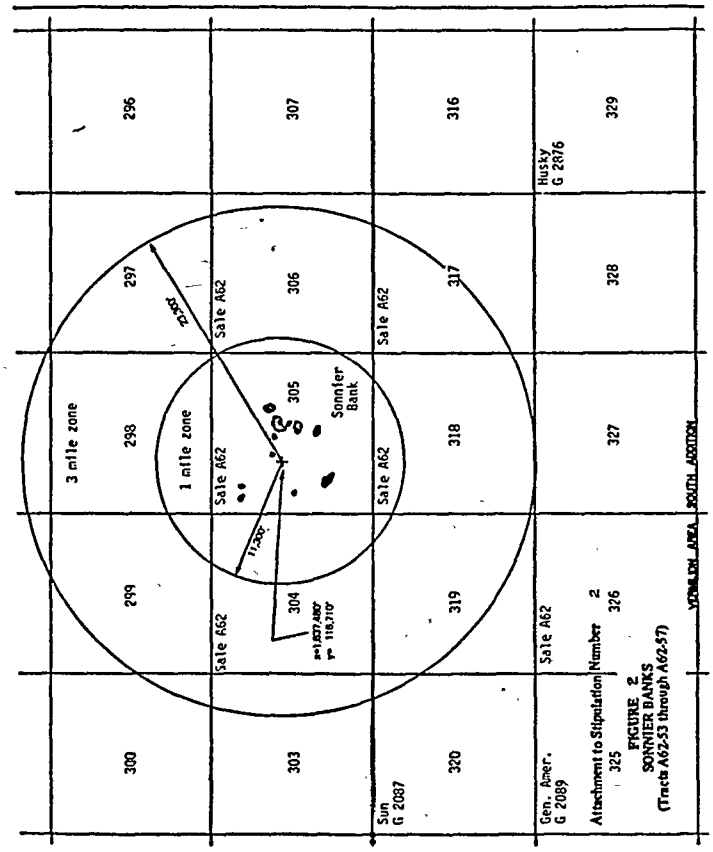
a. The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

b. Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.



Attachment to Stipulation Number 3

FIGURE 3
REZAK BANK
(Tract A62-62)



Attachment to Stipulation Number 2

FIGURE 2
SONNIER BANKS
(Tracts A62-53 through A62-57)

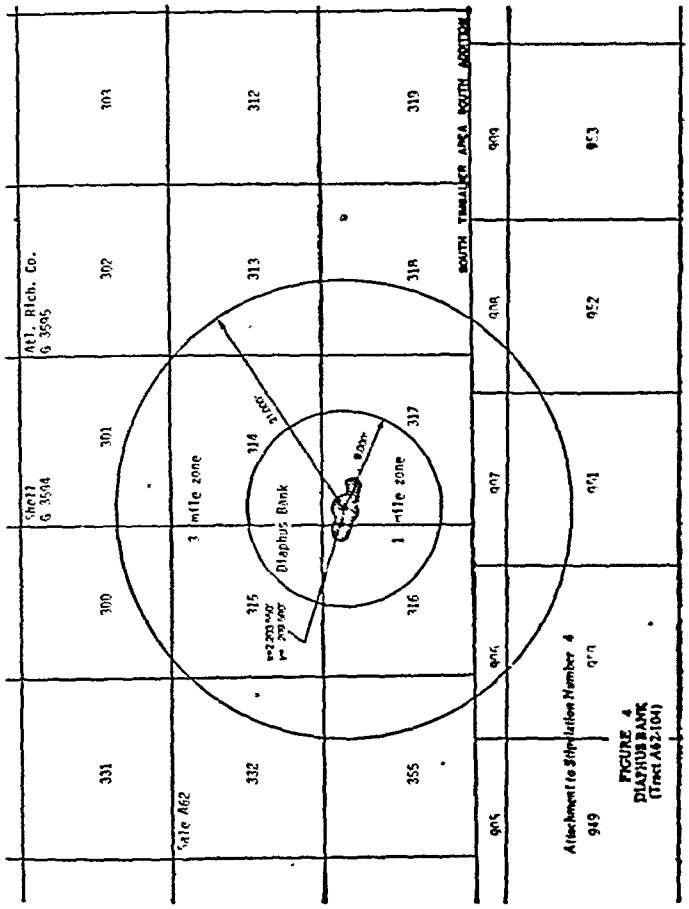


FIGURE 4
DIAPHUS BANK
(Tract A62:104)

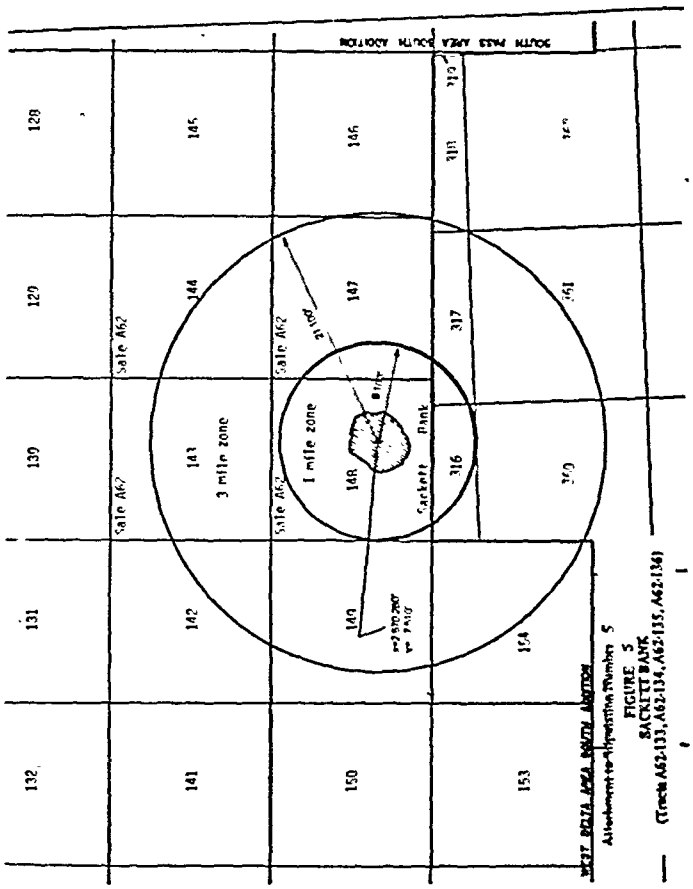


FIGURE 5
SACKETT BANK
(Tracts A62:133, A62:134, A62:135, A62:136)

14. Information to Lessees. The Department of the Interior will seek the advice of the States of Texas, Louisiana, Mississippi and Alabama, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities then the DCM, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the Manager, BLM, and the States, will require the lessee to undertake any measures pursuant to Section 5(a) of the Act to protect live bottom areas.

Bidders are advised that the Department of Energy is authorized, under Section 302(b) & (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, traffic separation schemes or precautionary zones established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

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BILLING CODE 4310-84-C

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should also consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Ed Hastings
Associate Director, Bureau of Land Management

AUG 7 1980

Approved:

Cecil D. Andrus
Secretary of the Interior
AUG 15 1980

federal register

Thursday
August 21, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, common snipe, gallinules, and teal in September, in the contiguous United States; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands during 1980–81. The taking of these migratory birds is prohibited unless hunting seasons are specifically provided. The rules will permit the hunting of these species within specified periods of time beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

DATE: Effective on August 21, 1980.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 555, Matomic Building, 1717 H Street, NW., Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried; exported or transported.

On February 29, 1980, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the Federal Register (45 FR 13630) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1980. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On June 27, 1980, the Service published in the Federal Register (45 FR 43419) the second document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1980–81 season. On July 1, 1980, the Service published for public comment in the Federal Register (45 FR 44540) the third document in the series consisting of proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1980–81 season. The same document included supplemental proposals relating to the late season frameworks, which resulted from public comments and additional information. On July 22, 1980, the Service published in the Federal Register (45 FR 49061) the fourth document in the series consisting of final rulemaking dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1980–81 season. This document is the fifth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

Minor Changes for Puerto Rico

At the request of the Puerto Rico Department of Natural Resources, a minor change was made in the boundary of the El Verde Closure Area which was established several years ago for the protection of the endangered Puerto Rican parrot. New evidence shows that the bird now ranges northward of the area previously closed; the modification made in the boundary takes that finding and recommendation into consideration. The agency also recommended that dove hunting be prohibited on Mona Island, and that change is incorporated in the final regulations. The area has been closed to pigeon hunting for several years for the protection of white-crowned pigeons.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the Federal Register (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the Federal Register on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations leaflets to be published late this summer.

In 1980, shotshells loaded with toxic shot will not be permitted for waterfowl hunting in designated nontoxic shot zones (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all gauges of shotshells after August 31, 1980.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 24241). The final environmental assessment on shooting hours (42 FR 36495; July 15, 1977) supplemented the discussion on shooting hours in FES 75–54. Likewise, an environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplemented the discussion on dove hunting in FES 75–54.

Endangered Species Act Consideration

Compliance with the Endangered Species Act, insofar as early season regulations frameworks are concerned, was described in the Federal Register dated July 22, 1980 (45 FR 49061). The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species at 1000 North Glebe Road, Arlington, Virginia 22201, and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 555, Matomic Building, 1717 H Street, N.W., Washington, D.C. 20240, or

may be obtained by mail from the addresses listed.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (45 FR 13630, February 29, 1980; and 45 FR 44540, July 1, 1980), the Service published in the Federal Register on June 27, 1980 (45 FR 43419) final frameworks for Alaska, Puerto Rico, and the Virgin Islands, and on July 22, 1980 (45 FR 49061) final early season frameworks for the contiguous United States and Hawaii. Copies of the final frameworks were also sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 29 and July 1, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Exception From Executive Order 12044 and 43 CFR 14

As discussed in the Federal Register dated February 29, 1980 (45 FR 13530), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in sections 6(b)6 and 14.3(f), respectively.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as follows:

Section 20.101 is amended to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Puerto Rico:*

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species.	5
Possession limit	10 singly or in the aggregate of all permitted species.	
Season dates: September 6 to November 4, 1980.		
Shooting hours: One-half hour before sunrise to sunset daily.		

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (*Tortola cardosantera*); White-winged dove (*Tortola aliblanca o cubanita*); Mourning dove (*Tortola rabilarga o rabiche*); Scaly-naped pigeon (*Paloma turca o torcaz*).

No season is prescribed for doves and pigeons on Mona Island in order to give the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as *Paloma cabeciblanca*, a chance to recover.

No season is prescribed for doves and pigeons on Culebra Island and in those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along the Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

Check Commonwealth Regulations for Additional Restrictions

(b) *Puerto Rico:*

	Ducks	Coots	Common gallinules	Common snipe
Daily bag limits	4	6	6	6
Possession limits	8	12	12	12
Season dates: December 6, 1980. through January 29, 1981.				
Shooting hours: One-half hour before sunrise until sunset daily.				

Restrictions: No open season for waterfowl on Culebra Island. The season is closed for ruddy ducks (*Oxyura jamaicensis*) and purple gallinules (*Porphyrula martinica*). The season on Bahama pintail (*Anas bahamensis*) is closed by Commonwealth law.

Check Commonwealth Regulations for Additional Restrictions

Note.—Local names for game birds: Ruddy duck (*Oxyura jamaicensis*)—Pato rojo (protected); Purple gallinule (*Porphyrula martinica*)—Gallareta azul (protected); Puerto Rican plain pigeon (*Columba inornata wetmorei*)—Paloma sabanera (protected).

(c) *Virgin Islands:*

	Zenaida dove (entire Virgin Islands)	Scaly-naped pigeon (St. Thomas Island only)
Daily bag limits	10	5
Possession limits	10	5

Season dates: September 1 through October 30, 1980.

Shooting hours: One-half hour before sunrise until sunset daily.

Restrictions: No open season is prescribed for waterfowl, ground or quail doves, or other pigeons in the Virgin Islands.

Check Commonwealth Regulations for Additional Restrictions

Note.—Local names for game birds: Zenaida dove (*Zenaida aurita*)—mountain dove; Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected); Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Section 20.102 is amended to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting hours: One-half hour before sunrise to sunset daily.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Open Seasons—*Ducks, Geese, Cranes and Common Snipe*

Area	Dates
Northern: State Game Mgmt. Units: 11-13 and 17-26.	Sept. 1-Dec. 16.
Gulf Coast: State Game Mgmt. Units: 5-7, 9, 14-16 & Unimak Island.	Sept. 1-Dec. 16.
Southeast: State Game Mgmt. Units: 1-4.	Sept. 1-Dec. 16.
Pribilof and Aleutian Islands: State Game Mgmt. Unit 10 except Unimak Island.	Oct. 8-Jan. 22.
Kodiak: State Game Mgmt. Unit 8	Sept. 10-Oct. 9 and Nov. 5-Jan. 20.

Daily Bag and Possession Limits

Area	Ducks [1]	Geese [2]	Emperor geese [2]	Brant	Common snipe	Sandhill cranes
Northern	10-30	6-12	6-12	4-8	8-16	2-4
Gulf Coast	8-24	6-12	6-12	4-8	8-16	2-4
Southeast	7-21	6-12	6-12	4-8	8-16	2-4
Pribilof and Aleutian Islands	7-21	[3]6-12	6-12	4-8	8-16	2-4
Kodiak	7-21	6-12	6-12	4-8	8-16	2-4

[1] In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers.

[2] The daily bag and possession limits may not include more than 4 daily and 8 in possession of white-fronted and Canada geese, singly or in the aggregate. In addition to the daily bag and possession limits on other geese, the daily bag limit is 6 and the possession is 12 on emperor geese.

[3] No Canada geese may be taken in the Aleutian Islands west of Unimak Pass.

Section 20.103 is amended to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit.*

Daily bag limit	12
Possession limit (except as noted otherwise)	24

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Dates
Alabama: (Limits—12 daily and in possession)	
North Zone: [1] All of Autauga, Barbour, Bullock, Butler, Crenshaw, Dallas, Elmore, Lee, Lowndes, Macon, Marengo, Montgomery, Pike, Russell and Wilcox Counties, and that area north of U.S. Highway 84 in Choctaw, Clarke, Conecuh, and Monroe Counties:	
12 noon to sunset	Sept. 20-Sept. 30.
One-half hour before sunrise to sunset.	Oct. 1-Nov. 5 and Dec. 19-Jan. 10.
Remaining counties in North Zone:	
12 noon to sunset	Sept. 20-Nov. 5 and Dec. 19-Jan. 10.
South Zone: [1]	
12 noon to sunset	Oct. 11-Oct. 20.
One-half hour before sunrise to sunset.	Oct. 21-Nov. 30 and Dec. 20-Jan. 7.
Connecticut	Closed.
Delaware: (12 noon to sunset)	Sept. 6-Sept. 27 and Nov. 17-Dec. 6 and Dec. 15-Jan. 10.
Florida (12 noon to sunset)	Oct. 4-Nov. 2 and Nov. 8-Nov. 23 and Dec. 13-Jan. 4.
Georgia:	
North Zone [2]	Sept. 6-Oct. 11 and Dec. 13-Jan. 15.
South Zone [2]	Oct. 4-Nov. 8 and Dec. 13-Jan. 15.
Illinois (12 noon to sunset)	Sept. 1-Nov. 9.
Indiana	Closed.
Kentucky	Sept. 1-Oct. 31 and Nov. 27-Dec. 5.
Louisiana:	
North Zone [3]	Sept. 6-Sept. 21 and Oct. 11-Nov. 9 and Dec. 13-Jan. 5.
South Zone [3]	Oct. 11-Nov. 30 and Dec. 20-Jan. 7.
Maine	Closed.
Maryland (12 noon to sunset)	Sept. 1-Oct. 11 and Nov. 12-Nov. 27 and Dec. 22-Jan. 3.
Massachusetts	Closed.
Michigan	Closed.
Mississippi	Sept. 6-Oct. 5 and Oct. 18-Nov. 9 and Dec. 27-Jan. 12.
New Hampshire	Closed.
New Jersey	Closed.
New York	Closed.
North Carolina:	
12 noon to sunset	Sept. 1-Oct. 11.
One-half hour before sunrise to sunset.	Dec. 15-Jan. 12.
Ohio	Closed.
Pennsylvania (12 noon to sunset)	Sept. 1-Nov. 8.
Rhode Island (12 noon to sunset):	
Black Hut, Buck Hill, Durfee Hill, Arcadia, Carolina, Great Swamp, Indian Cedar Swamp, and Woody Hill State Management Areas only.	Sept. 3-Sept. 7.
Statewide	Sept. 8-Sept. 28 and Oct. 18-Nov. 9 and Dec. 15-Jan. 4.
South Carolina	Sept. 6-Oct. 11 and Nov. 22-Nov. 29 and Dec. 20-Jan. 14.
Tennessee [4]	Sept. 1-Sept. 30 and Oct. 11-Oct. 26 and Dec. 20-Jan. 12.
Vermont	Closed.
Virginia (12 noon to sunset)	Sept. 6-Nov. 1 and Dec. 20-Jan. 1.
West Virginia	Sept. 1-Oct. 31 and Dec. 22-Dec. 30.
Wisconsin	Closed.

[1] In Alabama, the South Zone is defined as that area south of U.S. Highway 84 running east from the Mississippi State Line to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

[2] In Georgia, the North Zone is defined as that area lying north of U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean. The South Zone consists of the remainder of Georgia.

[3] In Louisiana, the North Zone is defined as that area lying north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line. The South Zone consists of the remainder of Louisiana.

[4] In Tennessee, shooting hours on opening day (Sept. 1) are 12 noon to sunset.

(b) *Mourning Doves—Central Management Unit.*

Daily bag limit 10
Possession limit 20

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Dates
Arkansas	Sept. 1–Oct. 5 and Dec. 13–Jan. 5.
Colorado	Sept. 1–Oct. 30.
Iowa	Closed.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1–Oct. 30.
Montana	Closed.
Nebraska	Sept. 1–Oct. 15.
New Mexico [1]	Sept. 1–Sept. 30 and Nov. 22–Dec. 21.
North Dakota	Sept. 13–Nov. 11.
Oklahoma	Sept. 1–Oct. 30.
South Dakota	Closed.
Texas: [2]	
North Zone: Counties of Kinney, Val Verde, Terrell, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth, and El Paso.	
Shooting hours: 12 noon until sunset.	Sept. 6, 7, 13, 14.
Shooting hours: ½ hour before sunrise until sunset.	Sept. 1–5, Sept. 8–12 and Sept. 15–Oct. 30.
Remainder of North Zone:	
Shooting hours: ½ hour before sunrise until sunset.	Sept. 1–Oct. 30.
South Zone: Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick.	
Shooting hours: 12 noon until sunset.	Sept. 6, 7, 13, 14.
Shooting hours: ½ hour before sunrise until sunset.	Sept. 20–Oct. 29 and Jan. 3–Jan. 18.
Remainder of South Zone:	
Shooting hours: ½ hour before sunrise until sunset.	Sept. 20–Nov. 2 and Jan. 3–Jan. 18.
Wyoming	Sept. 1–Oct. 15.

[1] In New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species.

[2] In Texas, the North Zone consists of the counties of Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby and all counties north and west thereof. The South Zone consists of all counties south and east of the North Zone.

(c) *Mourning Doves—Western Management Unit.*

Daily bag limit 10
Possession limit 20

Shooting hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Dates
Arizona.	
North Zone [1] (½ hour before sunrise to sunset).	Sept. 1–Oct. 20
South Zone: [1]	
½ hour before sunrise to 12 noon.	Sept. 1–Sept. 28.
12 noon to sunset	Nov. 28–Jan. 8
California [2]	Sept. 1–Sept. 30 and Nov. 15–Dec. 4.
Idaho	Sept. 1–Sept. 21.
Nevada [2]	Sept. 1–Oct. 20
Oregon	Sept. 1–Sept. 30.
Utah	Sept. 1–Sept. 30.
Washington	Sept. 1–Sept. 15.

[1] In the *North Zone* (Game Management Units 1 through 20A), from September 1 through 28, the shooting hours are one-half hour before sunrise until sunset, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 5 may be white-wings, the possession limit is 20 mourning and white-winged doves in the aggregate of which no more than 10 may be white-wings after opening day; and from September 29 through October 20, the shooting hours are one-half hour before sunrise until sunset, and the daily bag and possession limits are 10 and 20 mourning doves, respectively. In the *South Zone* (Game Management Units 20B through 44B), from September 1 through 28, the shooting hours are one-half hour before sunrise until 12 noon, the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-wings, the possession limit is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-wings after opening day; and from November 28, 1980, through January 8, 1981, the shooting hours are 12 noon until sunset, and the daily bag and possession limits are 12 and 24 mourning doves, respectively.

[2] In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

Notice.—Hawaii—Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) *White-winged Doves.*

Shooting hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Season dates	Limits: Bag	Limits: Possession
Arizona:			
North Zone [1] (½ hour before sunrise to sunset).	Sept. 1–Sept. 28	5	10
South Zone [1] (½ hour before sunrise to noon).	Sept. 1–Sept. 28	6	12
California. [2]			
Counties of Imperial, Riverside and San Bernardino.	Sept. 1–Sept. 30 and Nov. 15–Dec. 4.		
Remainder of State	Closed		
Nevada: [2]			
Counties of Clark and Nye.	Sept. 1–Oct. 20		
Remainder of State	Closed		
New Mexico [2]	Sept. 1–Sept. 30 and Nov. 22–Dec. 21.		
Texas: [3]			
In the North Zone counties of El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Terrell, Val Verde and Kinney, and South Zone counties of Maverick, Webb, Zapata, Starr, Hidalgo, Cameron, and Willacy.	Sept. 6, 7, 13, and 14.	10	20
Remainder of State	Closed		

[1] In the *North Zone* (Game Management Units 2 through 20A), from September 1 through 28, the shooting hours are one-half hour before sunrise until sunset, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 5 may be white-wings, the possession limit is 20 mourning and white-winged doves in the aggregate of which no more than 10 may be white-wings after opening day. In the *South Zone* (Game Management Units 20B through 44B), from September 1 through 28, the shooting hours are one-half hour before sunrise until 12 noon, the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-wings, the possession limit is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-wings after opening day.

[2] In California, Nevada, and New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of both species.

[3] In Texas, the shooting hours are 12 noon until sunset.

(e) *Band-tailed Pigeons.*

Shooting hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Season dates	Limits: Bag	Limits: Possession
Arizona [1]	Oct. 10–Nov. 8	5	10
California:			
Counties of Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity	Sept. 27–Oct. 26.	5	5
Remainder of State	Dec. 13–Jan. 11	5	5
Colorado [1]	Sept. 1–Sept. 30.	5	10
New Mexico: [1]			
North Zone [2]	Sept. 6–Sept. 25.	5	10
South Zone [3]	Oct. 4–Oct. 23	5	10
Oregon	Sept. 13–Oct. 12	5	5
Utah [1]	Sept. 1–Sept. 30.	5	10
Washington	Sept. 1–Sept. 30.	5	5

[1] Every hunter must have been issued and carry on his person while hunting band-tailed pigeons a properly validated special band-tailed pigeon hunting permit issued by the State conservation agency of each respective State for the open season in that State. Such a special band-tailed pigeon hunting permit will be issued upon application to the State conservation agency of the State in which hunting is to be done. Permits issued by any State will be valid in that State only. This season shall be open only in the areas described, delineated, and designated as such by Arizona, Colorado, New Mexico, and Utah in their respective hunting regulations.

[2] In New Mexico the *North Zone* is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The *South Zone* is defined as that area lying south and west of the North Zone.

Section 20.104 is amended to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of

the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (sora and Virginia)	Rails (clapper and king)	Woodcock	Common snipe
Daily bag limits	[1]25	See footnote 2	5	8
Possession limit	[1]25	See footnote 2	10	16

Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in the Atlantic Flyway

Connecticut	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 18 to Dec. 6	Oct. 18 to Dec. 6.
Delaware	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 16 to Nov. 1 and Nov. 17 to Jan. 3.	Oct. 2 to Nov. 1 and Nov. 17 to Jan. 31.
Florida	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Dec. 6 to Feb. 8	Nov. 8 to Feb. 22.
Georgia	Sept. 20 to Nov. 28	Sept. 20 to Nov. 28	Nov. 20 to Jan. 23	Nov. 20 to Feb. 28.
Maine	Sept. 1 to Nov. 8	Closed	Sept. 24 to Nov. 27	Sept. 1 to Dec. 15.
Maryland	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 4 to Nov. 22 and Dec. 15 to Dec. 29.	Sept. 12 to Dec. 27.
Massachusetts	Sept. 1 to Nov. 8	Closed	Deferred	Sept. 1 to Dec. 16.
New Hampshire	Closed	Closed	Sept. 20 to Nov. 23	Sept. 20 to Nov. 23.
New Jersey: [3]				
North Zone	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 4 to Nov. 27	Deferred.
South Zone	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 25 to Dec. 6 and Dec. 18 to Dec. 29.	Deferred.
New York: [3]				
Northern Zone including Lake Champlain	Sept. 1 to Nov. 9	Closed	Sept. 20 to Nov. 23	Sept. 1 to Nov. 23.
Long Island	Closed	Closed	Oct. 1 to Nov. 23	Closed.
Remainder of State	Sept. 1 to Nov. 9	Closed	Oct. 1 to Nov. 23	Sept. 1 to Nov. 23.
North Carolina	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Nov. 14 to Jan. 17	Nov. 14 to Feb. 28.
Pennsylvania	Sept. 1 to Nov. 8	Closed	Oct. 18 to Dec. 20	Oct. 18 to Dec. 20.
Rhode Island	Sept. 17 to Nov. 25	Sept. 17 to Nov. 25	Oct. 18 to Dec. 5 and Dec. 15 to Dec. 30.	Sept. 17 to Dec. 5 and Dec. 15 to Jan. 1.
South Carolina	Sept. 19 to Nov. 27	Sept. 19 to Nov. 27	Dec. 12 to Feb. 14	Nov. 14 to Feb. 28.
Vermont	Sept. 27 to Nov. 30	Closed	Sept. 27 to Nov. 30	Sept. 27 to Nov. 30.
Virginia	Sept. 6 to Nov. 14	Sept. 6 to Nov. 14	Oct. 20 to Dec. 6 and Jan. 1 to Jan. 17.	Deferred.
West Virginia	Sept. 8 to Nov. 16	Closed	Oct. 18 to Dec. 21	Sept. 8 to Dec. 23.

Seasons in the Mississippi Flyway

Alabama	Nov. 10 to Jan. 18	Nov. 10 to Jan. 18	Nov. 28 to Jan. 31	Nov. 14 to Feb. 28.
Arkansas	Sept. 1 to Nov. 9	Closed	Nov. 15 to Jan. 17	Nov. 15 to Feb. 28.
Illinois	Sept. 1 to Nov. 9	Closed	Oct. 15 to Dec. 18	Oct. 15 to Jan. 29.
Indiana	Sept. 1 to Nov. 9	Closed	Sept. 27 to Nov. 30	Sept. 1 to Dec. 16.
Iowa	Sept. 6 to Nov. 14	Closed	Sept. 20 to Nov. 23	Sept. 6 to Dec. 21.
Kentucky	Deferred	Closed	Oct. 4 to Dec. 7	Oct. 4 to Dec. 7.
Louisiana	Sept. 20 to Nov. 28	Sept. 20 to Nov. 28	Dec. 13 to Feb. 15	Nov. 1 to Feb. 15.
Michigan [3, 4]	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 14	Sept. 15 to Nov. 14.
Minnesota	Sept. 1 to Nov. 4	Closed	Sept. 1 to Nov. 4	Sept. 1 to Nov. 4.
Mississippi	Oct. 25 to Jan. 2	Oct. 25 to Jan. 2	Dec. 20 to Feb. 22	Nov. 15 to Feb. 26.
Missouri	Sept. 1 to Nov. 9	Closed	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Ohio	Sept. 1 to Nov. 8	Closed	Sept. 19 to Nov. 22	Sept. 1 to Nov. 29 and Dec. 8 to Dec. 24.
Tennessee	Deferred	Closed	Oct. 18 to Nov. 23 and Feb. 1 to Feb. 28.	Nov. 19 to Feb. 28.
Wisconsin	Deferred	Closed	Sept. 13 to Nov. 16	Deferred.

Seasons in the Central Flyway

Colorado [5]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Kansas	Sept. 13 to Nov. 21	Closed	Oct. 4 to Dec. 7	Sept. 13 to Dec. 28.
Montana [5]	Closed	Closed	Closed	Deferred.
Nebraska	Sept. 1 to Nov. 9	Closed	Sept. 15 to Nov. 18	Sept. 15 to Nov. 18.
New Mexico [5]	Sept. 13 to Nov. 21	Closed	Closed	Sept. 13 to Dec. 14.
North Dakota	Closed	Closed	Closed	Sept. 13 to Nov. 30.
Oklahoma	Sept. 1 to Nov. 9	Closed	Nov. 20 to Jan. 23	Oct. 20 to Feb. 3.
South Dakota	Closed	Closed	Closed	Sept. 1 to Oct. 31.
Texas	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Deferred	Deferred.
Wyoming [5]	Sept. 27 to Dec. 5	Closed	Closed	Sept. 27 to Jan. 11.

Seasons in the Pacific Flyway

Colorado [5]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Montana [5]	Closed	Closed	Closed	Deferred.
New Mexico [5]	Sept. 13 to Nov. 21	Closed	Closed	Sept. 13 to Dec. 14.
Wyoming [5]	Closed	Closed	Closed	Sept. 27 to Dec. 28.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

[3] For description of zones or management units within a State, see State regulations.

[4] In Michigan, in the counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola and Wayne, and adjacent Great Lakes and connecting waters, the snipe and rail seasons shall open concurrently with the duck season and shall run continuously in all areas through November 14.

[5] The Central Flyway portion consists of: *Colorado* and *Wyoming*—the area lying east of Continental Divide; *Montana*—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; *New Mexico*—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remainder portions of these States are in the Pacific Flyway.

Note.—Some States may select rail, woodcock and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

Section 20.105 is amended to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.* (1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1980, and January 20, 1981, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in:	
Connecticut	Sept. 26–Jan. 10.
Delaware	Sept. 26–Jan. 10.
Georgia	Deferred.
Maine	Oct. 1–Jan. 15
Maryland	Oct. 6–Jan. 20
Massachusetts	Oct. 3–Jan. 17
New Hampshire	Sept. 15–Dec. 30
New Jersey	Deferred.
New York (Long Island only)	Sept. 23–Jan. 7
North Carolina	Deferred.
Rhode Island	Deferred
South Carolina	Deferred
Virginia	Deferred.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hamsphire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

Note.—States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* September season: An open season for teal ducks (blue-winged, green-winged and cinnamon) is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the following States:

Daily bag limit	4
Possession limit	8

Shooting hours: Sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in the Mississippi Flyway

Alabama [1]	Sept. 13–Sept. 21.
Arkansas	Sept. 13–Sept. 21.
Illinois [2]	Sept. 13–Sept. 21
Indiana [3]	Sept. 1–Sept. 9
Kentucky	Sept. 6–Sept. 14.
Louisiana	Sept. 20–Sept. 28
Mississippi	Sept. 13–Sept. 21.
Missouri	Sept. 13–Sept. 21
Ohio	Sept. 12–Sept. 20
Tennessee	Sept. 13–Sept. 21

Seasons in the Central Flyway

Colorado [4 5]	Sept. 6–Sept. 14
Kansas	Sept 13–Sept. 21.
New Mexico [5]	Sept. 13–Sept. 21.
Oklahoma	Sept. 20–Sept. 28.
Texas	Sept. 13–Sept. 21.

[1] In Alabama, shooting hours in Mobile Bay north of the causeway and south of the L&N Railroad are sunrise to 12 noon.

[2] In Illinois the shooting hours are from 7 a.m.-4 p.m. local time by State regulation.

[3] The Kankakee, LaSalle and portions of Jasper-Pulaski, Pigeon River, Hovey Lake and Atterbury Fish and Wildlife Areas are closed to teal hunting by State regulations.

[4] Only in Lake and Chaffee Counties, and that portion of Colorado east of U.S. Highway-Colorado State Highway 85 from the Wyoming State line to its intersection with U.S. Interstate Highway 25 to the New Mexico State line.

[5] Central Flyway portion only

(c) *Gallinules.*

Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise to sunset.

Check State Regulations for Additional Restrictions

Seasons in the Atlantic Flyway

Connecticut	Sept. 1–Nov. 8.
Delaware	Sept. 1–Nov. 8.
Florida [1]	Sept. 1–Nov. 9.
Georgia	Deferred.
Maine	Sept. 1–Nov. 8.
Maryland	Sept. 1–Nov. 8.
Massachusetts	Sept. 1–Nov. 8.
New Hampshire	Closed.
New Jersey	Sept. 1–Nov. 8.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1–Nov. 9.
North Carolina	Sept. 1–Nov. 8.
Pennsylvania	Sept. 1–Nov. 8.
Rhode Island	Sept. 17–Nov. 25.
South Carolina	Sept. 19–Nov. 27.
Vermont	Sept. 27–Nov. 30.
Virginia	Deferred.
West Virginia	Deferred.

Seasons in the Mississippi Flyway

Alabama	Nov. 10–Jan. 18.
Arkansas	Nov. 7–Jan. 15.
Illinois	Closed.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Deferred.
Louisiana	Sept. 20–Nov. 28.
Michigan	Deferred.
Minnesota	Deferred.
Mississippi	Sept. 13–Sept. 21 and Oct. 25–Dec. 14.
Missouri	Closed.
Ohio	Sept. 1–Nov. 8.
Tennessee	Deferred.
Wisconsin	Deferred.

Seasons in the Central Flyway

Colorado [2]	Closed.
Kansas	Closed.
Montana [2]	Deferred.
Nebraska	Closed.
New Mexico [2]	Deferred.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 9.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming [2]	Closed.

Seasons in the Pacific Flyway

All States and portions thereof	Deferred.

[1] The gallinule season in Florida applies to the common gallinule only. There is no open season on purple gallinules in Florida.

[2] Seasons apply to Central Flyway portion of State only.

Note.—States with deferred seasons may select gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

* * * * *

Mississippi Flyway

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Flywaywide Restrictions

* * * * *

	Season dates	Limits	
		Bag	Possession
* * * * *			
Iowa:			
Ducks	Sept. 20–Sept. 24	[Limits to be determined later.]	
* * * * *			

Section 20.106 is amended as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of three and a possession limit of six, and with shooting hours from one-half hour before sunrise until sunset in the following areas for the dates indicated:

* * * * *

(d) In North Dakota, in the counties of Benson, Burleigh, Emmons, Kidder, Pierce, and Stutsman the inclusive season dates are September 6 through September 10 and in the counties of McLean and Sheridan, the inclusive season dates are September 6 through September 14, 1980. In the South Dakota counties of Campbell, Walworth, Potter, Dewey, and Corson the inclusive season dates are September 20 through September 28, 1980.

* * * * *

(g) Each hunter participating in the sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

* * * * *

Section 20.109 is amended as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate.
Possession limit	6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in—	Dates
Florida:	
Mourning doves	Oct. 1–Jan. 15.
Rails	Sept. 1–Dec. 16.
Woodcock	Nov. 1–Feb. 15.
Common snipe	Nov. 8–Feb. 22.
Sea ducks	Oct. 4–Jan. 18.
Scaup	Oct. 17–Jan. 31.
Maryland:	
Mourning doves	Sept. 1–Oct. 11 and Nov. 12–Jan. 16.
Rails and gallinules	Sept. 1–Dec. 16.
Woodcock	Oct. 4–Nov. 22 and Dec. 4–Jan. 29.
Common snipe	Sept. 12–Dec. 27.
Sea ducks	Oct. 6–Jan. 20.
Pennsylvania:	
Mourning doves	Sept. 1–Dec. 13.
Ducks and geese	Oct. 6–Jan. 10.
Virginia: Mourning doves, rails and woodcock.	Sept. 19–Dec. 8 and Dec. 20–Jan. 1.
Indiana: Woodcock only	Sept. 1–Sept. 26.
Michigan:	
Rails, woodcock, common snipe, ducks, gallinules and mergansers.	Sept. 1–Dec. 16.
Geese	Oct. 4–Jan. 18.
Minnesota:	
Woodcock, rails and common snipe.	Sept. 1–Dec. 16.
Ducks, geese, coots, mergansers, and gallinules.	Oct. 4–Jan. 18.
Missouri: Mourning doves only	Sept. 1–Dec. 16.
New Mexico: Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species:	
Mourning doves, white-winged doves, and bandtailed pigeons (Statewide).	Sept. 1–Nov. 16 and Nov. 22–Dec. 21.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt Counties.	Oct. 13–Jan. 18.
Ducks, mergansers, coots, geese, and gallinules.	Oct. 13–Jan. 18.
Idaho:	
Mourning doves only	Sept. 1–Oct. 20.
Waterfowl	Oct. 4–Jan. 18.
Utah: Ducks, mergansers, coots, geese, gallinules, rails, and common snipe.	Oct. 4–Jan. 18.
Wyoming: Rails and common snipe	Sept. 27–Jan. 11.

Dated: August 4, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

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Thursday
August 21, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Community Development Block Grants, Small Cities Program

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-782]

Community Development Block Grants; Subpart F—Small Cities Program

AGENCY: Department of Housing and Urban Development (HUD), Assistant Secretary for Community Planning and Development.

ACTION: Final rule.

SUMMARY: This rule revises Subpart F the Small Cities Program regulations, of the Community Development Block Grant Program. Most of the changes clarify existing policies and procedures, but substantive changes are made as follows: (1) reducing the weight of the needs factors and giving equal weight to the two poverty needs factors; (2) adding Comprehensive Grant program impact criteria dealing with economic development and energy conservation; (3) increasing the weight of the Single Purpose Grant program impact factor; (4) combining the two criteria about State growth and resource coordination plans and regional centers into a single factor; (5) basing Areawide Housing Opportunity Plan (AHOP) points on acceptance of responsibility in achieving the AHOP's goals for metropolitan applicants and eliminating AHOP points for nonmetropolitan applicants; (6) adding an energy conservation or production factor; (7) and replacing prior Single Purpose and Comprehensive Grants citizen participation requirements with a single set of requirements that apply to both types of grants.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Kennedy, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On March 1, 1978, regulations governing the Small Cities Program, formerly the Discretionary Grant Program, were published. With the exception of clarifying and other minor changes published June 26, 1979, these regulations have not been changed over three program years (fiscal years 1978, 1979, and 1980). This stability has enabled small cities and other eligible applicants to become familiar with the Program and to use it to their maximum advantage.

Three years of experience with the Program, however, have shown that some improvements should be considered. These include clarifying existing policies and procedures, eliminating or modifying some of the Program's provisions, and adding provisions that will make an applicant's program easier to design.

HUD published a proposed rule in the Federal Register on April 8, 1980 for public comment. This proposed rule dealt with all changes made in the final rule, with the exceptions of the new energy factor and the reference to the Cost-Effective Energy Conservation Standards. These energy-related considerations were published as a proposed rule for public comment on May 7, 1980 in the Federal Register. HUD received 54 comments in response to the April 8 proposed rule and one comment in response to the May 7 proposed rule. HUD considered each comment in developing this final rule. It is not the intent of this final rule to disrupt the continuity of the Small Cities Program with major changes. The changes made are relatively limited and do not substantially alter the Program with which the public is already familiar.

The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the Finding of Inapplicability is on file and available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

This rule is listed as item number CPD 24-79 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044. The Small Cities Program is listed in the Catalog of Federal Domestic Assistance under the number 14-219, *Community Development* Block Grants/Small Cities Program. As explained in § 570.435, OMB Circular A-95 applies to this Program.

Beginning with some general comments from the public in response to the proposed rules, the following paragraphs explain the revision to the Small Cities Program regulations and the public's corresponding comments. With limited exceptions, each change is separately discussed. The exceptions are:

1. Corrections for typographical errors.

2. Changes in references made for conformity with new paragraph designations.

General Comments in Response to the Proposed Rule

One commentor suggested establishing a set-aside for use by States in awarding funds to small cities. In the April 22, 1980 Federal Register, HUD published a separate proposed rule about State participation. That rule would permit, on a demonstration basis, a very limited number of States to participate to a greater degree in selecting Small Cities Program grantees.

Another commentor requested that the role of Areawide Planning Organizations (APOs) be highlighted. Although not specifically enumerated in the regulations, there are several ways APOs contribute to the Small Cities Program. These include preparing areawide analyses, providing small cities assistance in preparing applications, and developing Areawide Housing Opportunity Plans.

§ *570.420 General.*

The five objectives listed in paragraph (b), *Program objectives,* are based on statutory language which explains the purpose of the Community Development Block Grant Program. HUD has not adopted the two suggestions for additions to these Program objectives, because the suggestions are not based on statutory language. HUD has, however, expanded the third objective to include providing housing choice in a revitalizing neighborhood, enabling low and moderate income residents to avoid displacement.

In paragraph (c), *Eligible applicants,* the reference to entities described in § 570.403(b)(1), (2), and (3) as eligible applicants to undertake activities in new communities is deleted for two reasons. First, there entities have received set-asides from the Secretary's Discretionary Fund in each year since the inception of the CDBG Program (fiscal year 1975), and second, none of them has participated in the Small Cities Program.

Paragraph (g), *Restrictions on applying for grants,* has been reworded to clarify that States and counties may submit two applications, one Single Purpose and one Comprehensive, if at least one application is in behalf of one or more other units of general local government. All other applicants are limited to one application. This paragraph also states that each applicant, except States and counties, may be included in only one application in any fiscal year.

Paragraph (h), *Method of selecting grantees,* lists several sources of existing information that an applicant can use in its preapplication. To this list

is added data from the Bureau of Census, since this is acceptable and often used data. Sometimes, particularly when the decennial Census data becomes outdated, existing information is not sufficient to document a community's needs, the expected benefits of a project, or other important facts. Local surveys are then necessary, which is now recognized and suggested in this paragraph. As now noted, paragraph (h) does not apply to the needs data (§ 570.424(a)–(b) and § 570.428(a)–(b)), which HUD already has.

One commentor suggested limiting areawide analyses, one source of existing information, to those prepared by Areawide Planning Organizations (APOs). HUD does not believe this is a useful restriction. The phrase "areawide analyses" does include those prepared by APOs.

Paragraph (i), *Data,* now clearly states what Census data is used to rate the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)). The data used is the most recently collected which can be applied to every applicant in a metropolitan or nonmetropolitan competition.

The phrase "as a result of such a finding" is deleted from the end of the first sentence in paragraph (j), *Previous audit findings.* Deletion of the phrase means that HUD will no longer accept a preapplication from an applicant with an outstanding monetary obligation, regardless of whether or not it resulted from an audit finding. In addition, a preapplication in behalf of a unit of general local government which has an outstanding audit finding or monetary obligation will not be accepted.

In previous competitions, a few applicants with zero points for program impact have been selected for funding, not because their program impacted their identified needs, but because of high scores for other selection factors. Therefore, the first sentence in paragraph (k), *Program Design,* now reads: "The program as a whole must principally benefit low- and moderate-income persons and directly impact on the applicant's needs." The last phrase is added to state that HUD will not invite applicants whose programs are determined during the rating process to have an insignificant impact on their identified needs. To correct an inaccuracy, the word "persons" replaces "families" in the last sentence.

Paragraph (l) *Activities outside an applicant's boundaries,* replaces former paragraph 570.421(g), *Urban counties and metropolitan cities* because the modified paragraph applies to all applicants, not just States and counties. This paragraph originally carried a prohibition against use of Small Cities Program funds in metropolitan cities and urban counties. A few eligible counties applying to the Small Cities Program, however, have proposed activities located in metropolitan entitlement cities. In each case, the applicant stated that the activities were appropriate to meeting the applicant's needs and objectives and were designed to serve all residents in the county. Each county determined that its proposed activity could only logically take place in the entitlement city. HUD considered each preapplication and where appropriate, waived the regulation. To achieve equity for all applicants, this paragraph is changed. Where the proposed activity is specifically demonstrated to be appropriate to meeting the applicant's identified needs and objectives, the applicant may use Small Cities Program funds to undertake activities in metropolitan entitlement cities or urban counties.

§ 570.421 Preapplications and applications by States and counties; joint preapplications and applications.

One commentor stated that the "in behalf of" and "joint application" options prevent small cities from building their own administrative capacity and should be eliminated. Four commentors, however, wrote that these options are valuable, giving small places a better chance to be funded by allowing them to borrow administrative capacity. Because of the advantages, these options are retained.

According to three commentors, cities sometimes have a greater administrative capacity than counties and should be allowed to apply in behalf of counties. Since counties may contract for a city's administrative services, HUD has not added this option.

The purpose of cooperation agreements is now stated in paragraphs (b), *Preapplications and applications in behalf of others,* and (c) *Joint preapplications and applications.* A cooperation agreement delineates responsibilities of the State, the county, and/or the participating unit. Paragraph (b) repeats HUD's policy of holding the applicant responsible for compliance with applicable laws and regulations.

One commentor stated that an "in behalf of" application allows a county to earn outstanding performance points regardless of the record of the city in which activities take place. Since the county is the applicant, this is true. Applicants are rated for outstanding performance points, and must meet threshold requirements as well. Consequently, if a city performs poorly, this will reflect upon the county and may affect threshold considerations for future grants. The cooperation agreement provides a mechanism for the county to require a city to meet the county's own performance standards.

Paragraph (c) explains that joint applications must address a common problem. Five commentors suggested that jurisdictions be allowed to submit a joint application on the basis of administrative convenience only. This, however, would complicate the rating system and create inequities for single city applicants. Grantees, however, may establish joint administrative units to administer their grants to realize cost savings.

Paragraph (e), *Data considerations,* is modified to clarify which data must be used for rating the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)). Essentially, data from the smallest area for which data can be readily and uniformly obtained for all applicants in a competition is used. If an activity is to take place in an incorporated place, data from that place only is used.

In rating a preapplication that proposes activities in an unincorporated area only, data from the entire unincorporated area of the county in which the activity is to take place is used. Where Census data exists at the township level for the State, that data may be used. The term township includes towns in six New England States, New York, and Wisconsin, plantations in Maine, locations in New Hampshire, and townships in ten other States. Using township data however, may not be appropriate for county applications in the competitions in all twenty of these States, for several reasons. There is some geographic overlapping of township and municipal boundaries in some places. HUD will not use township data for county applicants when this occurs for one or more townships in which activities are proposed. In some States, townships do not exist in every potential county applicant. Area Offices, therefore, must determine whether using township data is appropriate in a competition, and will use it whenever possible.

One commentor asked what data is used for a joint application between a city and a county, with activities located in the city and in unincorporated places. In this case, data from the city plus data from the entire unincorporated area of the county (or from the township) is used.

§ 570.423 Comprehensive Grant Program general requirements.

In paragraph (a), *Definition,* the phrase, "designated area" is replaced

with "defined area or areas" to conform with the definition of a comprehensive program.

Several clarifying and conforming changes are made in paragraph (b), *Funding commitments.* The last sentence of (b)(1) is now designated (b)(2) to emphasize that every Comprehensive Grant request must be, by itself or in combination with other identified funding sources, enough to complete the proposed activities. Paragraph (b)(3) is clarified in several ways. It now reflects the requirement that an applicant with a multiyear commitment must submit, as part of its second or third year application, an assessment of its performance for prior grants.

One commentor believes the multiyear funding option described in (b)(1) has been abused and should be eliminated. HUD has not found this popular feature, an option included in the Statute, abused. Experience has shown that the flexibility of the multiyear option is valuable to many applicants. It is retained.

Five commentors who support the multiyear commitment requested eliminating the preference for previous hold harmless recipients. This is, however, a statutory requirement.

With respect to paragraph (c), *Capacity and performance: threshold determinations,* one respondent suggested that if a prior recipient had not drawn down all its funds within 18 months, it has not met the threshold criteria for a subsequent preapplication. As suggested, this would release urgently needed money for other communities which are ready to implement community development programs, but such a strict standard does not give HUD enough flexibility to accommodate legitimate reasons for delay. HUD, however, has and will continue to strongly stress performance. As now stated in paragraph (c), HUD will judge a community's capacity and performance as of the date the preapplication is due in the Area Office, based in part on the applicant's adherence to its own schedule.

One commentor stated that performance criteria should be clearly defined and provided to applicants in advance of preapplication deadlines. This is done by each Area Office in its annual Review Process Statement. (The Review Process Statement provides detailed information and guidance to communities that are planning to apply to the Small Cities Program.)

Two commentors indicated that the information required in paragraph (c) is insufficient for making capacity and performance judgments. They suggested requiring information about contractors, listing projects by Census area, and breaking out benefits to minorities and lower income persons. HUD believes that sufficient information is received for the determinations and that requiring more would place an undue burden on applicants, particularly the smallest. In addition, capacity and performance determinations consider compliance with the laws, regulations, and Executive Orders applicable to the Community Development Block Grant program and resolution of monitoring or audit findings.

§ 570.424 Selection System for Comprehensive Grants.

In the Comprehensive Grant selection system, there are now nine selection factors and 995 possible points for metropolitan applicants, and eight selection factors and 945 possible points for nonmetropolitan applicants. These changes and the changes made in the factors are reflected in the introductory paragraph. Each factor is discussed separately in the following paragraphs. (Some of these changes are repeated, as appropriate, in the Single Purpose Grant selection system.)

One commentor suggested that a new factor, benefit to minorities, be added to the selection system. The CDBG program requires that minorities be accorded equal treatment, and applicants must submit assurances to that effect. Also, points are awarded to applicants with outstanding fair housing and equal opportunity records.

Counties and States are scored separately with respect to the needs factors. One commentor believes this put smaller cities at a disadvantage. Rating them separately, on the contrary, prevents skewing the needs scores in favor of large places with great numbers of persons in poverty, protecting places with small populations.

(a) *Need—absolute number of poverty persons (75 points);* (b) *Need—percent of poverty persons (75 points);* and former paragraphs (c) *Need—absolute housing need;* and (d) *Need—percent of housing need.*

In the original selection system, the needs factors (absolute number of and percent of persons in poverty, and absolute and percent of housing need), equaled 200 points out of 1025 possible points. These factors measure the needs in the entire community, not the needs to be addressed in the proposed project. The weight of these factors, which do not directly relate to a proposed project, occasionally allowed poor quality projects to rank highly enough to be funded. To counter this, HUD has decreased the overall weight of the needs factors, giving relatively more weight to factors over which the applicant has more control, like program impact, benefit to low- and moderate-income persons, and outstanding performance.

In addition there are indications that the measures of housing need (the incidence of overcrowded housing and housing lacking plumbing), are declining rapidly in some areas, but not others. Therefore, the factors are becoming less useful in measuring an individual small community's relative needs, and give unfair advantage in the selection system to communities with improving housing stock. (The same is not true of larger cities and small cities in Statewide aggregates because the data base is larger and therefore more reliable.) Poverty is a stronger reflection of needs, and less likely to unfairly disadvantage poorer communities.

Since the needs factors will carry a reduced weight and since the housing needs data are weak and dated with respect to individual small cities, HUD is eliminating the housing needs factors' fifty points in the selection system. The public supported this action by an almost 3 to 1 margin.

Most of the commentors agreed that housing data problems are severe. HUD has searched for alternate data that can reliably meet the standards of § 570.420(i), but has found none. Factors used for Urban Development Action Grants are not available for very small places. Also, eliminating the weaker housing data in order to reduce the weight of the needs factors make the needs scores less complex than modifying the housing data and also modifying the points for the poverty needs score.

Housing, however, remains an important part of both Single Purpose and Comprehensive Grants. Almost all comprehensive programs, for example, include housing-related impact criteria. The Housing Assistance Plan (HAP) is HUD's principal link betwen housing and community development, and is required of all applicants. Deleting the housing needs score will not affect program design or the HAP and, therefore, housing and community development links will not be weakened. HUD is not de-emphasizing the important links betwen housing and community development.

Over the years of the Small Cities Program many cities and public interest groups claimed that the poverty needs factors, which awarded 100 points for absolute poverty and 50 points for percent poverty, skewed the selection system to the larger small cities and worked against the smaller cities. In response to the April 8 proposed rule, 14

commentors echoed this complaint. Only one commentor favored the absolute and percent point distribution.

Most commentors recommended making the two poverty needs factors equal in point value, while some went further and argued for eliminating the absolute number factor altogether. HUD has decided to equally weight each factor, to be determined in the same manner as in the current system.

The Department believes that the rating system is fair for all program participants because the rating system has been designed to emphasize overall grant quality. Giving equal weight to absolute and percent of people in poverty will more accurately measure the needs or distress of a community.

(c) *Program factor—impact of the proposed program (400 points).*

The basic considerations used to evaluate program impact for Single Purpose and Comprehensive Grants the same. These considerations are listed in the introductory paragraph to the program impact factor at § 570.424(c), (formerly (e)), for Comprehensive Grants and at § 570.428(c), (formerly (e)), for Single Purpose Grants. The paragraphs are modified to mirror each other.

HUD received six comments about a revised consideration, "the number of persons to benefit from the program." The negative comments dwelt on unintended interpretations of this consideration. HUD is not favoring larger target areas, encouraging non-concentrated activities, or counting persons who will not benefit. The number of persons to benefit is, however, changed to read "the number of persons to benefit given the type of program." The language indicates the context in which the number of persons to benefit is considered. HUD recognizes that more people are likely to benefit from construction of a neighborhood facility than from a rehabilitation program and will take that into account. The number of beneficiaries, given the type of program, is only one of eight possible factors that HUD measures in assessing impact. Each of the factors is given appropriate consideration on a case-by-case basis. Percent of benefit to low- and moderate-income persons receives emphasis as a separate selection factor.

HUD's policy is to minimize involuntary displacement as the result of HUD funded activities. Accordingly, displacement, and the actions an applicant purposes to minimize involuntary displacement, are added to the considerations used in judging impact. Two commentors believed this consideration is too weak. Since displacement generally will be viewed negatively, applicants are likely to avoid displacement. Another commentor thought that this displacement consideration is too strong. When an applicant indicates that involuntary displacement will be minimized or eliminated, displacement will be considered less negatively or as a neutral factor. As one commentor stated, the flexibility provided by minimizing displacement, in contrast to prohibiting displacement, is necessary to treat projects which address extremely dilapidated or unsafe housing.

One commentor suggested adding benefit to women and minorities to the list of program impact considerations. HUD already insures that women and minorities receive equal treatment through an applicant's assurances, its Title VI certification, and other legal requirements.

To emphasize that low- and moderate-income people must be the principal beneficiaries of all proposed comprehensive programs, two changes are made. First, the second sentence of paragraph (c) for Comprehensive Grants now reads: "HUD shall measure the impact of the program on *low- and moderate-income persons* for each of the program design criteria selected, based on * * *." (Changed is italicized.) Since the requirement that low- and moderate-income persons benefit from every comprehensive program is stated in the introduction to the program impact criteria, it is not repeated in each criterion. Second, another introductory paragraph is added to paragraph (c). It states that each applicant must explain, in measurable terms, how the program benefits low- and moderate-income persons. The language is already found in § 570.428(c), the paragraph about the program impact factor for Single Purpose Grants.

The individual program design criteria are modified as follows:

(i) The second phrase "or conserves the housing supply" is deleted, because almost any housing program conserves the housing supply. The word "conserves", however, conveys an important concept about neighborhoods in this criterion. The criterion now reads: "Supports comprehensive neighborhood conservation, stabilization, and/or revitalization." The focus of this criterion is upon the neighborhood; it is not limited to housing. One commentor wanted HUD to emphasize scattered site rehabilitation. HUD does not prohibit scattered site rehabilitation where it is necessary to address a serious need. HUD does not believe, however, it should be emphasized.

(ii) The word "Areawide" now precedes "Housing Opportunity Plan" to conform with other HUD regulations. In addition, the phrase "housing opportunities" is replaced with "housing choice" to clarify that, in addition to providing housing units, an applicant may provide housing counseling services as part of this program design criterion.

(iii) This criterion has been expanded to include providing housing opportunities within the community, both outside areas of concentrations of minorities and low- and moderate-income persons and in neighborhoods experiencing revitalization and substantial displacement as a result of private reinvestment.

Two commentors asked that the first "and" in the phrase "concentrations of minorities and low- and moderate-income persons" be changed to "and/or". HUD, however, wants to insure that a community with areas of both kinds of concentrations will make some assisted housing available outside areas of both kinds of concentrations. In a community with no minorities, it is possible to receive impact points when opportunities are provided outside areas of concentrations of low- and moderate-income persons.

(iv) This criterion is clarified to show that "expansion of housing" is not limited to supporting new construction, but includes rehabilitation of vacant units or conversion to housing units from a prior, non-housing use.

(v) This criterion is unchanged. Specific guidance on its meaning, requested by one commentor, can be found in the Review Process Statement issued by each Area Office.

(vi) More flexibility is incorporated into this criterion since it is no longer tied solely to providing jobs and also gives credit to retention or creation of employment opportunities, a serious problem in some areas.

(vii) Eleven commentors supported the addition of a new criterion related to economic development. It encourages a community to design a program that attracts or retains businesses which provide essential services, particularly to low- and moderate-income persons. An essential service is one providing a needed, frequently-used service usually at the neighborhood level and contributes to the overall quality of life. The applicant must explain how the service is essential.

(viii) Formely criterion (vii), this criterion is unchanged.

Former criteria (viii) and (ix). The original criteria (viii), dealing with State plans, and (ix), dealing with the community's position as a growth

center, are eliminated from the program impact criteria. They are replaced with the 25 points for State's rating, § 570.424(g), discussed below.

(ix) Formerly criterion (x), this criterion is unchanged.

(x) Formerly criterion (xi), this criterion is reworded to clarify its meaning. The word "policies" was, in practice, vague to applicants trying to identify what impacts a Federal policy might have upon their communities. "Policies" was therefore deleted. The word "action" by itself, conveys the intent of this criterion that the "Federal policy or action" must have a direct, demonstrable effect upon the community. Where a Federal policy does have a demonstrable effect on an applicant, this criterion may be used. Another change to this criterion is that the other Federal program or programs which the proposed program will support, or the Federal action the program addresses must be of substantial size or impact. This precludes the use of this criterion, for example, for Federal actions that have insignificant implications for the applicant. The applicant may include more than one other Federal program.

One commentor suggested that a community with an approved community economic adjustment plan as a result of a defense realignment be awarded bonus points that would not be available to other communities. HUD believes these communities are adequately accommodated under this criterion (and under the similar Single Purpose factor, *Other Federal programs*, § 570.428(h)). Since a community with an approved economic adjustment plan as a result of a base closing is experiencing substantial impact as the result of a Federal action, it should rate well under this criterion if its proposed program is well designed.

(xi) HUD has added an energy conservation or production criterion, generally supported by seven commentors. This criterion recognizes the crucial need for energy conservation considerations in every facet of community development activity, and allows an applicant to design programs which support energy conservation or production.

Three commentors, however, objected to the energy production component, fearing that massive energy production facilities would be funded under the Small Cities Program. HUD does not expect this to happen. Energy production facilities must meet other program emphasis and requirements such as benefit to low- and moderate-income persons and meeting a substantial portion of community development needs within a defined concentrated area.

Two commentors requested that the rating terms—insignificant, minimal, moderate, and substantial—be specifically defined. This is provided in the Area Office's Review Process Statement.

Another commentor suggested that additional rating points be awarded to communities which have worked out arrangements with private lenders to leverage CDBG funds. Area Offices do use this consideration in judging impact.

(d) *Benefit to low- and moderate-income persons (200 points).*

This paragraph now explains more clearly the method used to compute a proposed program's benefit to low- and moderate-income persons. It is the same method described to applicants in other HUD publications, such as the Review Process Statement.

HUD received several comments about this factor. One believed too much emphasis is placed upon it, another too little, but HUD believes there is a good balance between this and other factors. One commentor proposed awarding all, some, or zero points to applicants whose programs fall in one of three benefit categories—100 percent, 75–100 percent, and less than 75 percent, respectively. This does not recognize different levels of benefitting low- and moderate-income people in the range of points into which most applicants fall. The suggestion is not adopted. Another suggested scoring this factor differently, but offered no specific method. According to one commentor, the present system gives equal opportunity for small and large places to receive these points. HUD also believes the current method of computing these points is fair. It is, therefore, unchanged. Two commentors were concerned about using "80 percent of median income" as the standard for determining benefit to low- and moderate-income persons at the preapplication stage, but permitting use of sliding section 8 standards for counting beneficiaries while undertaking a program. To treat all applicants fairly during a competition, when many of the proposed programs are in a preliminary phase and beneficiaries cannot be specifically identified, HUD must use data available to all applicants in the estimates of the population to be served. This is the "80 percent of median" data. Once an applicant has successfully competed and beneficiaries can be specifically identified, however, this restriction need no longer apply, since HUD recognizes that persons meeting the section 8 standards are low- and moderate-income.

(e) *Performance in housing and equal opportunity (150 points).*

In response to the many general comments about this paragraph, HUD offers the following considerations:

—As noted by one commentor, these points are clearly for outstanding performance and not intended to be earned by all applicants.

—Establishing minimal threshold requirements to replace these points does not fairly recognize outstanding efforts to achieve fair housing and equal opportunity locally.

—In its Review Process Statement, the Area Office provides specific guidance on the standards used to determine outstanding performance. Area Offices follow the regulations and the guidance provided here.

With respect to the changes HUD proposes, the total points for outstanding performance still equal 150—100 points for housing efforts and 50 points for equal employment and entrepreneurial efforts. As indicated below, however, an additional criterion is added to each. Neither criterion is new, but was formed by dividing an original criterion. To accommodate the increased number of criteria, the point structure is changed.

Instead of five 20-point criteria for housing efforts, there are four 15-point criteria and two 20-point criteria. The three criteria for equal employment and entrepreneurial efforts are now worth 25, 20, and 5 points. The derivation of, and the public comments about, each criterion and the reason for any changes are discussed below.

(1) *Housing efforts (100 points).*

(e)(1)(i)(A) (15 points): This criterion was formerly (g)(1)(i). Its language now emphasizes the criterion's focus upon the location of a community's assisted housing. To provide choice, assisted housing must be located outside areas of concentrations of minorities and of low- and moderate-income persons or in neighborhoods experiencing revitalization and substantial displacement as a result of private reinvestment.

With respect to providing housing choice outside areas of concentrations in a predominantly minority community, or in a community with no areas of concentrations, this criterion is met if there is a balanced distribution of the locations of assisted housing throughout the community. A community with no minorities can earn points through this criterion when its assisted housing is located outside areas of concentrations of low- and moderate-income persons. One commentor asked if an applicant could earn these points if its low- and moderate-income population is

dispersed, but there is no assisted housing. To earn these points, the applicant must have provided assisted housing.

To merit these points for providing housing choice in a revitalizing neighborhood, the applicant must have provided housing assistance which enabled low- and moderate-income residents to remain in their revitalizing neighborhood. This alternative way to earn points for providing housing choice was supported by one commentor who suggested awarding points to places combatting gentrification.

(e)(1)(i)(B) (15 points): This criterion is similar to the original criterion (g)(1)(ii). The word "existing" is deleted to eliminate confusion between this criterion's intent and HUD's section 8 existing housing program, which is now specifically referenced. If the applicant has a section 8 existing housing program, occupancy of units must give evidence of locational choice. The original criterion's reference to "minorities" is replaced by "race and ethnicity." One commentor suggested using the phrase "race and/or ethnicity," but HUD wants to insure that a community with more than one racial group and more than one ethnic group will achieve integration of all these groups. To earn these points, an applicant must achieve integration of all its racial/ethnic groups in its assisted housing.

(e)(1)(i)(C) (15 points): The original criterion (v) had two parts, one dealing with fair housing ordinances, the other with New Horizons Fair Housing Assistance Projects. Because the parts are separable and because each is an important component in an applicant's efforts to achieve fair housing, HUD will now consider them separately. Thus, applicants with both will benefit from additional points.

Criterion (1)(i)(C) now deals only with fair housing ordinances. To earn these outstanding performance points, an applicant must actively enforce its local ordinance or actively participate in a State/county/regional fair housing ordinance. The ordinance must be at least equal in scope and coverage to Title VIII of the Civil Rights Act of 1968. HUD does not require a community to receive complaints in order to earn these points. If there have been no complaints, active enforcement may be demonstrated by educational efforts to foster fair housing or, as suggested by one commentor, preventive measures such as activities by a Fair Housing Board.

(e)(1)(i)(D) (15 points): This criterion is from the second part of the original criterion (g)(i)(v) and concerns New Horizons Fair Housing Assistance Projects. It is changed to require that an applicant implement or actively participate in a Project, as demonstrated by the applicant's progress or success. For an applicant whose Project was recently approved, HUD will consider award of these points based on the progress achieved in the time available. Communities which encourage fair housing and equal opportunity through strategies equivalent to the New Horizons Fair Housing Assistance Project may also be eligible to receive these points.

Two commentors said this criterion should be eliminated. HUD, however, wants to encourage development of New Horizons projects and to acknowledge efforts made under these projects.

(e)(1)(ii)(A) (20 points): This criterion, meeting the housing assistance needs of large families, was formerly criterion (g)(1)(iii) and is unchanged.

(e)(1)(ii)(B) (20 points): This was formerly criterion (g)(1)(iv), which required an applicant to meet the goals of a previous HAP(s). The intent of this criterion has been to award outstanding performance points to communities that have demonstrated, in relation to their HAPs, outstanding performance in providing assisted housing. Communities without HAPs can and do provide assisted housing and deserve some recognition. HUD therefore may award these points to applicants with no prior HAP.

Commentors on both (e)(1)(ii)(A) and (e)(1)(ii)(B) requested more guidance on how to determine if a community without a prior HAP has met these criteria. To claim these points, an applicant must make an assessment of its needs for assisted housing, and show what has been done to meet these needs. If its progress has been similar to that of communities with HAPs which qualify for these points, then the community will also earn these points.

(2) *Local equal employment and entrepreneurial efforts (50 points).*

(e)(2)(i) (25 points): This is the same as the original criterion (g)(2)(ii), except that a new standard is established for applicants whose percent of minority residents exceeds that of the county in nonmetropolitan areas or of the SMSA in metropolitan areas. For these applicants, the percent of minority employees must generally reflect the percent of minority residents in their own jurisdictions. This means that, absent explanation, it is expected that nondiscriminatory hiring practices by these applicants results in a workforce which is more or less representative of the racial and ethnic composition of the applicant's jurisdiction. In addition, "minority employees" is clarified by the phrase, "minority permanent, full-time employees." Two commentors suggested counting part-time employees. HUD may consider part-time employees the equivalent of full-time employees when the applicant has no full-time employees.

(e)(2)(ii) (20 points): The original criterion (g)(2)(i) had two parts, one concerned contracts with minority businesses, the other with deposits in minority banks. This criterion is derived from the first part. Several changes are made. First, the applicable percentage of minority residents is the greater of the percentage of minorities in the applicant's jurisdiction, or the county for nonmetropolitan applicants, or the SMSA for metropolitan applicants. This will be compared to the percent of contracts, based on dollar value, awarded to minority businesses. Second, since with respect to equal opportunity, ownership and control of a business are more important than management, only contracts awarded to minority owned and controlled businesses may be counted. Third, the original standard that an applicant's percentage of contracts with minority firms exceed its percentage of minority residents has proven excessive for applicants whose applicable percentage of minorities is more than 20 percent. Therefore, these applicants may award 20 percent of their contracts to minority firms to earn these points. Fourth, the original standard was, however, too lax for applicants with fewer than five percent minority residents. Therefore, these applicants must award at least five percent of their contracts to minority firms to earn these outstanding performance points. Applicants whose applicable percentage of minorities is from 5 to 20 percent must meet the original standard.

(e)(2)(iii) (5 points): This criterion is derived from the second part of the original criterion (g)(2)(i). It requires that an applicant's average daily balance in minority financial institutions over the past year be at least 5 percent of its total deposits from all sources. This criterion does not alter the applicable requirements when using U.S. Treasury letters of credit in conjunction with Federal Grant Programs. Funds must not be drawn down or kept on hand in excess of immediate cash disbursement requirements for carrying out the activities of an approved grant. In addition, the word "banks" is replaced with "financial institutions" for greater flexibility.

As stated above, not all applicants will qualify for outstanding performance points. Applicants must meet outstanding standards, such as the 5 percent minimum for contracts to minority firms and deposits in minority financial institutions, requirements to which eight commentors objected. One commentor applauded this minimum, stating that although his city had difficulty getting a minority contractor in a rural area, the city was able to do so, and others should, too. These points are not intended to discriminate against small places but to reward outstanding performance like that shown by the rural city.

(f) *Areawide Housing Opportunity Plan (50 points, metropolitan applicants only).*

Many small cities and their advocates have claimed that awarding points to nonmetropolitan applicants for participation in an Areawide Housing Opportunity Plan (AHOP) is unfair. They state that the current AHOP program is urban oriented, not always appropriate in nonmetropolitan areas, and places some applicants at a 50 point disadvantage. In addition, if a community wishes to become an AHOP participant and conditions warrant an AHOP, it may not be possible solely because sufficient neighboring communities do not wish to participate in the AHOP. Recognizing these concerns, HUD in the proposed rule solicited comments about eliminating AHOP points for nonmetropolitan applicants.

HUD received 25 comments about the issue. Four favored retaining the AHOP points, two of them stating that the AHOP program itself should be modified to accommodate needs of nonmetropolitan areas. For the reasons indicated above, 21 commentors favored eliminating points for nonmetropolitan AHOPs. Some of these commentors would eliminate all points for participation in an AHOP, but HUD believes that AHOPs are appropriate in metropolitan areas.

On the basis of these, and other recent public comments, HUD is eliminating the AHOP points for nonmetropolitan competitions.

The AHOP program itself, however, may be revised in response to public comments to an Advanced Notice of Proposed Rulemaking about the AHOP program published on March 24,1980. HUD, therefore, may propose to reinstate points for participation in a nonmetropolitan AHOP or its successor program in the future, if the concerns raised are adequately accommodated.

Nonmetropolitan communities, of course, may still join to form AHOPs to receive the benefits of the program, such as better control over the allocation and location of HUD's assisted housing. In addition, nonmetropolitan applicants to the Small Cities Program can still address the Comprehensive Grant program impact criterion about implementing an AHOP (§ 570.424(c)(1)(ii)).

The public comments supported the proposed change to require active participation in AHOPs. Metropolitan applicants which have participated in an AHOP for less than one year will still be awarded fifty points for participation only. Points for participation only, however, will be awarded only once, and only in the first year of participation in the AHOP. After the first year, the Areawide Planning Organization that developed the AHOP must certify that the applicant is carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).*

This factor replaces the program impact criteria (e)(1)(viii) and (e)(1)(ix) of the original selection system, as noted above. In the proposed rule, HUD suggested that States review preapplicants, rank them according to their support or conformity with State policies or strategies for growth, resource coordination, and economic development, and then recommend point awards to HUD.

HUD received 31 comments about this factor. Seven commentors, including four States, supported it, 22 opposed it, and two others expressed reservations but did not specifically oppose it. Those which opposed the State's rating factor questioned whether a State's evaluation criteria would be publicly available, whether States have the capacity to review many preapplications and whether State decisions would reflect political considerations. Several suggested that HUD continue to award the points as in the prior Single Purpose selection system.

In response to the public's concern that the States' ratings of applicants might be subjective or political, and that the criteria employed by the States would not be available to the public, this factor is modified.

First, only States with HUD-approved 701 Strategy Statements may recommend point awards to HUD. These Strategy Statements will be publicly available. The States' recommendations may range from zero to 25 points for each applicant. These Strategy Statements have not been approved as a program requirement for the 701 Comprehensive Planning Program and consequently, this option will not be used in Fiscal Year 1981.

In a State where there is no HUD-approved 701 Strategy Statement, the HUD Area Office will award zero or 25 points for this factor. This is similar to the way the Single Purpose factors about State growth plans and a community's position as a regional center of economic development have been awarded in the past. Area Offices, as before, will seek advice from the State about the State plans and policies in developing criteria to rate this factor.

Finally, each Area Office's Review Process Statement will continue to include descriptions of the specific criteria HUD will use to rate this factor. In the future, criteria developed as part of the HUD-approved 701 Strategy may be used instead. This information will also be available to the public through preapplication briefings held by the Area Offices. HUD believes that using the existing Area Office procedures or requiring States to have an approved Strategy Statement responds to the public's concerns.

Former paragraph (g), *Hold Harmless provisions (25 points).*

HUD has received many comments pointing out that this factor benefits places which have received past HUD funds. This is an unfair advantage in a selection system which emphasizes program quality. This paragraph, therefore, has been eliminated.

(h) *Energy conservation or production (20 points).*

This new paragraph, supported by one commentor, is added to encourage Small Cities Program applicants to promote energy conservation or support energy production efforts in their proposed programs. Applicants which do so will receive 20 points.

Sections. 570.425, 570.426, 570.429, and 570.430.

Several commentors applauded HUD's addition of a requirement to show the location of low- and moderate-income people on the maps for both Single Purpose and Comprehensive Grants at the preapplication stage. In response to further comments, HUD has also clarified the language to read "the location of areas with low- and moderate-income persons, showing number and percent." With the exception of city wide benefit activities, HUD knows of no case in which preapplicants have not depicted such data. This language has also been used in the full application map requirements at § 570.426 and § 570.430. Also, HUD has combined the map requirements at the full application stage governing location of activities, areas of concentrations, and service areas, where applicable.

§ 570.426 Application for Comprehensive Grants.

Section 570.426 has been modified and expanded to incorporate in this one section all the requirements applicable to an application for a Comprehensive Grant, with the exception of the HAP and the certifications of assurances. This avoids cross reference to the entitlement subpart and includes only those portions relevant to the Small Cities Program.

An energy conservation standard is added to § 570.426(a)(2)(iii)(A). In order to count toward meeting Housing Assistance Plan goals, rehabilitated units must now meet the *Cost-Effective Energy Conservation Standards* (24 CFR 39).

One commentor suggested that displacement language be strengthened at § 570.426(a)(2)(iii)(B) to require a grantee to give the displacees the option of returning to their housing units after rehabilitation. HUD believes that the proposed language requiring the grantee to state what steps it will take to minimize involuntary displacement and to enable displaced persons to remain in their neighborhoods is sufficiently strong. Displacement is also addressed at the preapplication stage under program impact considerations, and it is felt that there will be some appropriate rehabilitation in which it might not be possible for displacees to return to their original units. Similar comments were made about the Single Purpose Grant Program, but the Community Development and Housing Plan Summary has been eliminated pursuant to a statutory change. Displacement is addressed, however, at the preapplication stage for Single Purpose grants.

Two commentors suggested more detail under § 570.426(a)(3), the economic development component of the Community Development and Housing Plan Summary. This element is intended to be a general context under which economic development activities will be undertaken. Specifics would have been covered at the preapplication stage if economic development activities are to be undertaken with CDBG funds.

§§ 570.426 and 570.430 Applications for Comprehensive and Single Purpose Grants.

In analyzing ways to reduce the duplication between material submitted with the preapplication and the full application, HUD believes that the Project Summary as described at § 570.426(b) and § 570.430(a) can be eliminated. However, one portion of the information now required as part of the Project Summary is retained—the schedule of activities. HUD believes it is essential to continue to require activity scheduling information in order to stress and monitor performance. HUD believes that most grantees do have such a schedule and that it is useful in the local management of the Small Cities Program. Accordingly, a Program Schedule provision is added at § 570.426(b) and § 570.430(a), respectively.

§ 570.427 Single Purpose Grant program general requirements.

The wording in program (b), *Projects*, is changed to clarify that a Single Purpose applicant may seek funds for more than one project and for more than one of the three problem areas.

The language in paragraph (c), *Performance requirements*, is changed to clarify that every previous Small Cities Program grantee must satisfy the capacity and performance criteria of § 570.423(c).

§ 570.428 Selection System for Single Purpose Grants.

In the Single Purpose Grant selection system, there are now nine selection factors and 1020 possible points for metropolitan applicants, and eight selection factors and 970 possible points for nonmetropolitan applicants. Each factor is discussed below.

(a) *Need—absolute number of poverty persons (100 points)*, (b) *Need—percent of poverty persons (50 points)*, and former paragraphs (c) *Need—absolute housing needs*, and (d) *Need—percent of housing need.*

Changes proposed for these factors are the same as those proposed and explained in the paragraphs about the Comprehensive Grant needs factors (§ 570.424(a)–(b)).

(c) *Program factor—impact of the proposed program (400 points).*

In the original selection system, an applicant could earn a maximum of 200 points under the program impact factor, or less than 25 percent of the 875 total possible points. Compared to the Comprehensive Grant selection system, in which program impact points represent approximately 40 percent of the total possible points, this is a low weight for the factor that most adequately assesses the proposed program's impact on identified needs and the overall quality of the program. Other factors that do not relate as closely to the program design (outstanding performance points, for example), or over which applicant have little control (the needs factors), collectively were much more important in funding decisions than the program impact factor. As a result, projects with little significance in meeting identified needs were occassionally funded while projects with substantial impact were not. The points for program impact, therefore, are increased to 400, about 40 percent of the total possible points under the proposed system, approximately the same percentage as in Comprehensive Grants. This reflects the importance of the program impact factor in choosing projects which best address identified needs. As in the original system, the program impact factor does not dominate, and other factors, like outstanding performance and benefit to low- and moderate-income persons, must also be addressed by applicants who expect to be funded.

All the commentors who addressed this issue supported increasing the points for Single Purpose program impact. All but one believed that increasing the point total to 400 will insure better quality Single Purpose Grants. Three stated that more than the four levels of impact—insignificant, minimal, moderate, substantial—be provided. HUD feels this would require unnecessarily complex decisions and decrease the impact of the factor, and will therefore maintain the four existing levels.

Another commentor asked whether "housing" includes housing supply, choice, or condition. It includes all three. The same commentor was concerned that the problem areas (c)(1) do not adequately address the problem of discrimination, and claimed that its impact upon women and minorities should be stated in measurable terms in the full application. If an applicant proposes a program to deal with discrimination in providing housing assistance, then the degree to which that problem would be resolved would be appropriately considered under impact. Otherwise, HUD presumes that the basic program will be carried out in a non-discriminatory manner since the applicant has given assurances to that effect. The language about these considerations is modified for conformity with the Comprehensive Grant program impact considerations, except that an additional consideration for Single Purpose Grants, the nature of the activity in relation to the need identified, is retained.

(d) *Benefit to low- and moderate-income persons (200 points)*, (e) *Performance in housing the equal opportunity (150 points)*, (f) *Areawide Housing Opportunity Plan (50 points)*, (h) *Energy conservation or production (20 points)*, and (i) *Other Federal Programs (25 points).*

The language in these paragraphs conforms with § 570.424(d), (e), (f), (h), and (c)(1)(x), the paragraphs about the Comprehensive Grant selection system factors for benefit to low- and moderate-income persons; outstanding performance, AHOPs, energy considerations, and the proposed program's relationship to other Federal projects. The changes or additions are fully discussed above.

In addition to comments about other Federal programs discussed with the Comprehensive criteria (§ 570.424(c)), two commentors stated HUD should increase the points for the factor, and two stated that these points should be reduced or eliminated. HUD will continue to award twenty-five points for this criteria.

(g) *State's rating (25 points).*

This paragraph merges two "other" criteria of the original selection system, (h)(1)(A), dealing with the community's position as a regional center or economic development center, and (h)(1)(B), dealing with State plans and policies. This new factors is the same as the Comprehensive selection factor contained in § 570.424(g) which is discussed above.

§ 570.429 Preapplications for Single Purpose Grants.

Paragraph (a)(2)(iii) is modified to require a statement describing the impact the activity for which funds are requested will have on the needs of low- and moderate-income persons.

Paragraph (a)(4), *Performance reporting,* now refers to assessment of performance to cover either a status report or the Grantee Performance Report.

§ 570.430 Applications for Single Purpose Grants.

A statutory change in the Housing and Community Development Act of 1979 deleted the requirement for a Needs Assessment and Strategy Statement. That change has been implemented as a final rule under a separate notice in the Federal Register. Former paragraph (a) is therefore deleted, and each following paragraph in this section is re-lettered.

One commentor stated that Housing Assistance Plan (HAP) requirements are very difficult and proportionally more costly to the smaller cities. HUD is working to simplify the HAP.

In addition to the provisions for displacement discussed above, paragraph (b)(1)(iii) now states that the applicant must assess the needs of households to be displaced by public action and, where information is available, by private action.

Paragraph (b)(2), *HUD review of HAP,* is clarified to indicate that weatherization and similar activities alone will not satisfy rehabilitation housing assistance goals. In addition, rehabilitated units must now meet the *Cost-Effective Energy Conservation Standards* (24 CFR Part 39) in order to count toward HAP goals.

Paragraph (e), *Title VI Compliance,* is clarified to indicate that multiyear applicants applying for second or third year funding, as well as previous hold-harmless grantees, are exempt from this requirement.

Two changes are made in paragraph (f), *Assurances.* Paragraph (f)(2) is revised to require citizen participation specifically in the development of the Housing Assistance Plan. Paragraph (f)(6) is revised to use the more general term "report on performance" in lieu of Grantee Performance Report.

Section 570.431 *Citizen participation requirements for Comprehensive and Single Purpose Grants.*

The rewritten citizen participation (CP) requirements at § 570.431 now apply to both Comprehensive and Single Purpose Grants. The same citizen participation requirements apply to each program. Therefore, the reference to § 570.303, *Citizen participation requirements,* in the entitlement regulations is eliminated for Comprehensive Grant applicants. Establishing a single set of regulations for citizen participation eliminates confusion as to which citizen participation regulations are to be followed, and at what stage of the application process they apply. As indicated in paragraph (a), *General,* this new section strives to require only the basic framework of meaningful citizen participation, regardless of the applicant's size. Critical elements are required, and others must be considered locally as appropriate. Paragraph (b), *Written citizen participation plan,* describes the procedures that must be accommodated in an applicant's CP plan. In Paragraph (c), *Requirements for citizen participation in each stage of the application process,* the citizen participation regulations now follow the application process for small cities, i.e., preapplication/application.

HUD received approximately 30 comments on the various aspects of the new CP requirements. Most comments were generally positive, but many suggested specific changes. There was little concentration of comments, however. Several commentors said the revisions were a marked improvement, were simplified, and yet created a strong basic framework for meaningful CP as HUD had intended. HUD has made several changes to clarify requirements in response to comments. The following discussion covers specific areas of comment.

Language has been added under (a) to emphasize that the objective of these requirements is to assure meaningful CP involvement on a continuing basis through all stages of a Small Cities Program, in response to the requests of several commentors. Two commentors pointed out there was no requirement for citizen involvement in the development of the written plan. This requirement has been added in the first Paragraph in (b).

Several argued that HUD should mandate a citizens' advisory or project area board as a process requirement. HUD encourages the creation and use of such boards where citizens and communities find them the most effective method of ensuring meaningful CP. Two commentors indicated that such boards should not be mandated and in some cases can be counter productive. HUD has chosen not to mandate advisory boards for all Small Cities grantees. Those that argued for mandating advisory boards as well as two others also felt that HUD should define substantial representation for low- and moderate-income persons and minorities on advisory boards. Two suggested "substantially" should mean 51 percent or more. HUD agrees that substantial means at least and probably more than 51 percent in most cases, particularly since HUD emphasizes the need to involve low- and moderate-income persons throughout the CP plan requirements. The creation of numbers like this, however, often tends to create a maximum as well as a minimum. Also, local conditions may at times require the involvement of many citizens with certain skills and interests who most effectively advocate lower income persons' needs. HUD believes that citizen advisory boards should reflect the needs to be addressed and the

people to be served. Area Offices can best address what substantial should mean on a case by case basis.

Ten comments were received on the number of public hearings to be held and their specific purposes. One commentor felt that a minimum of two hearings at the preapplication stage and two at the full application stage were appropriate. Five commentors felt that four hearings were too many and suggested that the second hearing at the full application stage as a minimum, be eliminated. One felt that public hearings are too costly and, therefore, some should be eliminated. HUD believes that the public hearing process can be an effective assurance of meaningful and open citizen participation. Hearings are required in the statute. While the preapplication stage is more important in terms of identifying needs, selecting priorities, and describing the program that the unit of general local government will propose, the full application stage is also important for several reasons. First, the Housing Assistance Plan must be developed at this stage, and it should receive citizen input as it is being conceived as well as when it becomes final. Second, the program normally becomes more defined in terms of final program detail and timing of activities at the full application stage. Also, HUD may place conditions on certain activities and other activities may be found to be ineligible during preapplication ranking.

Another issue raised in comments was the timing for hearings on past grantee performance. HUD will continue to require that one of the hearings at both the preapplication and full application stage address performance when the applicant is submitting a report on past performance. One commentor pointed out that the new proposed requirements did not require public hearings for an amendment requiring HUD approval. HUD intended such a requirement and, accordingly, a new provision to the CP plan has been added at (b)(9). Also, two commentors indicated that there was no public hearing requirement at project closeout when a grantee did not apply for a subsequent grant. HUD believes that local public reporting is appropriate at closeout and a requirement has been added to the CP plan at (b)(7) to require a public hearing on performance during the closeout process.

Two comments were received on the requirements at (c)(5) on consideration of objections. One believed the publication of the grounds for objection was too costly and not necessary. HUD feels that publication of precise bases for objection is necessary given the careful balance between substantive citizen involvement and the ultimate responsiblity of the local government. In response to the other comment, HUD has clarified that the public notice of submission of the application must be made at the time of submission to HUD.

There were five other unrelated comments in which suggestions were made in wording. HUD has chosen not to adopt these because they would tend, taken as whole, to begin to lengthen the regulations and lead to other changes beyond HUD's intent of requiring a basic famework for meaningful CP. One suggested "timely and responsive" language in responding to complaints, another suggested fixing a minimum time to respond to proposals, a third wanted a discussion of the policy role of citizens, while another wanted HUD to state that CP must be conducted in an open manner, and one commentor wanted HUD to indicate the minimum time announcement and execution of a public hearing. Additionally, one commentor argued that the CP plan should be submitted automatically to HUD. HUD believes this would lead to unnecessary emphasis on the written plan, rather than implementation of CP. HUD, of course, may review the plan during monitoring or may ask for it to be submitted when certain complaints are raised. Finally, HUD believes that CP is an important element as a process toward achieving community development objectives, but is not an end in itself. Therefore, HUD does not agree with one commentor who suggested that bonus points be awarded for particularly effective citizen participation.

§ 570.432 Single Purpose Grants for imminent threat to public health or safety.

Paragraph (c) has been changed to indicate that there is no requirement for environmental reviews for Single Purpose applications which are for imminent threat to the public health or safety, in accordance with the provisions of the environmental regulations at 24 CFR 58.21(b)(6).

§ 570.433 HUD review and actions on full applications for Single Purpose and Comprehensive Grants.

Paragraph (b)(2), *Criteria for conditional approval*, has been expanded to incorporate § 570.311(f) (1)

and (2). However, an applicant for a Small Cities Program grant that has not met the capacity and performance criteria of § 570.423(c) would not be selected for funding; therefore § 570.311(f)(3) is inappropriate to the Small Cities Program and has not been included in this section.

Paragraph (b)(3), *Criteria for disapproval of an application,* has been expanded to incorporate § 570.311(c). § 570.311(c)(2)(ii) deals with the requirement that the application must address deteriorated housing in at least one concentrated area. This requirement is not appropriate for all Small Cities applicants, and has not been included in this section.

Paragraph (b)(3)(i) is added and provides for disapproval of an application if information obtained based on a field review or from other sources requires rerating of a preapplication and results in a rating no longer sufficiently high to warrant approval when compared with other preapplications in the competition.

The reference to § 570.302(b)(2) contained in § 570.311(c)(2)(iii) has been changed to § 570.420(k) in paragraph (b)(3)(iii)(B) to meet the requirements of the Small Cities Progam dealing with benefit to low- and moderate-income persons.

§ 570.434 Program amendments for Single Purpose and Comprehensive Grants.

Paragraph (b)(1), *Comprehensive Grant,* has been expanded to incorporate the referenced conditions in § 570.312(b) whereby a Comprehensive applicant must request HUD approval for amendments to its Housing Assistance Plan.

§ 570.435 Modified OMB Circular No. A-95 procedures for the Small Cities program

Because HUD has been granted variations to the normal procedures, two revisions are made in the regulations. A preapplicant/applicant is still permitted to submit simultaneously its preapplication/full application to HUD and to clearinghouses. This procedure allows HUD to speed up final action of preapplications/applications. However, HUD will make no final decisions until it has received and dealt with the clearinghouse comments or until at least 45 days have elapsed. Additionally, a requirement that preapplicants notify clearinghouses of their intent to submit a preapplication at least 30 days prior to the HUD submission deadline has been added. HUD looks to clearinghouses to provide assistance and encourages contact as early as possible, before any decisions are made. Because this contact is intended to provide general and sometimes specific assistance, no decisions such as grant amount or program content need be made prior to this contact. This requirement of prior notification has been added at § 570.435(b).

Comments by clearinghouses are taken into account and normally resolved in the ranking process at the preapplication stage before HUD invites full applications. However, on occasion, some clearinghouse comments at the preapplication stage require further interaction between the applicant and the clearinghouses. Such comments should be resolved prior to the full application submission to HUD. Accordingly, a new sentence making this a requirement has been added at § 570.435(c).

Paragraph (c), *A-95 requirements for applications,* has been clarified to include a reference to the annual submission of a multiyear application.

24 CFR Part 570, Subpart F is amended to read as follows:

Subpart F—Small Cities Program

Sec.

570.420 General.
570.421 Preapplications and applications by States and counties; joint preapplications and applications.
570.422 State participation. [Reserved]
570.423 Comprehensive Grant program general requirements.
570.424 Selection system for Comprehensive Grants.
570.425 Preapplications for Comprehensive Grants.
570.426 Applications for Comprehensive Grants.
570.427 Single Purpose Grant program, general requirements.
570.428 Selection system for Single Purpose Grants.
570.429 Preapplications for Single Purpose Grants.
570.430 Applications for Single Purpose Grants.
570.431 Citizen participation requirements for Comprehensive and Single Purpose Grants.
570.432 Single Purpose Grants for imminent threat to public health or safety.
570.433 HUD review and action on full applications for Single Purpose and Comprehensive Grants.
570.434 Program amendments for Single Purpose and Comprehensive Grants.
570.435 Modified OMB Circular No. A-95 procedures for the Small Cities Program.

II. Part 570, Subpart F is proposed to read as follows:

Subpart F—Small Cities Program

§ 570.420 General.

(a) *Scope and Applicability.* This Subpart describes the Small Cities

Program's policies and procedures. Funds for this Program are those provided through the metropolitan and nonmetropolitan balances described in § 570.104(c) in Subpart B of this Part. Except as modified in this Subpart, the policies and procedures set forth in Subparts A, B, C, J, K, and O of this Part, as well as those Sections of Subpart D of this Part which are specifically cited in this Subpart, apply to the Small Cities Program. The HUD Environmental Review Procedures contained in 24 CFR Part 58 also apply to this Subpart.

(b) *Program Objectives.* The Small Cities Program provides grants to States and units of general local government in both metropolitan and nonmetropolitan areas to undertake the same community development activities as may be funded in the entitlement grant program. The Small Cities Program, however, is competitive in nature and the demand for funds far exceeds the amount available. Therefore, eligible applicants selected for funding will be those communities having the greatest need as evidenced by poverty and whose applications most adequately address locally-determined needs of low- and moderate-income persons, consistent with one or more of the following purposes.

(1) Support realistic and attainable strategies for expanding low- and moderate-income housing opportunities;

(2) Promote expansion of housing choice for low- and moderate-income persons outside areas of minority and low- and moderate-income concentrations or in revitalizing neighborhoods;

(3) Promote more rational land use;

(4) Provide increased economic opportunities for low- and moderate-income persons;

(5) Correct deficiencies in public facilities which affect the public health or safety, especially of low- and moderate-income persons.

(c) *Eligible applicants.* Eligible applicants are States and units of general local government, excluding metropolitan cities, urban counties, units of government which are participating in urban counties or metropolitan cities, even if only part of the participating unit of government is located in the urban county or metropolitan city, and Indian tribes eligible for assistance under Section 107(a)(7) of the Act. An application may be submitted individually, jointly, or by a county or State in behalf of other units of general local government.

(d) *Types of grants.* Recognizing that needs of communities vary widely, the Small Cities Program has two types of grants—Comprehensive and Single Purpose.

(e) *Distribution of funds between Comprehensive Grants and Single Purpose Grants.* Within both the metropolitan and nonmetropolitan balances for each Area Office's jurisdiction, 25 to 35 percent of the funds are reserved for Single Purpose Grants, with the remainder reserved for Comprehensive Grants. Exceptions to these percentages may be made where there is insufficient demand for Comprehensive Grants to justify a 65 percent reservation or where the demand for Comprehensive Grants justifies a reservation of more than 75 percent. In determining the demand for Comprehensive Grants, the Area Office shall consider the quality of projects, based on the selection criteria contained in these regulations.

(f) *Size of grants.* (1) *Ceilings.* Within the metropolitan and nonmetropolitan areas of each Area Offices's jurisdiction, HUD may establish general ceilings for both Single Purpose and Comprehensive Grants. Separate ceilings may be established for Comprehensive Grants with multiyear commitments, or joint applications, or for applications in behalf of other units of government.

(2) *Individual grant amounts.* Both Single Purpose and Comprehensive Grants for specific grantees will be provided in amounts commensurate with the size of the applicant and the applicant's program. In determining appropriate grant amounts for each applicant, HUD may consider an applicant's population, need, proposed activities, ability to carry out the proposed program, and previous funding levels.

(g) *Restrictions on applying for grants.* Each unit of general local government, except counties, may apply for a Comprehensive or a Single Purpose Grant, but not both, in each fiscal year. As described in § 570.421, a State or a county may apply for two grants, one Single Purpose and one Comprehensive, if one or both of the applications are in behalf of one or more units of general local government within its jurisdiction. In each fiscal year, each unit of general local government, except counties, may be included in only one application, either individual, joint, or as part of a county or State application in its behalf. In addition, applicants may apply for imminent threat grants, as described in § 570.432.

(h) *Method of selecting grantees.*

(1) HUD has established national selection and rating systems for both Comprehensive and Single Purpose Grants which identify the criteria used in selecting applicants. Preapplications are required for both types of grants. These are divided into metropolitan and nonmetropolitan pools for both types of grants and rated and ranked pursuant to §§ 570.424 and 570.428, respectively. An applicant must include sufficient information in its preapplication to permit HUD to rate the preapplication against the various selection criteria (except the needs factors described in § 570.424 (a) and (b) and in § 570.428 (a) and (b)), and must advise HUD of the source of information and the method used to compile the information for the preapplication. Existing sources of information, such as areawide analyses, State plans or needs assessments, and data from the Bureau of the Census, should be used whenever possible. Local surveys may be necessary to document the information submitted in the preapplication. Decisions made by HUD in selecting grantees are documented and will be made available to the public upon request.

(2) HUD shall establish deadlines for submission of preapplications by publication of a Notice in the Federal Register.

(i) *Data.* Data used in this Subpart with respect to the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)) is from the United States Bureau of the Census. HUD uses the most recent Census data which is consistent as of the same point or period in time for all data elements in each needs factor and which can be applied to all potential applicants in the nonmetropolitan or metropolitan areas of the State. However, a HUD Regional office may authorize the use of updated data developed by a State agency for the entire nonmetropolitan area or all metropolitan areas of the State in lieu of Federal census data if the following criteria are met:

(1) The data have been updated in such a manner that they can be applied to all potential applicants in the nonmetropolitan or metropolitan areas of a State:

(2) The data are generally available and can be verified by HUD;

(3) The data can be submitted in a usable form no later than 30 days prior to the deadline for submission of preapplications.

(j) *Previous audit findings and outstanding monetary obligations.* HUD shall not accept a preapplication from an applicant or a preapplication in behalf of a unit of general local government that has an outstanding audit finding for any HUD program or has an outstanding monetary obligation to HUD. The Regional Administrator may provide waivers to this prohibition, but in no instance shall a waiver be

provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made.

(k) *Program Design.* The program as a whole must principally benefit low- and moderate-income persons and directly impact on the applicant's needs. In addition, the selection process of the Small Cities Program is heavily weighted toward those programs which have the greatest benefit to low- and moderate-income persons. All activities contained within such programs must either benefit low- and moderate income persons, or aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency.

(l) *Activities outside an applicant's boundaries.* An applicant may conduct eligible block grant activities outside its boundaries provided that nonmetropolitan funds may only be used in nonmetropolitan areas, and metropolitan funds may only be used in metropolitan areas. These activities must be demonstrated to be appropriate to meeting the applicant's needs and objectives and must be consistent with State and local law. This provision includes using funds provided under this Subpart in a metropolitan city or an urban county.

§ 570.421 Preapplications and applications by States and counties; joint preapplications and applications.

(a) *General.* A State or a county may apply for two grants, one Single Purpose and one Comprehensive, if one or both of the applications are in behalf of one or more units of general local government within its jurisdiction. For purposes of this section, the term "county" does not include urban counties.

(b) *Preapplications and applications in behalf of others.* A State or county which submits a preapplication and application in behalf of one or more units of government shall execute a written cooperation agreement between itself and each participating unit of government. The agreement must be submitted with the preapplication.

The purpose of the cooperation agreement is to delineate the responsibilities and authorities of the State or county applicant and each participating unit of government with respect to the Small Cities preapplication, application, and grant. The agreement must be approved in accordance with local law and provide that the State or county and the participating unit will cooperate in undertaking the grant program, including implementing the Housing Assistance Plan and the certifications submitted with the application. The agreement may include other responsibilities and obligations to which the State or county applicant and the participating unit of government agree. The State or county applicant is responsible for ensuring compliance with all laws, regulations, and Executive Orders applicable to the Community Development Block Grant program.

(c) *Joint preapplications and applications.* Units of general local government, including counties, may submit a joint preapplication and application which addresses common problems faced by the jurisdictions. A joint preapplication and application must address a common problem, the solution to which requires the mutual action of the joint applicants.

A joint preapplication and application must be pursuant to a written cooperation agreement submitted with the preapplication. The purpose and the content of this cooperation agreement is the same as described in § 570.421(b). In addition, this cooperation agreement must authorize one of the participating units of governments to act as the applicant which will submit the preapplication and application to HUD.

(d) *Limits on applying for assistance.* A unit of general local government included in a preapplication and an application submitted by a State or county in its behalf, or included in a joint preapplication and application, may not otherwise apply for assistance under this Subpart.

(e) *Data considerations.* With respect to a county or State preapplication in behalf of itself, data used to rate the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)) is that of the entire unincorporated area of the county or counties in which activities are to take place. However, HUD may use data at the town or township level where it is available and used for all county or State applicants within a competition.

If a county applicant proposes activities in a metroplitan city or an urban county, data from the entire unincorporated area of the county is used. Data from the metropolitan city or urban county is not used.

With respect to a county or State preapplication in behalf of an incorporated place, data from the incorporated place is used to rate the needs factors. When a preapplication is in behalf of more than one other unit of government, data from each is aggregated.

For joint preapplications, data from each participating unit is aggregated.

(f) *Housing Assistance Plans.*

(1) If there is a HUD-approved Housing Assistance Plan for a unit of general local government in which the State or county intends to carry out activities, the State or county may satisfy its Housing Assistance Plan requirements by indicating its support of the existing plan.

(2) For joint applications and applications in behalf of units of general local government, the Housing Assistance Plan (HAP) must relate to each unit of government in which activities are to be carried out. The plan must be adopted by each unit of general local government included in the application and must be consistent with any other HAP applicable to these jurisdictions.

§ 570.422 State participation. [Reserved]

§ 570.423 Comprehensive Grant program, general requirements.

(a) *Definition.* A comprehensive program must meet all of the following criteria:

(1) Address a substantial portion of the identifiable community development needs within a defined concentrated area or areas;

(2) Involve two or more activities that bear a relationship to each other, excluding administration, planning, and management, and which either in terms of support or necessity are carried out in a coordinated manner;

(3) Have beneficial impact within a reasonable period of time; and

(4) Be developed through assessment of the applicant's community development, housing, and economic needs.

Exceptions to the requirement that the activities be concentrated within a defined area or areas may be made if the applicant can demonstrate to HUD's satisfaction that the proposal represents a reasonable means of addressing the needs identified.

A preapplication for a Comprehensive Grant which does not meet the definition of the Comprehensive Grant program may be considered for a Single Purpose Grant.

(b) *Funding Commitments.*

(1) HUD may make commitments of up to three years for a Comprehensive Grant program, subject to the availability of appropriations. In determining the number of years for which a commitment is made, HUD shall consider the nature of the program proposed, the previous performance of the applicant, including both community development and housing, the capacity of the applicant to carry out the program proposed, the scheduling of the program, and the year-by-year fund requirements. Special consideration for funding commitments beyond one year are given

to those applicants currently carrying out a Comprehensive Grant program and subject to the hold-harmless phase out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended.

(2) Grant requests, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program described.

(3) Once an applicant is selected for a multiyear commitment and funds are available, it does not compete in the selection process for funding during subsequent years of its commitment. Funds are provided in the subsequent fiscal years after:

(i) The grantee submits the annual submission of a multiyear application described in § 570.426(i), including an assessment of its performance for each prior grant which addresses the capacity and performance considerations described in § 570.423(c), and HUD determines that the annual program is consistent with that described in the original application or has been properly amended pursuant to § 570.434.

(ii) HUD determines that the grantee's performance is adequate. Performance determinations are based on the criteria described in § 570.423(c).

(iii) HUD approves the application under the provisions of § 570.433.

(c) *Capacity and performance; threshold considerations for grant approval.* No grant is made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have participated in the Block Grant Program previously must have performed adequately. Performance and capacity determinations are made as of the date the preapplication is due in the Area Office and may be the basis for rejecting a preapplication from further consideration. In determining whether an applicant has performed adequately, HUD examines the applicant's performance in the following areas:

(1) *Community development activities.* Compared with the applicant's schedule or schedules submitted in each previously funded application:

(i) The rate of progress achieved in moving activities into execution; and

(ii) The rate of expenditure and obligation of community development funds.

(2) *Housing assistance.* (i) The actual progress achieved in meeting goals established under an approved Housing Assistance Plan;

(ii) Absent achievement of such goals, the actions taken by the community to facilitate the provision of housing assistance for low- and moderate-income persons, such as:

(A) Removal of impediments such as restrictive zoning or building codes;

(B) Changes in land use to facilitate construction;

(C) Provision of sites and/or necessary infra-structure;

(D) Organization of a housing authority or other similar entity;

(E) Development of a Section 701 land use or housing element.

(3) *Compliance with applicable laws and regulations.* (i) The applicant's compliance with the laws, regulations, and Executive Orders applicable to the Community Development Block Grant program;

(ii) Resolution of findings made as a result of HUD monitoring; and

(iii) Resolution of audit findings.

§ 570.424 Selection system for Comprehensive Grants.

Preapplications are rated and scored against each of the following factors. All points for each factor are rounded to the nearest whole number. The maximum score possible is 995 points for metropolitan applicants and 945 for nonmetropolitan applicants.

	Points
(a) Need—absolute number of poverty persons	75
(b) Need—percent of poverty persons	75
(c) Program factor—impact of the proposed program	400
(d) Benefit to low- and moderate-income persons	200
(e) Outstanding performance:	
Housing	100
Local equal opportunity efforts	50
(f) Areawide Housing Opportunity Plan (AHOP) (metropolitan applicants only)	50
(g) State's rating	25
(h) Energy conservation or production	20

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, are scored separately with respect to the needs factors of § 570.424(a)–(b).

(a) *Need—absolute number of poverty persons (75 points).* All applicants are compared in terms of the number of persons whose incomes are below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 75.

(b) *Need—percent of poverty persons (75 points).* All applicants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 75.

(c) *Program factor—impact of the proposed program (400 points).* Each applicant shall select four program design criteria from among the following eleven. HUD shall measure the impact of the program on low- and moderate-income persons for each of the program design criteria selected, based on the results to be achieved in relation to the amount of funds requested, the number of persons to benefit given the type of program, the nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions taken by the applicant to address the need, whether displacement will be involved and what steps will be taken to minimize involuntary displacement and to mitigate its adverse effects or related hardships, environmental considerations, and where appropriate, site selection standards. Each applicant must use specific measurable terms to explain how its program benefits low- and moderate-income persons.

(1) *Program design criteria.*

(i) Supports comprehensive neighborhood conservation, stabilization, and/or revitalization.

(ii) Provides housing choice on a regional basis; or implements a HUD-approved Areawide Housing Opportunity Plan.

(iii) Provides housing choice within the community either outside areas with concentrations of minorities and low- and moderate-income persons or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood.

(iv) Supports the expansion of housing by providing additional housing units not previously available.

(v) Addresses a serious deficiency in a community's public facilities.

(vi) Expands or retains employment opportunities.

(vii) Attracts or retains businesses which provide essential services.

(viii) Removes slums or blighted conditions.

(ix) Resolves a serious threat to health or safety.

(x) Supports another Federal program or programs being undertaken in the community or deals with the adverse impact of another recent Federal action. The other Federal program or action must be of substantial size or impact in the community in relation to the proposed program.

(xi) Supports energy production or conservation.

(2) *Rating and ranking methods.* This factor requires a two-step rating process. First, the potential of the proposed program of activities to

achieve the results intended by each selected criterion when considered in relation to other communities addressing the same criterion is assessed. A numerical value is assigned, based on the following:

The results would have insignificant impact	0
The results would have minimal impact	2
The results would have a moderate impact	4
The results would have a substantial impact	8

After each of the four criteria selected by an applicant is rated and a value assigned, the total is added (Program Impact Score maximum is 32). Then, the actual points are determined by dividing each applicant's Program Impact Score by the highest Program Impact Score achieved by any applicant and multiplying the result by four hundred.

(d) *Benefit to low and moderate income persons (200 points).* All applicants are compared in terms of the percent of funds benefitting low- and moderate-income persons. Determining the percentage of funds benefitting low- and moderate-income persons requires three steps. First, the amount of funds to benefit low- and moderate-income persons for each activity is determined by dividing the number of low- and moderate-income persons by the total number of persons to benefit from the activity and multiplying by the amount of Small Cities Program funds requested for that activity. Then, these amounts for each activity are added and divided by the total amount of requested Small Cities Program funds. This number multiplied by 100 is the percentage of funds benefitting low- and moderate-income persons. Costs of planning, management, and administration may not be included in this computation.

HUD obtains individual scores by dividing each applicant's percentage by the highest percentage achieved by any applicant and multiplying the results by 200. The appropriate median income amounts for low and moderate income are supplied by HUD. Where appropriate, HUD may modify the geographic area used in the definition of low- and moderate-income persons at § 570.3 (o) and (p).

(e) *Performance in housing and equal opportunity (150 points)*—(1) *Housing efforts (100 points).* (i) Fifteen points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) providing housing for low- and moderate-income families located in a manner which provides housing choice either in areas outside of minority and low- and moderate-income concentrations or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood; or if the community is predominantly inhabited by persons who are members of minority and/or low-income groups, HUD shall assess the extent to which assisted housing is distributed throughout the community.

(B) integrated occupancy by race and ethnicity in assisted housing projects and, if the applicant has a Section 8 Existing Housing Program, evidence of locational choice in the Section 8 Existing Housing Program demonstrated in the occupancy of units.

(C) active enforcement of a fair housing ordinance at least equivalent in scope and coverage to Title VIII of the Civil Rights Act of 1968.

(D) implementation of a HUD-approved New Horizons Fair Housing Assistance Project (or demonstrated participation in a HUD-approved county/State/regional New Horizons Project) or a fair housing strategy that is equivalent in scope to a New Horizons Project.

(ii) Twenty points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) meeting its large family housing assistance needs in relation to that proportion of need.

(B) carrying out housing assistance goals from previous HAP(s) or, if the applicant has no prior HAP, meeting a significant proportion of its housing assistance needs.

(2) *Local Equal Employment and Entrepreneurial Efforts (50 points).* (i) Twenty-five points are awarded to each applicant that demonstrates that its percentage of minority permanent, full-time employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants, unless the percentage of minority population in the community itself exceeds that of the county or SMSA, in which case minority employment must generally reflect the minority population of the community.

(ii) Twenty points are awarded to each applicant that demonstrates that at least five percent of all its contracts based on dollar value have been awarded within the past two years to minority owned and controlled businesses, providing the applicable percentage of minority population is five percent or less. If the applicable percentage of minority population exceeds five percent, then the applicant must have a corresponding percentage of its contracts awarded to minority businesses; however, twenty percent of the total dollar value of its contracts awarded to minority business enterprise will be sufficient for award of points for any applicant. The applicable percentage of minority population is the percentage of minorities in the applicant's jurisdiction, or in the county for nonmetropolitan applicants, or in the SMSA for metropolitan applicants, whichever is higher.

(iii) Five points are awarded to each applicant that demonstrates that at least five percent of its deposits from all sources, measured as an average daily balance over the past year, have been deposited in a minority owned and controlled financial institution. The year measured is the year ending the date the preapplication is due in the HUD Area Office.

(f) *Areawide Housing Opportunity Plan (metropolitan applicants only, 50 points).* Fifty points are awarded to each metropolitan applicant that is in its first year of participation in a HUD-approved Areawide Housing Opportunity Plan (AHOP). Each applicant which has been a participating jurisdiction in a HUD-approved AHOP for more than one year is awarded the fifty points if the areawide planning organization with the approved AHOP certifies that the applicant is adequately carrying out its responsibility to implement the AHOP. An applicant which is a participating jurisdiction in an AHOP but which is not adequately fulfilling its commitments to implement the AHOP is awarded zero points. The time period considered is measured from the date of written HUD approval of the AHOP to the date the preapplication is due in the HUD Area Office.

The Area Office may reject the certification by the areawide planning organization if there are data or facts available to the Area Office which indicate that a community is not carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).* Where there is a HUD approved 701 strategy statement, the State may recommend award of zero to 25 points to each applicant, except itself, whose program implements a State growth or resource coordination strategy or enhances the community's position as a regional center of economic development, as determined by the State. The State may take into consideration regional growth or resource coordination strategies. The State must submit its recommendation within 45 days after the date preapplications are due in the Area Office. If the State's recommendation is not received within 45 days or if the State chooses not to recommend point

awards, each applicant is awarded zero points.

In the absence of an approved State strategy, the Area Office shall award zero or 25 points in consultation with the State. The Area Office shall consider whether the proposed program implements a State growth or resource coordination strategy, or enhances the community's position as a regional center of economic development.

(h) *Energy conservation or production (20 points).* Twenty points are awarded to each applicant that demonstrates that its proposed program will promote energy conservation or support energy production in the applicant's jurisdiction.

(i) *Final ranking.* The points received by each applicant on the rating factors are totaled and the preapplications ranked according to the point totals. Invitations for full applications are based on this final ranking to the extent funds are available. However, if an Area Office made a procedural error in the previous year's competition, that, when corrected, would have resulted in awarding sufficient points to warrant an invitation to an applicant, HUD may invite that applicant, if otherwise eligible, to submit a full application for current year funding. HUD may invite additional applications on a stand-by basis in the event one of the higher ranked preapplications is not approved, or additional funds become available.

§ 570.425 Preapplications for Comprehensive Grants.

(a) *Submission requirements.* Preapplications shall be submitted in a form prescribed by HUD to the appropriate Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A-102;

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed program; and identification of the criteria for selection to be addressed by the program and whether the program principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency;

(ii) A description of the program to be carried out with assistance under this Subpart and an estimate of the cost of the proposed activities including, if applicable other sources of Federal funding;

(iii) Information that demonstrates the impact the proposed program will have on the design criteria being addressed;

(iv) An analysis of the amount of funds that will be used to benefit low- and moderate-income persons. The analysis shall indicate the total number of persons to be served, the number of persons that meet the definition of low and moderate income, how such low- and moderate-income persons are served, and the nature of the benefit; and

(v) Other information appropriate to respond to the other criteria for selection set forth in § 570.424, particularly information on outstanding performance, AHOP, and State's rating.

(3) A certification assuring compliance with all the citizen participation requirements of § 570.431(c)(1).

(4) A map of the applicant's jurisdiction which clearly identifies:

(i) census tracts and/or enumeration districts;

(ii) location of the proposed activities including boundaries of areas in which activities will be concentrated and service areas of activities where appropriate;

(iii) location of areas with minorities, showing numbers and percent; and

(iv) location of areas with low- and moderate-income persons, showing number and percent.

(5) *Performance reporting.* If the applicant has received prior assistance under this Part, an assessment of performance under prior grants, addressing the capacity and performance considerations described under § 570.423(c).

(b) *Submission of additional data.* Only data submitted by the deadline for submission of preapplications is considered in the selection process, unless specifically requested by HUD in writing. All other data received after the deadline will be returned to the applicant.

§ 570.426 Applications for Comprehensive Grants.

(a) *Community Development and Housing Plan Summary.* Each applicant shall submit on a form prescribed by HUD a summary of its three year community development and housing plan which identifies its community development and housing needs, describes a comprehensive strategy for meeting those needs, and specifies both short- and long-term objectives to be met by the strategy. The community development and housing plan summary shall include:

(1) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households and any special needs of indentifiable segments of the total group of lower income persons. The narrative shall include a brief description of the major needs for neighborhood revitalization, for community facilities and public improvements, for housing, and for economic development needs.

(2) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income households residing in or expected to reside in the community and any special needs of identifiable segments of the lower income population. The provision of all improved community facilities and public improvements, including supporting health, social and similar services where necessary or appropriate, shall be described in a manner that fully ensures opportunity for participation by, and benefits to, the handicapped. The strategy shall include the following components:

(i) *Communitywide component* which describes the development strategy of the applicant, the major objectives the applicant seeks to accomplish, the priorities it has established, and the factors it has taken into account in selecting areas for treatment and designing programs to meet identified needs.

(ii) *Neighborhood revitalization* shall include the strategy for maintaining and preserving viable neighborhoods and for upgrading neighborhoods affected by blight and deterioration. The strategy shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community.

(iii) *Housing.* (A) Describe a communitywide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. The strategy shall include a Housing Assistance Plan (HAP) as described in § 570.306. It shall include: the strategy for any programs to be carried out on a communitywide basis, such as provision of rehabilitation financing for low- and moderate-income persons or elimination of detrimental conditions; regulatory and other actions proposed to foster housing maintenance and improvements; strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including members of minority groups and female-headed households, efforts to achieve expanded housing opportunities and actions to affirmatively further fair housing; and

any community facilities and improvements to be provided in furtherance of the applicant's housing strategy and to assure accomplishment of goals for assisted housing.

(B) When displacement or other hardships to low- and moderate-income persons will result from Community Development Block Grant funded acquisition, demolition, code enforcement, and rehabilitation, the strategy shall describe what steps will be taken to minimize involuntary displacement and to enable displaced persons to remain in the same neighborhood if they prefer.

(3) *Economic development.* A description of the applicant's strategy for economic development is required from applicants that propose block grant funded economic development activities. The strategy shall include a description of:

(i) *Major needs* for economic development in the locality.

(ii) *The activities proposed* to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions, and a timetable for provision of other Federal and State resources.

(iii) *The number and types of permanent jobs* expected to result from economic development projects, particularly jobs for unemployed or underemployed population groups and low- and moderate-income persons, and the types and extent of any job training which will be provided to them.

(iv) *Evidence of financial commitments or interest by developers* in new or expanded employment facilities. In the absence of commitments, the city may supply feasibility studies or other documents evidencing the marketability of new or expanded employment facilities.

(b) *Program schedule.* Each applicant shall submit, in a format prescribed by HUD, a listing of dates for major milestones for each activity to be funded.

The program schedule must be consistent with the preapplication and must incorporate by reference the submission requirements of § 570.425(a). Should activities change in any way from the description provided in the preapplication, a complete description of the change must be submitted.

(c) *Three year project summary.* In addition to the program schedule required under paragraph (b) for the first year increment of a multiyear grant, multiyear applicants shall also submit a three year project summary. It shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the period of the multiyear commitment to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided, and indicating whether the activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency.

(d) *Cost summary.* Each applicant shall submit a cost summary. An applicant requesting a multiyear funding commitment should indicate only those costs associated with the annual community development program for which grant funds are being requested. All other applicants should show the full costs of their programs for which grant funds are requested.

(e) *Housing Assistance Plan.* Each applicant for Comprehensive Grants shall submit a Housing Assistance Plan in accordance with § 570.306 of Subpart D. In addition to the requirements listed in § 570.306, any units proposed to be included in the Housing Assistance Plan as goals for rehabilitation must meet the Cost-Effective Energy Conservation Standards pursuant to 24 CFR Part 39. An applicant located within a county which has a HUD-approved Housing Assistance Plan developed in accordance with § 570.306 may submit that country's Housing Assistance Plan, if it elects to assume its appropriate proportion of the housing assistance established as a goal by the county, and it can demonstrate in the application that the county's survey of housing conditions and assessment of housing assistance needs have incorporated information for the applicant. An agreement between the country and the applicant must be executed which identifies the applicant's appropriate proportion of the housing assistance goals and obligates the applicant to assume responsibility for its appropriate proportion.

(f) *Assurances.* The assurances required by § 570.307 of Subpart D shall be submitted by all comprehensive applicants, except that § 570.430(f)(1)–(6) shall apply in lieu of § 570.307(d).

(g) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district), or geographic quadrant of the community where census tracts or enumeration districts are either not available or include a substantial area, such as an entire community:

(1) location of areas with minorities, showing number and percent;

(2) location of areas with low- and moderate-income persons, showing number and percent;

(3) locations of the proposed activities described in the program schedule and, if applicable, the three year project summary, including boundaries of areas in which activities will be concentrated and service areas of activities where appropriate;

(4) the median income of the Census tracts in which the proposed activities are to be undertaken;

(5) general locations of proposed new or rehabilitated housing assistance;

(6) the location of areas with substandard and deteriorated housing, showing number and percent.

Maps should be clearly legible and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

Maps submitted with the preapplication which meet these requirements need not be resubmitted with the application.

(h) *Title VI compliance.* All applicants, except previous hold-harmless grantees and applicants applying for the second or third year increment of a multiyear Comprehensive Grant, shall submit, in a form prescribed by HUD, evidence of compliance with title VI of the Civil Rights Act of 1964. This enables HUD to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(i) *Multiyear applicants.*

(1) Applications for the second or third year increments of a HUD commitment for a multiyear grant shall consist of:

(i) A cost summary as required by paragraph (d);

(ii) Annual housing action program in accordance with § 570.306(b)(4);

(iii) Program schedule as required by paragraph (b), for any activities to be funded;

(iv) Assurances as required by paragraph (f);

(v) An assessment of the grantee's performance for each prior grant which addresses the capacity and performance considerations described in § 570.423(c).

(2) *Establishment of application submission dates.* Area Offices shall establish individual dates for

submission of each annual application of a multiyear commitment, but in no event may such a date be less than 45 days prior to the end of the fiscal year from which funds are requested.

§ 570.427 Single Purpose Grant program general requirements.

(a) *General.* A Single Purpose Grant provides funds for one or more projects, each consisting of an activity or a set of activities and designed to meet a specific community development need. Funds are available to address serious problems with housing needs, or economic conditions which principally affect persons of low- and moderate-income, or public facilities which affect the public health and safety.

(b) *Projects.* Within a single preapplication, an applicant may seek funds for more than one project and for more than one problem area as long as the total grant request is within any established grant ceilings and individual grant amounts that is established. Each project is rated separately with respect to § 570.428 (c), (d), (g), (h), and (i). Grants requested, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program.

(c) *Performance Requirements.* A community which has previously participated in the Block Grant Program must satisfy the capacity and performance criteria described in § 570.423(c) before applying for another grant. Performance determinations are made as of the date the preapplication is due in the Area Office.

§ 570.428 Selection system for Single Purpose Grants.

Preapplications are rated and scored against each of the following factors. All points for each factor are rounded to the nearest whole number. The maximum score possible is 1020 points for metropolitan applicants and 970 for nonmetropolitan applicants.

	Points
(a) Need—absolute number of poverty persons	75
(b) Need—percent of poverty persons	75
(c) Program factor—impact of the proposed program	400
(d) Benefit to low- and moderate-income persons	200
(e) Outstanding Performance	
Housing	100
Local equal opportunity efforts	50
(f) Areawide Housing Opportunity Plan (AHOP) (metropolitan applicants only)	50
(g) State's rating	25
(h) Energy conservation or production	20
(i) Other Federal programs	25

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, are scored separately with respect to the needs factors of § 570.428(a)–(b).

(a) *Need—absolute number of poverty persons (75 points).* All applicants are compared in terms of the absolute number of poverty persons below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of poverty persons by the greatest number of poverty persons of any applicant and multiplying the result by 75.

(b) *Need—percent of poverty persons (75 points).* All applicants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of poverty persons by the highest percentage of poverty persons of any applicant and multiplying the results by 75.

(c) *Program factor—impact of the proposed program (400 points).* Each project is compared to others addressing the same problem area and rated according to the impact it will have on the needs of low- and moderate-income persons identified. The intent of this factor is to select those projects which will have the most significant impact. In assessing impact, consideration is given to the results to be achieved in relation to the amount of funds requested, the number of persons to benefit given the type of the program, the nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions taken by the applicant to address the need, whether displacement will be involved and what steps will be taken to minimize involuntary displacement and to mitigate its adverse effects and related hardships, environmental considerations, considering site selection standards where appropriate, and the nature of the activity.

(1) *Problem areas.* Each project described in the preapplication must address one of the following three categories:

(i) Housing.

(ii) Deficiencies in public facilities which affect the public health and safety.

(iii) Economic conditions.

Each applicant must use specific measurable terms to explain how its project impacts the problem area selected and benefits low- and moderate-income persons.

(2) *Rating method.* All projects addressing the same problem area are compared in terms of impact on the identified problem area, as follows:

The project would have insignificant impact	0
The project would have minimal impact	100
The project would have moderate impact	200
The project would have substantial impact	400

(d) *Benefit to low- and moderate-income persons (200 points).* All projects addressing the same problem area are compared in terms of the percent of funds benefitting low- and moderate-income persons. Determining the percentage of funds benefitting low- and moderate-income persons requires three steps. First, the amount of funds to benefit low- and moderate-income persons for each activity is determined by dividing the number of low- and moderate-income persons by the total number of persons to benefit from the activity and multiplying by the amount of Small Cities Program funds requested for that activity. Then, these amounts for each activity are added and divided by the total amount of requested Small Cities Program funds. This number multiplied by 100 is the percentage of funds benefitting low- and moderate-income persons. Cost of planning, management, and administration may not be included in this computation. HUD obtains individual scores by dividing each applicant's percentage by the highest percentage achieved by any project addressing the same problem area and multiplying the result by 200. The appropriate median income amounts for low and moderate income are supplied by HUD. Where appropriate, HUD may modify the geographic area used in the definition of low- and moderate-income persons at § 570.3 (o) and (p).

(e) *Performance in housing and equal opportunity (150 points)*—(1) *Housing efforts (100 points).* (i) Fifteen points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) Providing housing for low- and moderate-income families located in a manner which provides housing choice either in areas outside of minority and low- and moderate-income concentrations or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood; or if the community is predominantly inhabited by persons who are members of minority and/or low-income groups, HUD shall assess the extent to which assisted housing is distributed throughout the community.

(B) Integrated occupancy by race and ethnicity in assisted housing projects and, if the applicant has a Section 8 Existing Housing Program, evidence of locational choice in the Section 8

Existing Housing Program demonstrated in the occupancy of units.

(C) Active enforcement of a fair housing ordinance at least equivalent in scope and coverage to Title VIII of the Civil Rights Act of 1968.

(D) Implementation of a HUD-approved New Horizons Fair Housing Assistance Project (or demonstrated participation in a HUD-approved county/State/regional New Horizons Project) or a fair housing strategy that is equivalent in scope to a New Horizons Project.

(ii) Twenty points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) Meeting its large family housing assistance needs in relation to that proportion of need.

(B) Carrying out housing assistance goals from previous HAP(s) or, if the applicant has no prior HAP, meeting a significant proportion of its housing assistance needs.

(2) *Local Equal Employment and Entrepreneurial Efforts (50 points).*

(i) Twenty-five points are awarded to each applicant that demonstrates that its percentage of minority permanent, full-time employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants, unless the percentage of minority population in the community itself exceeds that of the county or SMSA, in which case minority employment must generally reflect the minority population of the community.

(ii) Twenty points are awarded to each applicant that demonstrates that at least five percent of all its contracts based on dollar value have been awarded within the past two years to minority owned and controlled businesses; providing the applicable percentage of minority population is five percent or less. If the applicable percentage of minority population exceeds five percent, then the applicant must have a corresponding percentage of its contracts awarded to minority businesses; however, twenty percent of the total dollar value of its contracts awarded to minority business enterprise will be sufficient for award of points for any applicant. The applicable percentage of minority population is the percentage of minorities in the applicant's jurisdiction, or in the county for nonmetropolitan applicants, or in the SMSA for metropolitan applicants, whichever is higher.

(iii) Five points are awarded to each applicant that demonstrates that at least five percent of its deposits from all sources, measured as an average daily balance over the past year, have been deposited in a minority owned and controlled financial institution. The year measured is the year ending the date the preapplication is due in the HUD Area Office.

(f) *Areawide Housing Opportunity Plan (metropolitan applicants only, 50 points).* Fifty points are awarded to each metropolitan applicant that is in its first year of participation in a HUD-approved Areawide Housing Opportunity Plan (AHOP). Each applicant which has been a participating jurisdiction in a HUD-approved AHOP for more than one year is awarded the fifty points if the areawide planning organization with the approved AHOP certifies that the applicant is adequately carrying out its responsibility to implement the AHOP. An applicant which is a participating jurisdiction in an AHOP but which is not adequately fulfilling its commitments to implement the AHOP is awarded zero points. The time period considered is measured from the date of written HUD approval of the AHOP to the date the preapplication is due in the Area Office. The Area Office may reject the certification by the areawide planning organization if there are data or facts available to the Area Office which indicate that a community is not carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).* Where there is a HUD approved 701 strategy statement, the State may recommend award of zero to 25 points to each applicant, except itself, whose program implements a State growth or resource coordination strategy or enhances the community's position as a regional center of economic development, as determined by the State. The State may take into consideration regional growth or resource coordination strategies. The State must submit its recommendation within 45 days after the date preapplications are due in the Area Office. If the State's recommendation is not received within 45 days or if the State chooses not to recommend point awards, each applicant is awarded zero points.

In the absence of an approved State strategy, the Area Office shall award zero or 25 points in consultation with the State. The Area Office shall consider whether the proposed project implements a State growth or resource coordination strategy, or enhances the community's position as a regional center of economic development.

(h) *Energy conservation or production (20 points).* Twenty points are awarded to each applicant that demonstrates that its proposed program will promote energy conservation or support energy production in the applicant's jurisdiction.

(i) *Other Federal programs (25 points).* Twenty-five points are awarded to each applicant which demonstrates that its proposed program supports another Federal program or programs being undertaken in the community or deals with the adverse impact of another recent Federal action. The other Federal program or action must be of substantial size or impact in the community in relation to the proposed program.

(j) *Final ranking.* The points received by each project on the rating factors are totalled, and the projects ranked according to the point totals. Invitations for full applications are based on this final ranking to the extent funds are available. However, if an Area Office made a procedural error in the previous year's competition, that, when corrected, would have resulted in awarding sufficient points to warrant an invitation to an applicant, HUD may invite that applicant to submit a full application for current year funding. HUD may invite additional applications on a standby basis in the event one of the higher-ranked projects is not approved or additional funds become available.

§ 570.429 Preapplications for Single Purpose Grants.

(a) *Submission requirements.* Preapplications shall be submitted in a form prescribed by HUD, to the appropriate HUD Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A-102.

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed activity(ies); an identification of which of the three possible problem areas (housing, public facilities which affect the health or safety, or economic conditions) that each project(s) will address; and whether the program principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency;

(ii) A description of the activity(ies) to be carried out with assistance under this Subpart and an estimate of the cost;

(iii) A statement describing the impact the activity will have on the problem area selected and the needs of low- and moderate-income persons, including information necessary for considering the program impact factor.

(iv) A statement on the percent of funds requested that will benefit low- and moderate-income persons. The

statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(v) Other information appropriate to respond to the criteria for selection set forth in § 570.428, particularly information on outstanding performance, AHOP, State's rating, and other Federal programs factors.

(vi) A certification assuring compliance with the citizen participation requirements of § 570.431(c)(1).

(3) *Maps.* A map of the applicant's jurisdiction which identifies:

(i) census tracts and/or enumeration districts;

(ii) location of the proposed activities including boundaries of areas in which activities will be concentrated, if any, and service areas of activities where appropriate;

(iii) location of areas with minorities, showing number and percent;

(iv) location of areas with low- and moderate-income persons, showing number and percent.

(4) *Performance reporting.* If an applicant has received prior assistance under this Part, an assessment of performance under each prior grant addressing the capacity and performance considerations described in § 570.423(c).

(5) *Submission of additional data.* Only that data received by the deadline established for preapplications will be considered in the selection process unless additional data are specifically requested, in writing, by HUD. Unrequested material received after the deadline will be returned to the applicant.

§ 570.430 Applications for Single Purpose Grants.

(a) *Program schedule.* Each applicant shall submit, in a format prescribed by HUD, a listing of dates for major milestones for each activity to be funded.

The program schedule must be consistent with the preapplication and must incorporate by reference the submission requirements of § 570.429(a). Should activities change in any way from the description provided in the preapplication, a complete description of the change must be submitted.

(b) *Housing assistance plan.* Each applicant is required to submit a Housing Assistance Plan. An applicant located within a county which has a HUD-approved Housing Assistance Plan may submit that county's Housing Assistance Plan in lieu of preparing a separate Plan, if it elects to assume its fair share of the housing assistance established as a goal by the county, and it can demonstrate in the application that the county's survey of housing conditions and assessment of housing assistance needs have incorporated information for the applicant. An agreement between the county and the applicant must be executed which identifies the applicant's fair share of the housing assistance goals and obligates the applicant to assume responsibility for its fair share.

(1) *Housing needs and goals.* (i) The applicant shall describe the condition of the housing stock in the community by tenure (renter or owner). Estimates shall be made of the vacancy rates for non-seasonal, available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(ii) The applicant shall assess the housing assistance needs of lower-income households currently residing in the commuity by tenure and by household type (elderly and handicapped, family and non-elderly individuals, and large family), including any identifiable segment of the total group of lower income households in the community and those households to be displaced by public action and, where information is available, by private action during the program period. Housing assistance needs of lower-income households expected to reside shall be assessed in accordance with § 570.306(b)(2)(ii).

(iii) The applicant shall propose a realistic goal to address the identified needs of lower-income households. The goal should specify the number of dwelling units or persons to be assisted by housing type (new, rehabilitated and existing units), by tenure, and by household type. The goal should address relative proportions of need insofar as practicable while providing for the development of feasible projects. The applicant shall describe the actions it plans to take to further fair housing for minorities and women pursuant to its certifications under § 570.307(*1*)(*2*).

(2) *HUD review of HAP.* Where substantial housing needs are identified pursuant to paragraph (b)(1) of this section, HUD may determine that a Housing Assistance Plan with only minimal goals is plainly inappropriate to meeting the applicant's needs. Housing types (new, rehabilitated or existing dwelling units) proposed to meet housing assistance needs should be established in relation to a community's housing market and should be realistic in terms of estimating the number and types of units which can be absorbed by the market within a reasonable period of time and provide for a balanced housing market. Any units proposed to be included in the HAP as goals for rehabilitation must meet, at a minimum, the Section 8 Existing Housing Quality Standards pursuant to 24 CFR 882.109 and the Cost-Effective Energy Conservation Standads pursuant to 24 CFR Part 39, upon completion. Weatherization and other similar activities will not alone satisfy rehabilitation housing assistance goals.

(c) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district), or geographic quadrant of the community where census tracts or enumeration districts are either not available or include a substantial area, such as an entire community;

(1) location of areas with minorities, showing number and percent;

(2) location of areas with low- and moderate-income persons showing number and percent;

(3) locations of proposed activities including boundaries of areas in which activities will be concentrated, if any, and service areas of activities if appropriate;

(4) the median income of the census tracts in which the proposed activities are to be undertaken;

(5) general locations of proposed new or rehabilitated housing assistance;

(6) the location of areas with substandard and deteriorated housing, showing number and percent.

Maps shall be clearly legible and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

Maps submitted with the preapplication which meet these requirements need not be resubmitted with the application.

(d) *Cost analysis.* The total cost of each activity must be identified as well as the amount of Single Purpose grant funds that will be used for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated.

(e) *Title VI compliance.* All applicants, except previous hold-harmless grantees shall submit, in a form prescribed by HUD, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables HUD to determine whether the benefits will be provided on a nondiscriminatory basis

and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(f) *Certifications of assurances.* The certifications of assurance required by § 570.307 of Subpart D shall be submitted by all Single Purpose applicants except that in lieu of § 570.307(d) the applicant shall certify that it:

(1) Has prepared and followed a written citizen participation plan that meets the requirements of 24 CFR 570.431(b);

(2) Has provided citizens with an opportunity to participate in the development of the Housing Assistance Plan;

(3) Has provided adequate notices of public hearings as required by the written plan;

(4) Has held hearings on the proposed application before adoption of a resolution or similar action by the local governing body authorizing the filing of the application;

(5) Will provide for citizen participation when considering amendments to the Community Development Program and the Housing Assistance Plan; and

(6) Will provide for citizen participation in the planning, implementation and assessment of the Community Development Program including the development of the report on performance and the submission of views to the HUD Area Office.

§ 570.431 Citizen participation requirements for Comprehensive and Single Purpose Grants.

(a) *General.* Each applicant shall provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Plan.

(b) *Written Citizen Participation Plan.* To achieve these goals, each applicant shall prepare and follow a written citizen participation plan that serves as a citizens' guide to interacting with the block grant program in a meaningful way. Citizens shall be involved in the development of, and any changes to the plan. The plan shall remain in effect until all activities assisted under this Subpart are completed or until it is superseded by a new plan. The plan must provide procedures that meet the following requirements:

(1) Provide a process of citizen participation at the communitywide level with regard to the overall application, the Community Development Program, and the assessment of performance where applicable.

(2) Solicit and respond in a timely manner, to views and proposals of citizens, particularly low and moderate income persons, members of minority groups, and residents of blighted areas where activities are proposed. Written responses shall be made to written proposals.

(3) Provide technical assistance to facilitate citizen participation, where requested. The level and type of technical assistance shall be determined by the applicant.

(4) Provide adequate notices of public hearings and the availability of the report on assessment of performance, where applicable, in a timely manner and in such a way as to make them accessible and understandable to all citizens, including non-English speaking persons. The plan must state the number of days prior to a hearing that a notice will be published.

(5) Schedule hearings to obtain citizen views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.

(6) Conduct a minimum of two public hearings at both preapplication and application stages. A public hearing shall be held during both planning processes and a public hearing shall be held prior to the submission of both documents to the HUD Area Office. An exception is provided at paragraph (c)(2)(ii)(A) of this section for subsequent full applications under a multiyear commitment. Citizens shall be given an opportunity to assess performance under previous grants in at least one public hearing at the preapplication and at least one public hearing at the full application stage.

(7) Conduct at least one public hearing during the grant closeout process, prior to submission to HUD of the assessment of performance report, if such a report has not been made and a hearing has not been held concerning performance in the last 12 months.

(8) Provide full public access to program records and information and make affirmative efforts to get adequate information to citizens, especially persons of low and moderate income and residents of blighted neighborhoods and project areas. The citizen participation plan shall identify the information that will be made available to the public by the applicant.

(9) Conduct a minimum of two public hearings on any amendment requiring HUD approval. A public hearing shall be held to consider the merits of the amendment in its formative stages and a public hearing shall be held on the amendment when it is ready for submission. Citizens, particularly affected citizens, shall also be involved in amendments not requiring prior HUD approval, budget revisions, and changes to the Community Development Program and the Housing Assistance Plan. The methods by which citizens will be involved shall be described in the plan.

(10) Involve citizens in planning, implementing and assessing the Community Development Program and performance. The methods by which citizens and citizen organizations will be given the opportunity to assess and submit comments on the applicant's community development performance shall be described in the plan.

(11) Advise citizens of the bases and process to be used to submit objections to HUD to the approval of a preapplication or full application.

(12) Ensure low- and moderate-income persons and minorities substantial representation on any advisory committee.

(13) Provide bilingual opportunities at public hearings, when necessary.

(14) Provide written responses to written complaints generally within 15 working days.

(c) *Requirements for citizen participation in each stage of the application process*—(1) *Preapplication Stage.* The objective of citizen participation at this stage is to provide for meaningful citizen input in the decision making process during the consideration of priorities and of options associated with the development and submission of the preapplication. At this stage the applicant shall assure that the following citizen participation requirements have occurred:

(i) Developed and made available to the public a written Citizen Participation Plan at the beginning of the preapplication stage that meets the requirements of paragraph (b). The procedures outlined in this plan were followed during the planning and development of the preapplication prior

to its submission to the HUD Area Office.

(ii) Provided the public with the following information:

(A) The likelihood that more applications will be submitted to HUD than can be funded.

(B) Amount of funds that may be applied for by the applicant for community development.

(C) Range of activities that may be undertaken with these funds, the kind of activities previously funded if any, and the progress made with respect to those activities.

(D) The processes to be followed in soliciting and responding to the views and proposals of citizens in a timely manner.

(E) A summary of other important program requirements.

(2) *Full Application Stage.* The citizen participation process at this stage should reflect primarily on the development and adoption of the HAP, and where applicable, the three year Community Development and Housing Plan, in addition to the final adoption of the full application prior to its submission to the HUD area office. The applicant shall assure that the following citizen participation requirements have occurred:

(i) *Initial Full Application.* (A) The citizen participation plan as prescribed in paragraph (b) of this section has been followed insofar as it relates to the full application.

(B) Provide certifications of assurance as prescribed in § 570.430(f).

(ii) *Subsequent full applications under multiyear commitments.*

(A) Conduct at least one hearing prior to the second and the third year submission of the full application under a multiyear commitment that provides citizens with an opportunity to comment on the application and to assess prior program progress and performance. The requirements of paragraph (b) of this section that are applicable to full applications shall be met, except that only one hearing need be held.

(B) Involve citizens and citizen organizations in the assessment of all activities of the applicant's community development program, including development of the report on assessment of performance.

(C) Provide to HUD certifications of assurances as prescribed in § 570.430(f).

(3) *Post Approval Stage.* Assure citizen participation when considering subsequent amendments to the Community Development Program and the Housing Assistance Plan in accordance with the requirements at § 570.431(b)(9) and during closeout in accordance with § 570.431(b)(7).

(4) *Assessment of performance.* A copy of each written citizen comment or complaint on the grantee's community development performance, the grantee's assessment of the comment or complaint, and the grantee's description of any actions taken and any written response made to the comment or complaint, if any, shall be submitted to HUD with the report on assessment of performance.

(5) *Consideration of objections to preapplication/applications*—(i) *Notice of Submission of preapplication/application.* The applicant shall, at the time of submission to HUD, publish a notice in a newspaper of general circulation stating that the preapplication/application has been submitted to HUD and is available to interested parties upon request, and describing the conditions whereby citizens may submit objections to approval of preapplications/applications to HUD, as described below.

(ii) *Citizen objections to preapplications/applications.* Persons wishing to object to approval of a preapplication/application by HUD may make such objection known to the appropriate HUD Area Office. HUD will consider objections made only on the following grounds:

(A) The applicant's description of needs and objectives is plainly inconsistent with available facts and data.

(B) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant.

(C) The preapplication/application does not comply with the requirements of this Subpart or other applicable law.

(D) The preapplication/application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely.

Although HUD will consider objections submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the preapplication/application has been submitted to HUD in accordance with paragraph (c)(5)(i) of this section. HUD will not approve a preapplication/application until at least 45 days after receipt of the preapplication/application.

(6) *Citizen comment to HUD.* Persons may comment to the appropriate HUD Area Office at any time concerning the applicant's failure to comply with the citizen participation requirements contained in this section.

§ 570.432 Single Purpose Grants for imminent threat to public health or safety.

(a) *Criteria.* The following criteria apply for an imminent threat to public health or safety:

(1) Notwithstanding the provisions of § 570.428, the Area Manager may, at any time invite a full application for funds available under this Subpart in response to a request for assistance to alleviate an imminent threat to public health or safety that requires immediate resolution by waiving the requirements for preapplications. HUD shall verify the urgency and the immediacy of the threat with an appropriate authority other than the applicant prior to submission of the full application, and the Area Manager shall review the claim to determine if, in fact, an imminent threat to public health or safety does exist. For example, an applicant with documented cases of disease resulting from a contaminated drinking water supply has an imminent threat to public health, while an applicant ordered to improve the quality of its drinking water supply over the next two years does not have an imminent threat within the definition of this paragraph. These funds are to be used to deal with those threats which represent a unique and unusual circumstance, not for the type of threat that occurs with frequency in a number of communities within a State.

(2) The applicant does not have sufficient local resources, and other Federal or State resources are unavailable to alleviate the imminent threat.

(b) *HUD action.* (1) Each Area Office Manager is authorized to reserve up to 15 percent of the funds allocated pursuant to Subpart B and assigned to the Area Offices for Small Cities Grants in metropolitan and nonmetropolitan areas for use in funding full applications to alleviate imminent threats to the public health or safety. Funds reserved are part of the percentage of funds available for Single Purpose Grants. The 15 percent limit may be applied separately to the metropolitan and nonmetropolitan balances. Full applications shall be submitted in accordance with § 570.430.

(2) The only funds reserved for imminent threats to the public health or safety are those set aside by the Area Manager. After these funds have been depleted, HUD shall not consider further applications relating to imminent threat during that fiscal year.

(c) *Waiver of A-95 requirements.* The requirements for A-95 review and comment pursuant to § 570.435(c) may be waived in the case of an imminent threat. HUD shall notify the appropriate State and areawide A-95 clearinghouses that it is inviting a full application for an imminent threat from an applicant.

(d) *Letter to proceed.* HUD may issue the applicant a letter to proceed to incur costs to alleviate the imminent threat.

(e) Pursuant to 24 CFR 58.21(b)(6), Single Purpose Grants for imminent threat to public health or safety are categorically excluded from the environmental review requirements of 24 CFR Part 58.

§ 570.433 HUD review and actions on full applications for Single Purpose and Comprehensive Grants.

(a) *Full applications.* Only applications from communities that have been invited to submit full applications, including second or third year submissions of multiyear commitments, are accepted for review, and then only if:

(1) The application has been received before the deadline that has been established by the Area Manager, unless the Area Manager decides that an extension of the deadline is warranted;

(2) The application requirements are complete;

(3) The funds requested do not exceed the amount of the invitation by HUD, unless a higher amount is acceptable to HUD;

(4) The activities are essentially the same as those for which a full application was invited;

(5) Any conditions that were established at the time of invitation are satisfied;

(6) Any resources that may be required at the full application stage are, in fact, available; and

(7) The application is submitted to the clearinghouse prior to or concurrently with submission to HUD. The applicant shall indicate in its full application the date it was submitted to the clearinghouse.

(b) *HUD action on full applications*—(1) *Review and notification:* While HUD is not required to review discretionary applications within 75 days, it will try to do so. Following the review, HUD promptly notifies the applicant of the actions taken with regard to its application.

(2) *Criteria for conditional approval.* HUD may make a conditional approval in which case the grant will be approved but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

(i) Where local environmental reviews under § 570.603 have not yet been completed;

(ii) The requirements of § 570.607 regarding the provision of public services and flood or drainage facilities have not yet been satisfied;

(iii) To ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time;

(iv) To ensure the project can be completed within estimated costs; or

(v) Pending site and neighborhood standards approval for proposed housing projects, if applicable.

(3) *Criteria for disapproval of an application.* HUD may disapprove an application if:

(i) Based on field review of the applicant's proposal or other information received after invitation of a full application, or where the more complete information in the application shows that the preapplication was improperly rated, the rating of the preapplication should be changed and no longer rates sufficiently high to warrant approval when compared with other preapplications in the competition, given funds available.

(ii) On the basis of significant facts and data generally available and pertaining to community and housing needs and objectives, HUD determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and HUD such as census data, or other data available to both the applicant and HUD, such as recent local, areawide, or State comprehensive planning data.

(iii) On the basis of the application, or other available information HUD determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(A) Experience over a period of time has demonstrated that the types of activities proposed have not been or are unlikely to be effective in alleviating the conditions they were designed to affect;

(B) The application does not meet the requirements of § 570.420(k) with respect to the extent of funding proposed to principally benefit low and moderate income persons and having a direct impact on the applicant's needs;

(C) Proposed activities will have a detrimental affect on low- and moderate-income persons or members of minority groups, and adequate measures to mitigate those effects are not proposed;

(D) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c) or § 570.430(b);

(E) The proposed program does not reflect previous requirements of HUD for corrective or remedial actions, or activities proposed have previously been the basis of such requirements;

(F) Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time;

(G) The activities cannot be completed within the estimated costs or resources available to the applicant;

(H) The applicant has received other funds for the activities and assistance under this Subpart is no longer required.

(iv) HUD determines that the application does not comply with the requirements of this Subpart with specific regard to the primary purposes of principally benefitting persons of low and moderate income, or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency, or with other applicable laws, or the application proposes activities which are ineligible under Subpart C.

(v) Conditions established at the time of invitation have not been fully met.

(vi) There is new evidence of a lack of performance, or capacity of a recipient to carry out the proposed activities.

(vii) Performance under the HAP is inadequate.

(viii) The community, or community in whose behalf the application is submitted, has an outstanding audit finding, or an outstanding monetary obligation to HUD.

(4) *Letter to proceed.* HUD may issue a letter authorizing an applicant to incur costs for the planning and preparation of an application for funds available under this Subpart, including citizen participation and environmental studies. Reimbursement for such cost is dependent upon HUD approval of the application. Only those costs associated with the actual cost of preparation of the application may be assisted. In no instance is a planning or preparation fee reimbursed when it is based upon a percentage of the assistance received under this Subpart. These fees must comply with the requirements set forth in § 570.200. Costs incurred by an applicant prior to notification of a

funding approval or issuance of a letter to proceed by HUD are not eligible for assistance under this Subpart.

§ 570.434 Program amendments for Single Purpose and Comprehensive Grants.

(a) HUD may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries. Approval is subject to the following:

(1) New or significantly altered activities are rated in accordance with the criteria for selection applicable at the time the original preapplication was rated. The rating of the new program or activity proposed by the amendment must be equal to or greater than the lowest rating received by a funded activity or program during that cycle of preapplication ratings.

(2) Consideration shall be given to whether any new activity proposed can be completed promptly.

(b) *Housing Assistance Plan Amendments.*

(1) *Comprehensive Grant.* Recipients shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(i) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306(b)(3)(i) or § 570.306(b)(4)(i);

(ii) The recipient proposes the inclusion of a goal by household type or housing type, not previously specified pursuant to § 570.306 (b)(3)(i) or (b)(4)(i);

(iii) The recipient proposes to exceed any three year goal by housing type or household type by the percentage cited in 24 CFR Part 891;

(iv) The recipient proposes a revision of the general locations for assisted housing established pursuant to § 570.306(b)(3)(ii); or

(v) There is a significant change in, or new data available regarding, the conditions of the housing stock or the housing needs of lower income persons.

(2) *Single Purpose Grant.* Recipients shall request prior HUD approval when any of the following conditions exist:

(i) The recipient proposes an increase or decrease of any goal by housing type or household type;

(ii) The recipient proposes a revision of general locations for assisted housing.

(c) *A-95 and citizen participation requirements.* Whenever an amendment requires HUD approval, the requirements of this Subpart for A-95 review and citizen participation must be met. The recipient shall provide all appropriate State and areawide A-95 clearinghouses with thirty days in which to review and comment on the proposed amendment prior to its submission to HUD.

§ 570.435 Modified OMB Circular No. A-95 procedures for the Small Cities Program.

(a) *General.*

(1) Applicants for grants (both Single Purpose and Comprehensive) under the Small Cities Program must comply with all of the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. These procedures also require that program amendments which must receive HUD approval shall be submitted for a thirty day review and comment period prior to submission to HUD pursuant to 24 CFR 52.101(g).

(2) All applicants are urged to contact their A-95 clearinghouses for forms and instructions which the clearinghouses have developed to facilitate their reviews, and to consult with clearinghouses during the development of both preapplications and applications.

(3) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the appropriate performance factors (§ 570.423(c)), the criteria for selection for Comprehensive Grants (§ 570.424), and the criteria for selection for Single Purpose Grants (§ 570.428), as well as the "subject matter of comments and recommendations" in item 5, Part I, Attachment A of OMB Circular No. A-95, with emphasis on consistency with State, areawide, and local plans and compliance with environmental and civil rights laws.

(b) *A-95 procedures for preapplications.*

(1) Each applicant is required to notify the appropriate clearinghouses of its intent to file a preapplication at least 30 days prior to the deadline for receipt of preapplications in order to insure that clearinghouses have an opportunity to provide assistance and guidance to preapplicants. No information other than intent is required.

(2) Preapplications for either Comprehensive Grants or for Single Purpose Grants shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrent with the submission of the preapplication to HUD. The clearinghouses shall have forty-five days from receipt of the preapplication in which to conduct its review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. HUD shall not make a final decision on a preapplication until all clearinghouse comments are considered, or if no clearinghouse comments are received by HUD, forty-five days after the deadline for submission of preapplications. Applicants are urged to provide preapplications to the clearinghouses prior to submission to HUD whenever possible.

(c) *A-95 procedures for full applications.*

(1) Applications and annual submissions of multiyear applications shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrently with submission to HUD. In addition, applicants shall have resolved all outstanding clearinghouse findings raised at the preapplication stage prior to submission of the full application to HUD. The clearinghouses shall have forty-five days from receipt of the application to review the application and give the comments to HUD and the applicant.

(2) HUD takes no final action on the application until comments have been received or until forty-five days after the application was sent to the clearinghouse. The applicant is provided an opportunity to respond to clearinghouse comments before HUD takes final action on an application.

(3) If the A-95 review comments contain any findings of inconsistency with State, areawide, or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, the applicant must consider these findings and state what action it plans to take as a result of these findings and the reasons therefor.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-123); and Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 6, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-25449 Filed 8-20-80; 8:45 am]

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federal register

Thursday
August 21, 1980

Part VI

Water Resources Council

Coal Liquefaction Demonstration Plant Near Morgantown, W. Va.; Water Assessment Report

WATER RESOURCES COUNCIL

Coal Liquefaction Demonstration Plant Near Morgantown, W. Va. Water Assessment Report

AGENCY: United States Water Resources Council.

ACTION: Notice of water assessment report for public review and comment.

SUMMARY: This notice incorporates the Water Assessment Report prepared by the Water Resources Council staff under the provisions of Section 113(b) of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended.

DATE: Comments on this report are due on or before September 22, 1980.

ADDRESS: Send comments to: Acting Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Frank S. Davenport, Program Leader or Ronald L. Scullin, Staff Specialist, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 200-37, Phone: 202-254-6352.

Dated: August 15, 1980.

Gerald D. Seinwill,

Acting Director.

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Preface

The U.S. Water Resources Council staff (WRC) has prepared this report under provisions of Section 13(b) of the 1974 Federal Nonnuclear Energy Research and Development Act, as amended. The report is the result of an assessment of water requirements and water supply availability for a proposed coal liquefaction demonstration project at Fort Martin, near Morgantown, West Virginia.

WRC was requested to perform this assessment by the U.S. Department of Energy (DOE) on February 11, 1980. WRC entered in to a Memorandum of Agreement with the Ohio River Basin Commission (ORBC) to perform technical phases of the assessment and to prepare a technical report. The ORBC formed a study committee including representation from the States of West Virginia and Pennsylvania, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and U.S. Department of Energy. The Technical report, completed and approved by the ORBC in June 1980, was the principal supporting document for this report.

Publication of this report in the Federal Register is mandated under provisions of Section 13 to enable public review and comment during a 30-day period. Comments on the report are to be submitted to Gerald D. Seinwill, Acting Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, DC 20037.

After the 30-day review period, WRC staff will analyze the comments received and will forward the comments, the WRC analysis, and the water assessment report to the Secretary of the Department of Energy.

DOE's industrial partner, Pittsburgh and Midway Coal Mining Company (a subsidiary of Gulf Oil), expects that—subject to a successful demonstration of the technical operability, economic viability, and environmental acceptability of the solvent-refined coal (SRC) process—the project will be expanded to a full-scale commercial plant. Pursuant to Subsection 13(c) of the above-cited Act, WRC will prepare a subsequent full assessment of the water resources available for the commercial-scale coal liquefaction development. This 13(b) report includes only a preliminary assessment of the commercial project as currently planned. Final design of the commercial facility will be based largely on the experience gained from operation of the SRC-II demonstration project.

Chapter I. Principal Findings

A. Introduction

The water consumption figures in this assessment of the proposed SRC-II (solvent-refined coal) demonstration project are approximately 50 percent greater than those in the draft Environmental Impact Statement (EIS) prepared by the Department of Energy. The lower EIS figures resulted from design modifications that had not yet been defined when the assessment data analysis was conducted. The project water consumption figures in this report are also based on summer conditions when consumption will be highest. Streamflow assessments at low-flow conditions have not been adjusted for water conservation measures for offstream users or for low-flow augmentation from Stonewall Jackson Reservoir, which is under construction (i.e., primarily land acquisition) and presently under litigation. The streamflow conditions do include other current augmentation. Thus, this assessment is based on a "worst case" condition for water availability for the SRC-II project.

B. SRC-II Demonstration Project

Under most flow conditions, the Monongahela River has enough water to support the combined effect of the SRC-II demonstration project and the increased consumption by other sectors of the economy through 1990 without reduction to streamflow below that projected to meet navigation requirements (including SRC-II barge traffic) and to meet water quality standards in West Virginia and Pennsylvania.

There are, however, exceptions during various low-flow conditions. For example, during minimum navigation flow (i.e., recurrent drought of record with low-flow augmentation), the total increased consumption will reduce streamflow 12 percent below 1990 navigation needs at Maxwell lock and dam. Half of this deficit would be due to the SRC-II demonstration project.

In addition, the Monongahela River at lock and dam 4 in Pennsylvania does not currently have the estimated streamflow necessary to achieve the total dissolved solids standard during 7-day, 10-year low-flow conditions. The SRC-II demonstration project would contribute only about 1 percent to the projected streamflow deficit by 1990.

The projected increase in new offstream consumptive uses in the basin will be approximately 18 cubic feet per second (cfs) by 1990. The SRC-II demonstration project will account for half of this increase. The 8.7 cfs, however, is only 7 percent of the total 133 cfs consumption (existing and new uses including SRC-II) projected for 1990.

The 8.7 cfs represents 2.4 percent of the 7-day, 10-year low flow (360 cfs) at

lock and dam 8 and 1.3 percent of the present 7-day, 10-year low flow (650 cfs) downstream at lock and dam 4.

The economic capacity of lock and dam 7 (Pennsylvania) is projected to be exceeded by 1988 if coal for the SRC–II demonstration project is transported by barge. Economic capacity is determined by factors such as congestion at the lock, competing traffic modes, etc., rather than the availability of water.

Groundwater at the site is insufficient to meet project water requirements. Further investigation should determine whether groundwater can be used as a supplemental source of water during low-flow conditions.

C. SRC–II Commercial Project

During low flows, the SRC–II commercial project, together with other increased consumptive uses projected for the basin by 2020, will worsen the streamflow deficits at Maxwell lock and dam, without further augmentation. Moreover, the Monongahela River at lock and dam 8 near the plantsite will not have sufficient flow to meet the dissolved oxygen standard in West Virginia for the 7-day, 10-year low flow. The project would contribute less than 2 percent to the estimated deficit in the flow required to meet Pennsylvania's total dissolved solids standard at lock and dam 4 under the 7-day, 10-year low-flow conditions in 2020.

The projected new consumptive uses in the basin will need 52 cfs by 2020. The SRC–II commercial project will account for 23 cfs or 44 percent of the increase. This 23 cfs, however, is only 10 percent of the total 167 cfs consumption (existing and new uses including SRC–II) projected for 2020. This 23 cfs is about 6 percent of the 7-day, 10-year low flow at back and dam 8 and about 4 percent of the 7-day, 10-year low flow downstream at lock and dam 4.

A followup Section 13(c) water assessment will more accurately assess the water availability and related water impacts of the proposed SRC–II commercial project after results of the demonstration project are available.

D. Further Action Needed

A plan of operation should be developed for the SRC–II demonstration project (and ultimately the commercial project) to allow for reduced water consumption and/or alternate water sources during critical low flows in the Monongahela River. Offstream storage and conjunctive use of groundwater are two options to consider.

Unless substantive action is taken during critical flow periods, projected river flow under present basin conditions will not be sufficient to meet the West Virginia dissolved oxygen standard in 2020 at lock and dam 8, the Pennsylvania total dissolved solids standard for 1990 and 2020 at lock and dam 4, and the projected navigation flow required at Maxwell lock and dam in 1990 and 2020.

To resolve the basin's present and future water problems, West Virginia and Pennsylvania need to develop a coordinated water management program for the Monongahela River Basin. Under a basin-wide plan, the impacts of competing water uses during the critical low-flow conditions could be reduced (or offset) by various water management options. The options include: Low-flow augmentation from Stonewall Jackson Reservoir; water conservation; temporary curtailment of offstream uses; additional storage and/or reallocation of storage at basin reservoirs, including Stonewall Jackson, Tygart, and Stonecoal; additional water storage sites; and development of supplemental groundwater resources.

The water management program should balance all competing uses against available water supplies. Particular attention should be given to providing critical flows at key points along the river. A predictable water budget would help provide for beneficial economic, social and environmental conditions throughout the basin.

In addition to developing a water budget, West Virginia, Pennsylvania, the Ohio River Sanitation Commission, and the U.S. Environmental Protection Agency (EPA) should establish a water quality program that would provide for additional water quality monitoring and analysis (particularly total dissolved solids) along the Monongahela River. The monitoring and analysis should provide the information needed to identify and characterize water quality problems in specific stream reaches. This effort can also lead to further coordination of water quality policies between West Virginia and Pennsylvania.

The instream needs of fish and wildlife must be included in a water management program. Under a Section 13(c) assessment, a streamflow management study should be conducted to assess the SRC–II commercial project and other consumptive uses of their combined effects on fish and wildlife habitat in the Monongahela River.

Chapter II. Project Description

A. Location

The proposed project site is located near Morgantown at Fort Martin, West Virginia, along the Monongahela River, approximately 2 miles south of the West Virginia-Pennsylvania State line. Figure 1 shows the Monongahela River Basin where the proposed project is to be located. Figure 2 illustrates the site plan of the proposed project. The project site is bounded on the southeast by the Monongahela River, on the east by the Fort Martin Power Plant (Monongahela Power Company), on the north by the West Virginia-Pennsylvania State line, and on the west and south by land in private or corporate ownership. Except for a narrow floodplain along the river, the site is hilly, at an elevation of about 1108 feet mean sea level or 311 feet above the river.

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Figure 1
Map of Monongahela River Basin

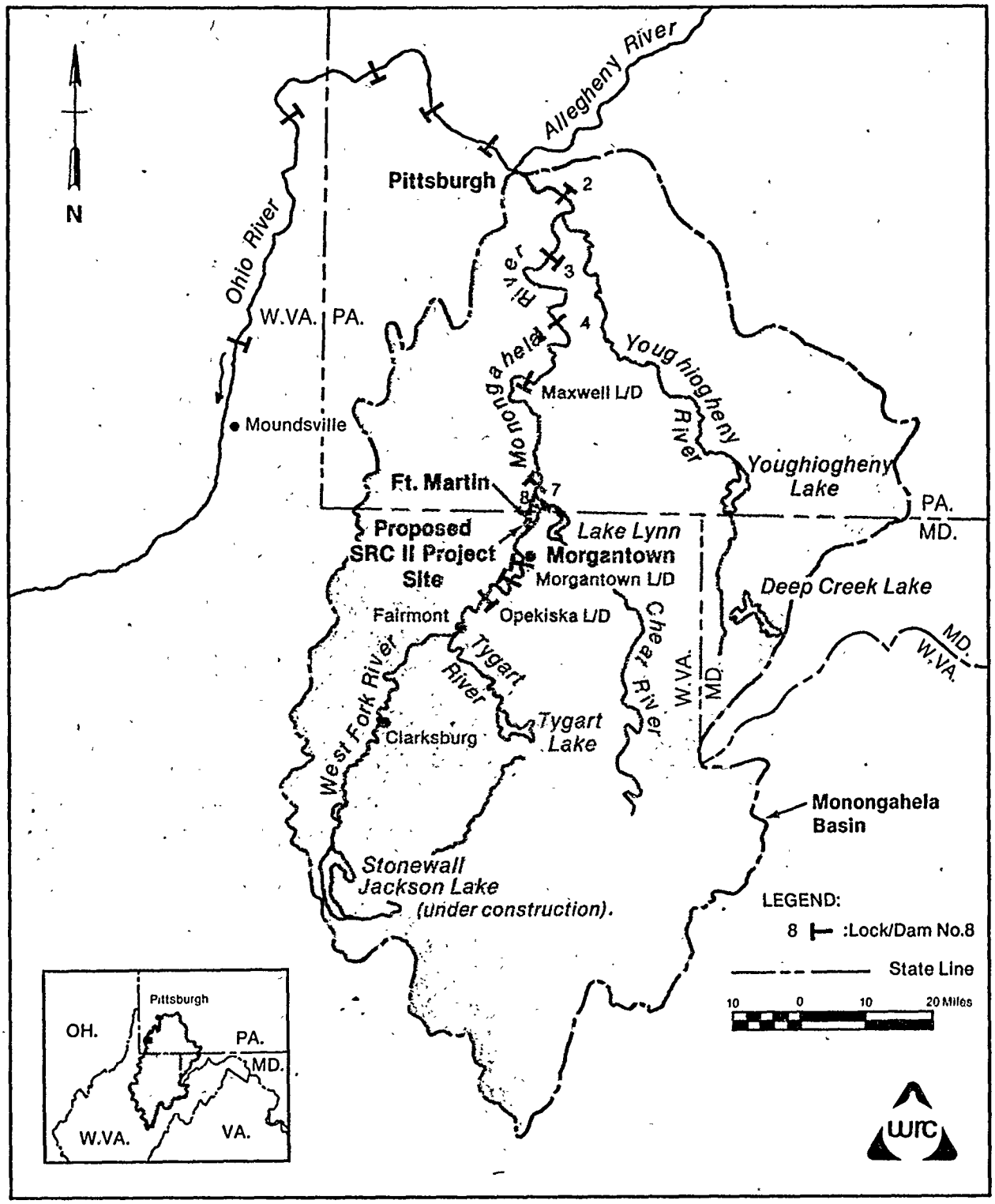
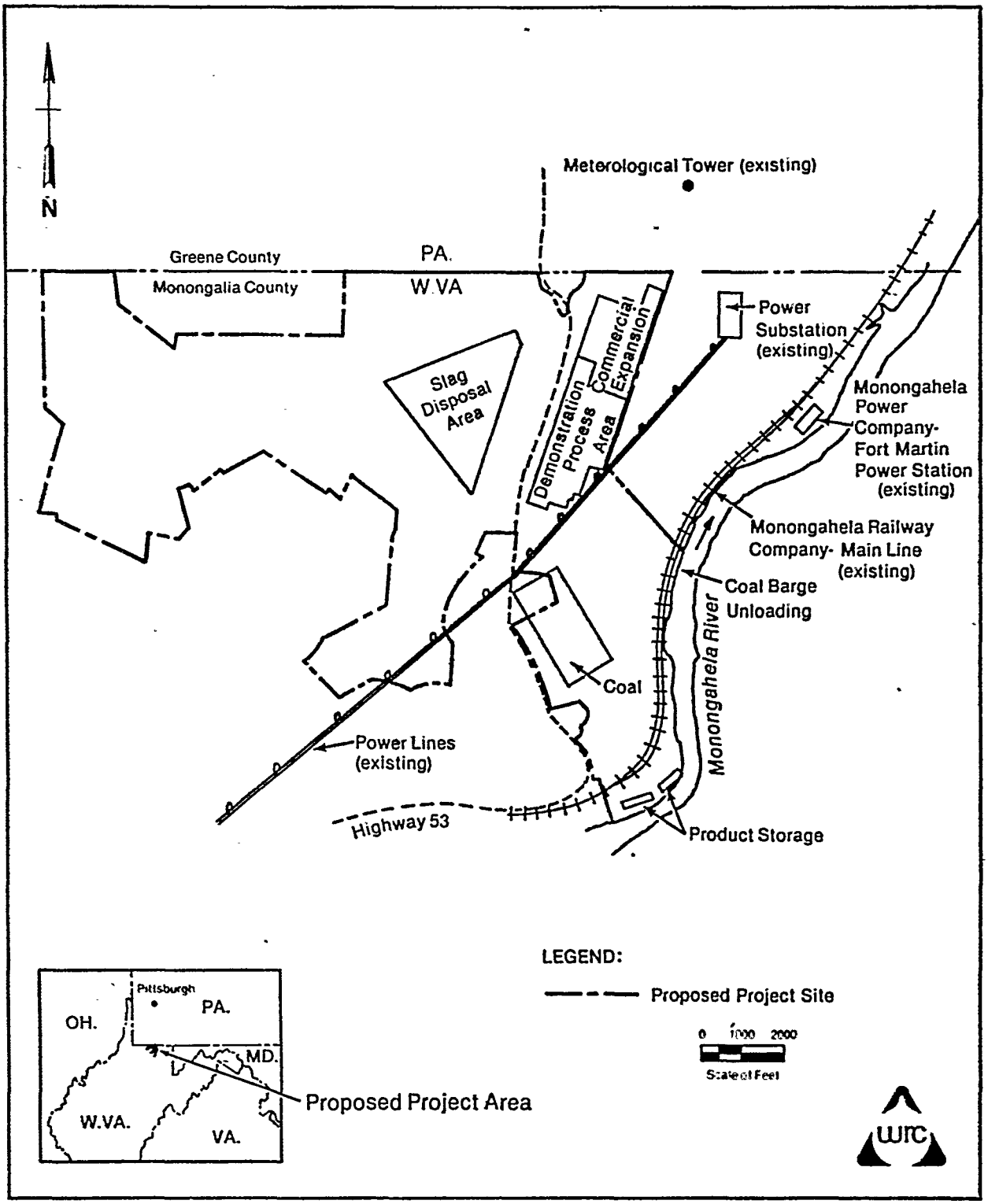


Figure 2
Site Plan of Proposed Project



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B. SRC–II Project

The demonstration project facilities have been designed to produce a solvent-refined coal (SRC) product of low-sulfur distillate fuel oil from Pittsburgh seam coal. The demonstration plant will produce approximately 20,000 barrels of oil equivalent per day and the commercial plant approximately 100,000. Byproducts include synthetic natural gas, mixed liquid butanes, propane, naphtha, ammonia, elemental sulfur, and tar acids.

C. Coal Preparation

Coal will be delivered by barge to a storage area where conveyors will transport the coal to pulverizing-drying equipment. The fine coal is then transferred to surge storage bins from which it is withdrawn for slurry mixing.

D. Liquefaction Process

The demonstration SRC–II facility will liquefy 6000 tons of bituminous coal per day. The pulverized feed coal is mixed with a recycled hydrocarbon-mineral residue slurry stream from the process and, together with hydrogen-rich gases, the mixture is pumped through a preheater to the dissolver. In the dissolver, hydrogenation and liquefaction reactions convert the coal into liquid and gas. By a series of separation, distillation, and gasification steps, the process produces: (1) A high-purity hydrogen stream that is recycled to the dissolver, (2) a methane-rich stream that is upgraded to produce a pipeline-quality synthetic natural gas, and (3) a methane-rich stream, part of which is used as plant fuel; the rest is converted to synthetic natural gas in the methanation step.

E. Waste Containment and Treatment

The demonstration plant, which is designed to produce zero liquid waste discharge under normal operating conditions, has facilities to contain and reclaim runoff from a 24-hour rainfall event having a 10-year recurrence (the 10-year, 24-hour storm). The wastewater discharge is eliminated through evaporation in the cooling towers plus a water reclamation and recovery system in which wastewaters are pretreated and evaporated. The condensates produced in this evaporation process are recovered for reuse, while the sludge is reincinerated to destroy organic materials. The residue from the incinerator will be disposed of in accordance with the requirements of the Resource Conservation and Recovery Act (Pub. L. 95–609).

Zero-discharge is presently being considered for the SRC–II demonstration project. Operation experience from the demonstration project should help resolve questions on the efficiency of wastewater treatment and disposal of solid plant wastes.

F. Water Reclamation

The water reclamation system will treat: process wastewater, leachates from the slag disposal area and coal storage piles, and contaminated rain runoff from the process area and from all product storage and shipping areas. The system will also treat process liquids spilled in the main process area and in the product storage and shipping areas.

G. Base Resources

Coal for the demonstration project will be mined near the Ohio River at Moundsville, West Virginia (see Figure 1). The source of coal for the commercial phase may also be Moundsville, depending on how well the coal characteristics meet the requirements of the demonstration project. Approximately 6,000 tons per day (tpd) will be required for the demonstration phase and 30,000 tpd for the commercial phase. This tonnage is based on a 90-percent load factor for the SRC–II project.

It is currently anticipated that the Monongahela Power Company will supply the electrical power service for the demonstration project. The demonstration project will require about 75 megawatts (MW) and the commercial project about 225 MW. The source of electrical power supply for the commercial project is still under review.

The source of water for the SRC–II project will be the Monongahela River. The raw water quality requires some pretreatment before it is acceptable for project use.

H. Schedule

If the decision is to proceed with the demonstration project, preliminary site preparation will begin in late 1980, with actual construction beginning in the spring of 1981. Scheduled operational startup would be in 1985. The demonstration phase would operate for approximately 5 years. If the demonstration phase is successful, the project will be expanded to a full-scale commercial facility. Operation of the commercial phase will begin around 1990.

Chapter III. Project Water Requirements

Consumptive water use from the Monongahela River is 8.7 cubic feet per second (cfs) for the demonstration plant and 23.0 cfs for the commercial plant.

A. Process and Cooling Water

The cooling tower consumes the largest amount of water. The second largest use is the process reaction, primarily for the production of hydrogen. Water is also lost in vents as steam, in the incinerators from combustion, and in the water reclamation system. In the demonstrations phase, approximately 10 percent (0.9 cfs) of the water is consumed for processing and 90 percent (7.8 cfs) for cooling. In the commercial phase, about 19.6 percent (4.5 cfs) is consumed for processing and 80.4 percent (18.5 cfs) for cooling.

The draft Environmental Impact Statement (EIS) reports a lower average consumption of 3.8 cfs for the demonstration plant, with a maximum summer demand of 5.8 cfs when cooling tower evaporation is the greatest. The lower EIS figures resulted from design modifications that had not yet been defined when the assessment data analysis was conducted. These lower EIS values may be reduced even more, since further plant design changes to reduce consumption are currently being considered.

B. Electric Power Generation

The 75 MW of electricity required by the SRC–II demonstration project will be provided through a power grid that receives electricity from a network of electric power plants, which includes the Monongahela Power Company. The water consumed for generating the 75 MW (approximately 1 cfs) was not included in this assessment.

C. Coal Mining and Land Reclamation

Water consumed for coal mining and land reclamation at Moundsville, West Virginia, is only an insignificant portion of the nearby water available along the Ohio River mainstream.

D. Navigation

Current plans call for coal to be barged to the SRC–II project. Therefore, for this assessment, coal traffic along the Ohio and Monongahela Rivers was assumed to be 6,000 tpd from 1985 to 1989 when the demonstration SRC–II is in operation and 30,000 tpd from 1990 to 2020, when the commercial SRC–II is in operation. The lock and dam (L&D) system on the Monongahela River does not generate hydroelectric power. The L&Ds upstream have higher numbers than those downstream.

Chapter IV. Water Supply Availability

A. Background

The Monongahela and the Allegheny Rivers comprise the headwaters of the Ohio River. The Monongahela River drains 7,384 square miles. It lies in the eastern portion of the Ohio River Basin, and includes southwestern Pennsylvania, northern West Vriginia, and extreme western Maryland.

The U.S. Army Corps of Engineers (Corps) maintains and operates a series of locks and dams along the Ohio and Monongahela Rivers. Presently, seven locks and dams in Pennsylvania (including Emsworth on the Ohio River) and three in West Virginia provide a minimum 9-foot depth for navigation along the Monongahela River from Pittsburgh, Pennsylvania, upstream to Fairmount, West Virginia. The proposed project site is located in the navigation pool of lock and dam 8 (see Figure 1). The Monongahela River and its two major upper tributaries, the West Fork and Tygart Valley Rivers, drain the 2,700 square-mile drainage area upstream of the project.

The West Fork River drains 882 square miles. Its flow is essentially uncontrolled except for two U.S. Soil Conservation Service small watershed projects and Stonecoal Lake. With the completion of Stonewall Jackson Reservoir, approximately 12 percent of the West Fork Basin will be controlled.

Stonewall Jackson Reservoir under construction (i.e., primarily land acquisition) by the Corps is presently scheduled for completion by 1987, although the project is presently under litigation. (On July 11, 1974, the Upper West Fork River Watershed Association filed suit in the U.S. District Court for the Northern District of West Virginia seeking an injunction against further prosecution of the project base, primarily on alleged inadequacy of the project EIS. On May 3, 1976, the Federal District Court dismissed the action by the Upper West Fork River Watershed Association. The Plaintiff appealed before the U.S. Court of Appeals (Fourth Circuit) on January 13, 1977. The U.S. Court of Appeals (Fourth Circuit) affirmed the decision of the District Court on May 9, 1977. The Upper West Fork River Watershed Association and other environmental interest groups filed suit on April 21, 1980, in the U.S. District Court of the District of Columbia, alleging that the Corps used the wrong interest rate for the project, exceeded the Congressional authorization in the scope of the project, and wrongfully included water quality benefits.) The 75,000 acre-foot storage reservoir is to be located in northern West Virginia on the West Fork River, upstream of the proposed SRC–II site. The reservoir project is authorized for flood control, water supply, water quality maintenance, and recreation. Up to 80 cfs will be released during low-flow periods for water quality augmentation.

Tygart Dam controls 86 percent of the 1,374 square mile drainage area of the Tygart Valley Basin. In 1938, the Corps constructed Tygart Lake for flood control and low-flow augmentation. The Corps presently regulates flow at Tygart Lake Dam to maintain a minimum flow of 340 cfs at L&D 8, about 2½ miles downstream of the project site. During periods of minimum navigation flow (i.e., recurrent drought of record with low-flow augmentation), most of Monongahela River flow upstream of its confluence with the Youghiogheny River comes from controlled releases from Tygart Lake. The approximate storage at Tygart Lake is 279,000 acre-feet.

B. Surface Water

The Corps developed several flow frequencies for the Monongahela River. Table 1 shows these figures for six locks and dams (L&D). See Figure 1 for the location of the L&Ds. Streamflows are based on existing (1980) levels of basin development, including current augmentation.

Table 1.—*Flow Data for Monongahela River* [1]

[In cubic feet per second]

Lock and dam	River mile	Mean	80 pct exceedence	7-day, 10-year	7-day, 50-year	Minimum navigation flow
2	11.2	12,300	2,970	1,150	910	750
4	41.5	8,980	1,700	650	510	315
Maxwell	61.2	8,580	1,620	620	495	325
7	85.0	8,090	1,520	590	480	340
8	90.8	4,580	790	360	350	340
Opekiska	115.4	4,300	740	340	340	340

[1] Low-flow augmentation at Stonewall Jackson Reservoir not included.

The project site is approximately 2.5 miles upstream of L&D 8. Present mean flow at L&D 8 is 4580 cfs; the 7-day, 10-year low flow is 360 cfs; and the minimum navigation flow is 340 cfs.

C. Groundwater

Although available information is insufficient for a complete assessment of groundwater quantity and quality, several general observations can be made.

Pittsburg & Midway Coal Mining Company, the project industry participant, has recently explored the groundwater availability. Their September 1979 investigation concluded that local deposits of unconsolidated materials (alluvium, soils, and mine spoils) "are not an important source of groundwater because of limited areal extent and thickness, or impermeability * * *" Springs and shallow wells in the area reportedly yield from 0.0022 to 0.0067 cfs. Recent data are unavailable for deeper Allegheny and Pottsville aquifers; however, according to earlier investigations, the Allegheny aquifer would yield less than 0.0056 cfs, which may be sufficient for some industrial and public water use in central and northeastern Monongalia County. The Pottsville aquifer reportedly yields upwards of 0.56 cfs, with an average of about 0.10 cfs in the portions of Monongalia County near the proposed project site. Groundwater should be further investigated as supplemental water source for meeting SRC–II water requirements during low-flow conditions.

D. Basin Consumptive Use

There is no water use allocation program in operation for the Monongahela River Basin. The Pennsylvania Department of Environmental Resources has proposed such a program, which will be brought before the State legislature this year. The program would affect offstream users withdrawing 10,000 gallons per day or more.

Present and future total consumptive withdrawals have been estimated for the basin, including withdrawals by the municipal, industrial, power, and agricultural sectors. Table 2 presents the cumulative consumptive withdrawals from selected upstream to downstream L&Ds in the basin.

Table 2.—*Estimated Cumulative Consumptive Withdrawals from Monongahela River*[a]

[In cfs]

	1980	1990	2020
West Virginia:			
L&D 8	78	80	87
Pennsylvania:			
L&D 7	82	84	91
L&D 4	115	121	133
L&D 2	115	124	144

[a] Does not include SRC-II project.

The estimated consumption of the Monongahela River in West Virginia will increase 2 cfs by 1990 and 9 cfs by 2020. Similarly, the estimated consumption in Pennsylvania will increase approximately 9 cfs by 1990 and 29 cfs by 2020.

Information on future consumptive groundwater withdrawals in the basin is not available. However, the quantity is expected to be relatively small. Less recent use data (1964) on surface and groundwater sources suggest that groundwater supplied less than 3 percent of the water used in the basin. Groundwater supplied farm, domestic, and industrial water users, but groundwater has not been used to meet large water requirements of powerplants.

E. Water Quality Conditions

Water quality policies for the Monongahela River are governed by the West Virginia Department of Natural Resources and the Pennsylvania Department of Environmental Resources. From the water quality plans of both States, three parameters were selected as pertinent to this assessment: dissolved oxygen (DO), pH, and total dissolved solids (TDS). Table 3 presents the current standards for these parameters at two streamflow points for which adequate data were available. West Virginia specified streamflows to maintain minimum water quality standards at L&D 8. For the stretch of river in Pennsylvania, streamflows to maintain minimum quality standards were projected for L&D 4. This is a location with the most available data, but not necessarily the worst water quality conditions.

Table 3.—*Selected Water Quality Standards; Monongahela River*

	Water quality criteria	Standard	Specified streamflow (cubic feet per second)		
			1980	1990	2020
West Virginia: L&D 8	DO	≥4 mg/l	345	345	345
	pH	≥6	345	345	345
	TDS	(1)	(1)	(1)	(1)
Pennsylvania: L&D 4	DO	≥5 mg/l	1,140	[2]400	[2]600
	pH	6 to 9			
	TDS	<500 mg/l month avg	1,660	2,230	2,800
		<750 mg/l daily avg	1,100	1,490	1,860

[1] None.
[2] State-recommended treatment levels would reduce flow requirement.

The overall water quality as measured by DO, pH, and TDS in the Monongahela River is generally improving. The Ohio River Sanitation Commission (ORSANCO), an interstate water quality agency, assessed water quality data from 1962 to 1976 for L&D 4 in Pennsylvania. Violations for DO and TDS were most often recorded in the 1960s, but the trend toward acceptable limits improved in the 1970s. Although the frequency of pH violations has also improved, some local pH problems still remain. Moreover, the pH relationship to flow has not been clearly established.

Recent (1977–1979) water quality data from the Storage and Retrieval (STORET) system of the U.S. Environmental Protection Agency (EPA) show a continued improvement in river quality. Average values for DO, pH, and TDS at L&D 4, L&D 7, L&D 8, and Morgantown L&D were within State water quality standards, although extreme values for pH dropped below the standard five times at L&D 7 and once at L&D 8.

Of particular concern in the Monongahela River is the accumlative concentration of TDS. Unlike many other pollutants, TDS are not "assimilated" in streams, so the accumulated TDS create a loading problem downstream.

This is particularly significant, because the Monongahela River flow does not substantially increase except at the confluence with the Cheat and Youghiogheny Rivers (see Figure 1). Thus, the TDS loadings are not well diluted along significant portions of the river. In West Virginia, the Monongahela River TDS loadings are not presently a water quality problem. Downstream in Pennsylvania, the TDS accumulation is a problem until flow from the Youghiogheny River dilutes the loadings.

Both States recognize that increased monitoring of TDS in the Monongahela River is needed to better characterize TDS problems.

The Pennsylvania TDS instream standards of less than 500 milligrams per liter (mg/l) average monthly and 750 mg/l daily are based on EPA secondary guidelines for potable water. Most public water utilities along the river do not treat raw water to remove TDS. Therefore, Pennsylvania has applied the drinking water TDS standard as an instream standard to ensure that the TDS in potable water coming from municipal water treatment facilities is acceptable.

Pennsylvania estimates that the Monongahela River now contains up to five times the TDS concentration than that to be expected from natural conditions. The State projects that TDS loadings from coal mining will continue to increase, so that by 2020 approximately 80 percent of the TDS problem will come from new mining activities and from the treatment required to satisfy discharge requirements for acid mine drainage.

Coal mined for the SRC-II demonstration project would not contribute to this specific TDS problem because the coal would be mined downstream from the Monogahela River Basin.

Present TDS levels in the river are not known to adversely affect fish and wildlife.

F. Policy for Consumptive Use Makeup

The Pennsylvania Department of Environmental Resources has an administrative policy requiring that water users make up consumptive use losses during low-flow conditions. West Virginia presently has no policy on makeup water during low flow.

Under the Pennsylvania policy, when the river flow drops below the streamflow necessary to meet water quality standards, offstream diversions of new or increased consumptive uses, including interbasin transfers, shall not further diminish the flow of the stream. Under such flow conditions, either consumptive uses are curtailed or compensating releases must be provided from storage. Streamflow criteria are specified to meet water quality standards. If streamflow criteria for various water quality standards differ,

the higher streamflow may be required to: protect public health; control water quality; conserve fisheries, aquatic habitats, and recreation; and protect instream and downstream water uses. The policy for consumptive use makeup presently is enforced by Pennsylvania for municipal water supply users along the river and for all users who withdraw from reservoirs in the Monongahela River Basin. This policy is under review to include all water users along the Monongahela River in Pennsylvania.

Chapter V. Water-Related Impacts

A. SRC–II Versus Other Offstream Uses

The SRC–II project will be a significant new water consumer. The SRC–II demonstration project is estimated to account for half of the new offstream consumptive uses from 1980 to 1990 and 7 percent of the total offstreams consumptive uses (existing and new) by 1990. The commerical project is estimated to account for 44 percent of the new offstream consumptive uses from 1980 to 2020 and 10 percent of the total offstream consumptive uses by 2020.

Navigation

For this assessment, the SRC–II coal traffic on the Ohio and Monongahela Rivers is currently projected to be 6000 tpd from 1985 to 1989 when the demonstration SRC–II is in operation and 30,000 tpd from 1990 to 2020 when the commercial SRC–II is in operation. The Corps estimated streamflow reqirements for projected navigation on the Monogahela River, both with and without coal barge traffic for the SRC–II project. Table 4 presents these requirements. Flow estimates are based on existing locks, current operating practices, and average tow size.

Table 4.—*Streamflow Requirements for Projected Navigation on the Monongahela River*

[In cubic feet per second]

Lock and dam	Minimum navigation flows	1985		1990		2020	
		Without SRC–II	With Demo. SRC–II	Without SRC–II	With Comm. SRC–II	Without SRC–II	With Comm. SRC–II
2	750	174	184	184	238	[1]264	[1]264
3	NA	111	116	123	[1]136	[1]136	[1]136
4	315	185	195	206	257	247	264
Maxwell	325	314	327	[2]290	[2]350	[2]325	[2]385
7	340	75	79	[2]80	[1]80	[1]80	[1]80
8	340	88	100	103	[1]108	[1]108	[1]108
Morgantown	NA	75	75	80	80	83	NA
Hildebrand	NA	84	84	87	87	90	NA
Opekiska	340	71	71	73	73	74	NA

[1]Demand exceeds estimated economic lock capacity.
[2]Includes conservation measures proposed by Corps.
[3]Demand exceeds estimated lock capacity by 1988 with SRC–II traffic.

NA Not analyzed for this assessment.

During the 1980's the Corps intends to develop a water conservation plan that includes improvements to reduce water losses in the lock and dam system. These improvements would reduce the flow required to support navigation at Maxwell L&D from 341 cfs to 290 without SRC–II traffic and from 403 to 350 cfs with SRC–II traffic by 1990. By 2020, the required navigation flow at Maxwell will be 325 cfs without SRC–II and 385 cfs with SRC–II. The Corps reports that the Maxwell L&D will remain the critical flow site, even it other locks are enlarged in the future. Maxwell currently has the largest lock on the Monongahela River.

Table 5 summarizes the estimated water availability of the Monongahela River for selected needs in 1990 and 2020. "Without SRC–II" shows the estimated streamflow availability (or deficit) for existing basin conditions, projected instream flow requirements for water quality and navigation, and estimated offstream consumption for all uses, excluding SRC–II. The streamflows have not been adjusted for curtailment of offstream uses during low-flow conditions or augmentation from Stonewall Jackson Reservoir.

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Table 5

ESTIMATED WATER AVAILABILITY[a/]
SURPLUS (+)/DEFICIT (-) in cfs

-1990-

NEED	LOW FLOW COMPARISON	PROJECT SITE/L&D 8		MAXWELL L&D		L&D 4	
		WITHOUT SRC-II	WITH SRC-II	WITHOUT SRC-II	WITH SRC-II	WITHOUT SRC-II	WITH SRC-II
TOTAL DISSOLVED SOLIDS	7-day, 10-year	NS	NS	NA	NA	- 846	- 855
DISSOLVED OXYGEN	7-day, 10-year	+13	+4	NA	NA	+ 244	+ 23
NAVIGATION:							
Without SRC-II	7-day, 10-year	+255	+246	+275	+266	+ 438	+ 429
	7-day, 50-year	+245	+236	+150	+141	+ 298	+ 289
Demo. Traffic	Min. Navig. Flow	+235	+226	- 20	- 29	+ 103	+ 94
With	7-day, 10-year	-	+241	+262	+253	+ 397	+ 419
SRC-II	7-day, 50-year	-	+231	+137	+128	+ 257	+ 279
Demo. Traffic	Min. Navig. Flow	-	+221	- 33	- 42	+ 62	+ 84

-2020-

TOTAL DISSOLVED SOLIDS	7-day, 10-year	NS	NS	NA	NA	-1236	-1251
DISSOLVED OXYGEN	7-day, 10-year	+ 6	- 17	NA	NA	+ 24	+ 9
NAVIGATION:							
Without SRC-II	7-day, 10-year	+243	+220	+284	+261	+ 385	+ 362
	7-day, 50-year	+233	+210	+159	+136	+ 245	+ 222
Comm. Traffic.	Min. Navig. Flow	+223	+200	- 11	- 34	+ 50	+ 27
With	7-day, 10-year	-	NA	+224	+201	NA	NA
SRC-II	7-day, 50-year	-	NA	+ 99	+ 76	NA	NA
Comm. Traffic	Min. Navig. Flow	-	NA	- 71	- 94	NA	NA

a/ Low-flow augmentation at Stonewall Jackson Reservoir not included.

NS: No standard.

NA: Not analyzed for this assessment.

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Maxwell L&D will be the critical lock in the Monongahela River navigation system during low-flow conditions. Except for Maxwell L&D, current projections indicate that the Monongahela River can satisfy navigation flow requirements through 2020, even with the added SRC–II barge traffic and offstream uses. However, as Table 5 illustrates, projected drought of record conditions without further upstream augmentation would result in flows 13 percent and 29 percent below minimum navigation needs at Maxwell L&D for 1990 and 2020, respectively. Implementation of the Corps water conservation plan will not fully offset the estimated streamflow deficits.

The projected demands on the existing navigation system will equal the economic capacity of L&D 7 by 1988, if all coal for the SRC–II demonstration project is shipped by barge.

C. *Water Quality*

Low-flow, 7-day, 10-year conditions combined with projected off-stream uses may leave insufficient flow in the river to meet water quality standards of West Virginia and Pennsylvania.

In West Virginia, the 7-day, 10-year low flow at L&D 8 is 360 cfs (Table 1). With the West Virginia dissolved oxygen standard based on 345 cfs at L&D 8, an estimated 15 cfs "surplus" is available for other uses. The SRC–II project and increased water use by the muncipal, industrial, and agricultural sectors will consume an estimated 11 cfs in 1990 and 32 cfs in 2020. Thus, at L&D 8, the SRC–II demonstration project consumption will still leave 4 cfs "surplus" in the stream by 1990; however, the SRC–II commerical project will create a 17 cfs "deficit" by 2020. The West Virginia Department of Natural Resources anticipates that low-flow augmentation from Stonewall Jackson will compensate for this deficit.

At L&D 4 in Pennsylvania, projected streamflows with the SRC–II project will be sufficient to meet the dissolved oxygen standard in 1990 and 2020, but not the TDS standard (with or without SRC–II). The demonstration project will account for about 1 percent of the 855 cfs deficit in 1990 and the commerical project will account for about 2 percent of the 1251 cfs deficit in 2020.

A preliminary analysis of flow projections at L&D 2 indicates that flow augmentation from the Youghiogheny River will be sufficient to meet Pennsylvania water for water quality standards at that L&D.

Estimated future streamflows at L&D 8 will be sufficient to meet the West Virginia pH standard. Pennsylvania has not established a relationship of pH to flow.

Because the navigation system maintains a minimum depth of 9-feet, it is assumed that minimal instream low-flow needs for fish, wildlife, and recreation will be satisfied if water quality and navigation requirements are met.

The Pennsylvania Department of Environmental Resources recommends that the present authorized allocation of water quality and water supply from Stonewall Jackson Reservoir should not be considered available for consumptive use by the SRC–II project. Rather, the State would prefer the development of a reservoir management plan that would use other designated storage (e.g., recreational or flood control storage) to provide releases for SRC–II consumptive use. Similar potentials may exist at Tygart Reservoir and other existing reservoirs in West Virginia. If such an option is not found feasible, Pennsylvania would then recommend further exploration of augmenting the size of Tygart or Stonewall Jackson Reservoir or providing additional storage in Stonecoal Reservoir as a means for providing releases to support downstream consumptive water users, including the SRC–II project.

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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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

49934 7-28-80 / Simplification of marine radio rules for recreational boaters

47429 7-15-80 / Table of assignments, Sebring, Fla.

LABOR DEPARTMENT

Occupational Safety and Health Administration—

35212 5-23-80 / Provisions for access to employee exposure and medical records

35284 5-23-80 / Rules of practice and procedure concerning OSHA access to employee medical records

PERSONNEL MANAGEMENT OFFICE

48847 7-22-80 / Processing garnishment orders for child support and/or alimony

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 August 14, 1979

Just Released

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