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Monday
March 24, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C., Memphis, Tenn.,** and **Los Angeles, Calif.,** see announcement in the Reader Aids Section at the end of this issue.

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Highlights

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MEETINGS ANNOUNCED IN THIS ISSUE

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 4738 of March 20, 1980

National Energy Education Day

By the President of the United States of America

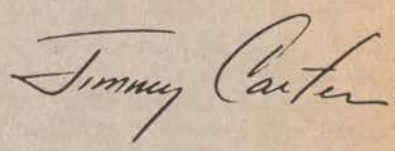
A Proclamation

During the past decade it has become clear that our Nation faces an increasing shortage of its traditional energy sources. This energy shortage and our growing dependence on foreign energy supplies present a serious threat to the national security of the United States and to the health, safety and welfare of its citizens. In an effort to reduce our dependence on foreign energy, we have embarked on a number of programs aimed at the development of new energy technologies. We have also initiated a comprehensive program to educate the Nation, particularly the Nation's youth, about the consequences of the changing world energy supply.

In order to focus our attention on this ongoing program of energy education for the young—in both public and private schools and at all grade levels—and in an effort to bring together teachers, school officials and parent groups to help our children understand the current international energy situation, Congress has by Joint Resolution (S.J. Res. 43) proclaimed March 21, 1980, as National Energy Education Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby call upon all citizens and government officials to observe Friday, March 21, 1980, as National Energy Education Day with appropriate ceremonies and activities. I direct all agencies of the Federal Government to cooperate with and participate in the celebration of National Energy Education Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.



[FR Doc. 80-9048
Filed 3-20-80; 4:52 pm]
Billing code 3195-01-M

Editorial Note: The President's remarks of Mar. 20, 1980, on signing Proclamation 4738, are printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 12).

Presidential Documents

Proclamation 4739 of March 20, 1980

National Medic Alert Week, 1980

By the President of the United States of America

A Proclamation

Emergency medical care, like other elements of our Nation's health care system, depends for its effectiveness on the support of the American people. By contributing to the lifesaving capabilites of rescue personnel and other health professionals, we improve our prospects for continued good health.

Today, approximately forty million Americans are afflicted with diabetes, heart conditions, epilepsy, allergies and other medical conditions that are difficult to detect or identify in an emergency. This year, many of these people will become involved in emergency situations and, because of delays in diagnosing and treating their hidden medical problems, may suffer additional injury or even die.

Such tragedies need not occur. For more than two decades, special identification and information services—the oldest and perhaps best known of which is Medic Alert Foundation International—have been helping health and rescue personnel meet the unique emergency needs of people with hidden medical problems. When the victims of medical emergencies are unconscious or otherwise unable to communicate, their medic alert tags and the information services with which they are registered can spell the difference between successful treatment and serious, even fatal, complications. Last year, these tags and services helped save the lives of an estimated two thousand people with hidden medical conditions.

Millions of additional Americans can protect themselves and help to improve the effectiveness of emergency medical care in this country by registering with a medic alert service. To focus the Nation's attention on the value of these services, the Congress, by a joint resolution approved February 28, 1980, (H. J. Res. 434) requested that the President proclaim the week of April 6 through 12, 1980, National Medic Alert Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of April 6, 1980, as National Medic Alert Week. I urge all citizens and interested organizations and associations to observe this week with activities that will foster the use of emergency identification and information services in the United States.

I invite the Governors of the States and appropriate local government officials to support National Medic Alert Week activities, and I call upon the Nation's mass communications media to spread the message that medic alert services save lives.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-9076
Filed 3-21-80; 10:52 am]
Billing code 3195-01-M

Rules and Regulations

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Vol. 45, No. 58
Monday, March 24, 1980

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 4, 20, 30, 40, 50, 55, 70, 110, and 150

Deletion of reference to Panama Canal Zone; Minor Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is deleting all references to the Panama Canal Zone in its regulations. These minor amendments reflect the provisions of the Panama Canal Treaty of 1977 and the recently enacted Panama Canal Defense Act of 1979. Under the Act and the Treaty, the U.S. Government relinquished jurisdiction over the Panama Canal Zone to the Republic of Panama. These amendments revise portions of the Commission's regulations to reflect the revised status of the Canal Zone.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Divison of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: Under the Panama Canal Treaty of 1977, the territory of the former Panama Canal Zone became subject to the jurisdiction of the Republic of Panama on October 1, 1979. The Treaty, and the recently enacted Panama Canal Defense Act of 1979 (P.L. 96–70) passed on September 27, 1979, supersede all previous legislation. Thus, all references in the Atomic Energy Act to the Canal Zone as being jurisdictionally part of the United States are no longer valid. Therefore, the Nuclear Regulatory Commission is deleting all references to the Canal Zone from its regulations in Title 10, Chapter 1 of the Code of Federal Regulations.

Since these amendments are corrective and relate solely to minor procedural matters, notice of proposed rulemaking and public procedure thereon are unnecessary and good cause exists to make the amendments effective upon publication in the **Federal Register.**

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 4, 20, 30, 40, 50, 55, 70, 110 and 150 are published as a document subject to codification.

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. Paragraph (j) of § 4.3 is revised to read as follows:

§ 4.3 Definitions.

* * * * *

(j) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

* * * * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Appendix D [Amended].

2. Appendix D of Part 20 is amended by deleting "Panama Canal Zone," from those jurisdictions listed under Region II.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

3. Paragraph (u) of § 30.4 is revised to read as follows:

§ 30.4 Definitions.

As used in this part and Parts 31–35 of this chapter:

* * * * *

(u) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

4. Paragraph (j) of § 40.4 is revised to read as follows:

§ 40.4 Definitions.

As used in this part:

* * * * *

(j) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. Paragraph (s) of § 50.2 is revised to read as follows:

§ 50.2 Definitions.

As used in this part:

* * * * *

(s) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

* * * * *

PART 55—OPERATORS' LICENSES

6. Paragraph (g) of § 55.4 is revised to read as follows:

§ 55.4 Definitions.

As used in this part:

* * * * *

(g) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7. Paragraph (n) of § 70.4 is revised to read as follows:

§ 70.4 Definitions.

As used in this part:

* * * * *

(n) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

8. Paragraph (rr) of § 110.2 is revised to read as follows:

§ 110.2 Definitions.

As used in this part:

* * * * *

(rr) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

9. Paragraph (j) of § 150.3 is revised to read as follows:

§ 150.3 Definitions.

As used in this part:

* * * * *

(j) "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

* * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, Maryland, this 14th day of March 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-8927 Filed 3-21-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 4

Office Organization and Delegation of Authority

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations which describes office organization and delegations of authority within the Office of the Comptroller of the Currency. The purpose of the amendment is to incorporate into the regulation recent organizational changes within the Office so as to ensure that the information available to the public is both current and accurate.

EFFECTIVE DATE: This amendment describes changes in effect on March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara M. Yadley, Staff Attorney, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: This amendment is issued under authority of 12 U.S.C. 1 *et seq.*, pursuant to the requirement of 5 U.S.C. 552 that each agency publish in the **Federal Register** descriptions of its central and field organizations.

Synopsis of Changes

1. Paragraph (a) of § 4.1a has been revised to reflect recent changes in the central office structure of the Office of the Comptroller of the Currency. The revision updates the functional descriptions and title changes of key positions in the Office.

2. Paragraph (b) of § 4.1a has been revised so as to include the Northern Mariana Islands within the 14th National Bank Region. Also, the addresses of various Regional Offices have been updated to current status.

Drafting Information

The principal drafter of this document was Richard H. Neiman, a former Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

Adoption of Amendment

Accordingly, 12 CFR Part 4 is amended by revising § 4.1a (a) and (b) to read as follows:

§ 4.1a Central and field organization; delegations.

(a) *Central Office*—(1) *Comptroller of the Currency.* The Comptroller of the Currency, as head of the Office of the Comptroller of the Currency, is the chief regulatory officer for national banks. The Comptroller is responsible for directing the development, execution, and review of all Office programs and functions. The Comptorller is appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Comptroller's office is located at 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. The Comptroller is assisted by the following officials who perform such duties as the Comptroller may prescribe in addition to the responsibilities set forth below.

(2) *Senior Deputy Comptroller.* The Senior Deputy Comptroller serves as the agency liaison officer for the Federal Financial Institutions Examination Council and is also responsible for directing and coordinating interagency activities and internal and external communications. The person who occupies the position of Senior Deputy Comptroller is designated First Deputy Comptroller of the Currency for statutory purposes and is first in order of succession to the Comptroller. The Senior Deputy Comptroller supervises the Deputy Comptroller for Interagency Coordination and the Director for Communications.

(3) *Senior Deputy Comptroller for Operations.* The Senior Deputy Comptroller for Operations is responsible for directing and coordinating all regional operations and all administrative functions including human resources, finance and administration, operations planning, and systems and data processing. The Senior Deputy Comptroller for Operations supervises the Deputy Comptroller for Administration and the fourteen Regional Administrators.

(4) *Senior Deputy Comptroller for Bank Supervision.* The Senior Deputy Comptroller for Bank Supervision is responsible for directing and coordinating activities associated with programs of bank supervision and examination, including specialized examinations, identification and supervision of banks warranting special supervisory attention, and commercial examinations. The Senior Deputy Comptroller for Bank Supervision supervises the Deputy Comptrollers for Multinational Banking, Specialized Examinations, and Special Surveillance, and the Chief National Bank Examiner.

(5) *Senior Deputy Comptroller for Policy.* The Senior Deputy Comptroller for Policy is responsible for directing and coordinating research and economic analysis, policy development, customer and community programs, and corporate activities of national banks. The Senior Deputy Comptroller for Policy supervises the Deputy Comptroller for Research and Economic Programs and the Deputy Comptroller for Customer and Community Programs.

(6) *Chief Counsel.* The Chief Counsel serves as the chief legal officer for the Office and is responsible for advising the Comptroller on all legal matters concerning the functions, activities, and operations of the Office and of all national banks. The Chief Counsel is head of the Washington Law Department and supervises the Regional Counsel in each of the fourteen national bank regions.

(7) *Senior Advisor.* The Senior Advisor reports directly to the Comptroller and advises him on policy issues. The Senior Advisor also provides administrative, liaison, and technical support.

(8) *Deputy Comptroller for Multinational Banking.* The Deputy Comptroller for Multinational Banking has managerial responsibility for programs dealing with multinational

bank activities, including responsibility for international and multinational bank examinations.

(9) *Deputy Comptroller for Specialized Examinations.* The Deputy Comptroller for Specialized Examinations has managerial responsibility for the trust and electronic data processing examination programs.

(10) *Deputy Comptroller for Special Surveillance.* The Deputy Comptroller for Special Surveillance has managerial responsibility for programs dealing with banks requiring special supervisory attention and the operation of the national bank surveillance system, a computer based system to monitor trends in the U.S. banking system and to detect anomalies in individual national banks.

(11) *Chief National Bank Examiner.* The Chief National Bank Examiner has managerial responsibility for commercial bank examination programs, including those relating to domestic operations, investment securities, and bank accounting.

(12) *Deputy Comptroller for Administration.* The Deputy Comptroller for Administration has managerial responsibility for the administrative functions of the Office, including human resources, finance and administration, operations planning, and systems and data processing.

(13) *Deputy Comptroller for Interagency Coordination.* Deputy Comptroller for Interagency Coordination assists the Comptroller in meeting the Comptroller's responsibilities as a Director of the Federal Deposit Insurance Corporation. The Deputy Comptroller for Interagency Coordination also has managerial responsibility for interagency coordination with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and other agencies on technical matters relating to bank examinations, statistical reporting, and economic analysis.

(14) *Deputy Comptroller for Research and Economic Programs.* The Deputy Comptroller for Research and Economic Programs has managerial responsibility for the Office's economic, financial, and banking research programs, for regulatory analysis, and for the corporate activities of national banks.

(15) *Deputy Comptroller for Customer and Community Programs.* The Deputy Comptroller for Customer and Community Programs has managerial responsibility for the development of policies and programs relating to consumer protection, community development, and civil rights, including the responsibility for examinations in these areas.

(16) *Director for Inspections and Audits.* The Director for Inspections and Audits reports directly to the Comptroller and is responsible for reviewing internal operations for compliance with established policies, procedures, laws, and regulations.

(17) *Director for Communications.* The Director for Communications is responsible for the direction of executive communications, public information, and internal and external publications.

(18) *Special Assistant for Congressional Affairs.* The Special Assistant for Congressional Affairs reports directly to the Comptroller and is responsible for coordination and communications with Congress.

(19) *Special Assistants.* The Special Assistants report directly to the Comptroller and provide administrative, liaison, and technical support for the Comptroller and the executive management of the Office.

(b) *Regional Offices*—(1) Fourteen National Bank Regions cover the United States, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands. The Office address and geographic composition of each is as follows:

Region No., Area Within Region, and Office Address

1 Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island; Three Center Plaza, Suite P–400, Boston, Mass. 02108

2 New York, New Jersey, Puerto Rico, Virgin Islands; 1211 Avenue of the Americas, Suite 4250, New York, N.Y. 10036

3 Pennsylvania, Delaware; Three Parkway, Suite 1800, Philadelphia, Pa. 19102

4 Indiana, Ohio, Kentucky; One Erieview Plaza, Cleveland, Ohio 44114

5 West Virginia, Maryland, Virginia, North Carolina, District of Columbia; F & M Center, Suite 21–51, Richmond, Va. 23277

6 South Carolina, Georgia, Florida; Peachtree Cain Tower, Suite 2700, 299 Peachtree St., N.E., Atlanta, Ga. 30303

7 Illinois, Michigan; Sears Tower, Suite 5750, 233 South Wacker Drive, Chicago, Ill. 60606

8 Arkansas, Tennessee, Louisiana, Mississippi, Alabama; 165 Madison Avenue, Suite 800, Memphis, Tenn. 38103

9 North Dakota, South Dakota, Minnesota, Wisconsin; 800 Marquette Avenue, Suite 1100, Minneapolis, Minn. 55402

10 Nebraska, Kansas, Iowa, Missouri; 911 Main Street, Suite 2616, Kansas City, Mo. 64105

11 Texas, Oklahoma; 1201 Elm Street, Suite 3800, Dallas, Tex. 75270

12 Wyoming, Colorado, Utah, New Mexico, Arizona; 1405 Curtis Street, Suite 3000, Denver, Colo. 80202

13 Washington, Oregon, Idaho, Montana, Alaska; 707 S.W. Washington St., Room 900, Portland, Oreg. 97205

14 California, Nevada, Hawaii, Guam, and the Northern Mariana Islands; One Market Plaza, Steuart Street Tower, Suite 2101, San Francisco, Calif. 94105.

(2) A Regional Administrator of National Banks is in charge of each National Bank Region and has general administrative and regulatory supervision over all matters pertaining to national banks in that region. The Regional Administrator is assisted by two Deputy Regional Administrators, a Regional Counsel, and various regional support personnel.

* * * * *

Dated: March 14, 1980.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 80-8921 Filed 3-21-80; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-10-AD; Amdt. 39-3723]

Airworthiness Directives; Cessna Model R172K Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD), applicable to Cessna Model R172K airplanes. It requires measurement of the breakaway torque on the Cessna P/N 0550296–1 tachometer shaft connector. In addition, an inspection and/or replacement of the engine Oil Pump Drive Gear (Teledyne Continental Motors P/N 634010) and replacement of the Woodruff Key (P/N MS35756–1) is required in engines of airplanes on which either insufficient or excessive breakaway torque is measured. This action is necessary because it has been determined that the Cessna P/N 0550296–1 tachometer shaft connector may have been improperly torqued at installation. This condition permits relative motion between the oil pump gear and oil pump drive gear to damage the oil pump drive gear in the keyway and cause failure of this part with resultant loss of engine oil pressure and possible engine failure.

EFFECTIVE DATE: March 31, 1980, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated March 13, 1980.

Compliance: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Aerospace Engineer, Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Building No. 2299, Mid-Continent Airport, Wichita, Kansas 68209; Telephone (316) 942–7927.

SUPPLEMENTARY INFORMATION: The FAA has determined that the problem described in the summary is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. The agency also determined that an emergency situation existed, that immediate corrective action was required, and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by the AD by airmail letter dated March 13, 1980. The AD became effective as to these individuals upon receipt of the letter. Since the unsafe condition described herein may still exist on other Cessna Model R172K airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

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

Cessna: Applies to the following Model R172K airplanes certificated in all categories:

(Serial Numbers R1722000 through R1723204, R1723206 through R1723211, R1723213, R1723214, R1723216 through R1723220, R1723222 through R1723226, R1723228 through R1723238, R1723240 through R1723246, R1723248 through R1723258, R1723260 through R1723272, R1723274 through R1723312, R1723314, R1723316 through R1723319, R1723321 through R1723329, R1723331 through R1723351, R1723353 through R1723362 airplanes).

Compliance: required as indicated unless already accomplished.

To preclude failure of the engine oil pressure pump drive shaft and resulting oil pressure loss caused by an improperly installed tachometer shaft connector, within the next 10 hours' time-in-service after the effective date of this AD, accomplish the following in accordance with the applicable Cessna Service Manual:

(A) Remove Cessna P/N 0550297–1 tachometer drive adapter assembly from the engine accessory case.

(B) Using a five-eighths inch crow foot wrench, measure the breakaway torque of Cessna P/N 0550296–1 tachometer drive connector.

Note.—Refer to Advisory Circular AC65–9A, Airframe & Powerplant Mechanics General Handbook, or Torque Wrench Manufacturers Instructions for formula for use of torque wrench with extensions.

(C) If the breakaway torque is at least 200 inch-pounds and not over 350 inch-pounds, retorque the Cessna P/N 0550296–1 tachometer drive connector to 280 to 300 inch-pounds. Reinstall the tachometer drive adapter assembly and make the prescribed entry in the aircraft maintenance record indicating compliance with this AD.

(D) If the breakaway torque is less than 200 inch-pounds or greater than 350 inch-pounds, prior to further flight, accomplish either of the following:

1. Replace the Teledyne Continental Motors P/N 634010 Oil Pump Drive Gear and P/N MS35756–1 Woodruff Key with a new Oil Pump Drive Gear and Woodruff Key of the same part number. (Refer to Teledyne Continental Motors Overhaul Manual for IO–360 Series Aircraft Engines for procedures.)

2. Perform a magnetic particle inspection of the Teledyne Continental Motors P/N 634010 Oil Pump Drive Gear in accordance with Section VI of the Teledyne Continental Motors Overhaul Manual for IO–360 Series Aircraft Engines. Give particular attention to the Woodruff Key slot and threaded area. If the oil pump drive gear is found cracked, replace with a new part of the same part number. Whether the oil pump drive gear is cracked or not, replace the P/N MS35756–1 Woodruff Key with a new part of the same part number. (Refer to Teledyne Continental Motors Overhaul Manual for IO–360 Series Aircraft Engines for procedures.)

(E) Install the Cessna P/N 0550296–1 tachometer drive connector and torque to 280 to 300 inch-pounds. Reinstall the tachometer drive adapter assembly and make the prescribed entry in the aircraft maintenance record indicating compliance with this AD.

(F) Airplanes may be flown in accordance with FAR 21.197 to a location where the maintenance required by this AD may be performed.

(G) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport Wichita, Kansas 67209.

This amendment becomes effective on March 31, 1980, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated March 13, 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 Sec. 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 March 14, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-8694 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-8-AD; Amendment 39-3719]

Airworthiness Directives; Cessna Model TU206, TP206, T207 and T210 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Model TU206, TP206, T207 and T210 Series Airplanes. The AD requires a one-time check of the turbocharger nameplate to determine whether or not certain turbochargers are installed. This action is necessary to assure that turbochargers assembled with nonconforming thrust washer pins are removed to prevent engine oil pump failure caused by ingestion of a failed pin.

EFFECTIVE DATE: March 28, 1980, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated February 25, 1980.

Compliance: Within the next 10 hours' time-in-service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Aerospace Engineer, Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–7927.

SUPPLEMENTARY INFORMATION: Notification has been received that some seventy-five turbochargers, Cessna Part Number C295001–0101, AiResearch Part Number 406610–5, Serial Number HI0101 through HI0175, have been assembled with nonconforming thrust washer anti-rotation pins. These turbochargers were installed on certain serial numbers of Cessna Model TU206, T207 and T210 Series Airplanes in production and may have been installed on Cessna Model TP206 Series airplanes as a spare part.

Investigation revealed that in two instances failure of these pins has resulted in oil pump failure and engine seizure caused by the ingestion of a failed pin in the engine oil pump. The manufacturer has issued Special Project #SP80-6S on February 11, 1980, calling for the replacement of the affected turbochargers on sixty-two aircraft identified as having one of the units installed in it. The remaining thirteen affected turbochargers are unaccounted for, and are believed to have been shipped for spares.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design. It was also determined that an emergency condition existed, that immediate action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by airmail letter dated February 25, 1980. The AD became effective as to these individuals upon receipt of that letter. Since the unsafe condition described herein may still exist on other Cessna Model TU206, TP206, T207, and T210 series airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

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.

Cessna: Applies to the following models and serial number airplanes certificated in all categories.

Model, and Serial Number

TU206 series—(Serial Numbers U206-0487 through U206-1444 U20601445 through U20605619) airplanes;

TP206 series—(Serial Numbers P206-0001, P206-0191 through P206-0603, P20600604 through P20600647) airplanes;

T207 series—(Serial Numbers 20700001 through 20700603) airplanes;

T210 series—(Serial Numbers T210-0001 through T210-0454, 21058140, 21059200 through 21063954) airplanes.

Compliance: Required as indicated unless already accomplished. To preclude failure of the engine oil pressure and scavenge pump drive shaft and resulting oil pressure loss caused by turbocharger oil scavenge pump ingestion of failed turbocharger thrust bearing anti-rotation pins, within the next 10 hours; time-in-service after the effective date of this AD, accomplish the following:

(A) Check the Cessna P/N C295001-0101 (AiResearch P/N 406610-5) tubocharger nameplate to determine if the serial number is HI0101 through HI0175. The owner/operator may perform serial number check only provided any cowling disassembly/reassembly is accomplished in accordance with applicable Cessna Service Manuals.

(B) If the serial number on the turbocharger nameplate is not one of those specified in Paragraph (A), make an entry in the aircraft maintenance records indicating compliance with this AD and no further action is required.

(C) If the serial number on the turbocharger nameplate is one of those specified in Paragraph (A):

1. Remove the turbocharger oil return hose and fitting and visually inspect to assure that a failed thrust bearing anti-rotation pin is not trapped in the hose, check valve, or oil scavenge pump inlet.

2. Replace the turbocharger in accordance with the applicable Cessna Service Manual with a replacement unit which is not one of those listed in Paragraph (A).

(D) Within 24 hours time-in-service after the turbocharger replacement required by Paragraph (C) of this AD, and prior to disposition of the turbocharger, contact your local Flight Standards District Office, General Aviation District Office or Engineering and Manufacturing District Office for turbocharger disposition procedure.

(E) Airplanes may be flown in accordance with FAR 21.197 to a location where the replacement required by Paragraph (C) may be accomplished.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective on March 28, 1980, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated February 25, 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(a)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 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 final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on March 13, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-8797 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-GL-3-AD; Amdt. 39-3718]

Airworthiness Directives; Slick Electro, Inc., Magnetos

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all aircraft with certain Slick magnetos by airmail letter dated February 4, 1980. The AD is prompted by a magneto malfunction in the field which could be repetitive on other units with defective parts and requires a hardness test on the impulse coupling assembly to determine if the rivets have been properly heat treated.

DATE: Effective March 28, 1980.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: A copy of the applicable Service Bulletin, No. 1-80, may be obtained from Slick Electro, Inc., 530 Blackhawk Park Avenue, Rockford, Illinois 61101. Copies of the service information are contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Ave., S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: Slick Electro, Inc. has determined that impulse coupling assemblies on certain magneto models have been assembled with rivets that have not been properly heat treated. If not detected and replaced, impluse coupling failures could occur. Since this condition is likely to exist or develop on other magnetos of the same type design, an Airworthiness Directive is being issued which requires a procedure to determine whether or not magneto coupling assembly rivets have been properly heat treated. 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 immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the **Federal Register**

as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Adoption of the Amendment

Part 39—AIRWORTHINESS DIRECTIVES

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:

Slick Electro, Inc. Applies to the following Slick magneto models and associated serial and impulse coupling numbers:

Magneto model No.[1]	Serial No.[1][2]	Impulse coupling No.[1]
447 and 447R	9040001 to 9040049	M2374
662 and 662R	9020462 to 9070000	M2362
664 and 664R	9040001 to 9040086	M2370
680 and 680R	9020462 to 9070000	M2369
4151 and 4151R	9020017 to 9070000	M1709
4152 and 4152R	9020017 to 9070000	M1709
4181 and 4181R	9020017 to 9070000	M1709
4201 and 4201R	9020210 to 9070000	M3007
4251 and 4251R	9030001 to 9070000	M3163
4281 and 4281R	9030001 to 9070000	M3007
4230 and 4230R	9040001 to 9040197	M3068
6210	8090073 to 9070000	M3050
6214	8050001 to 9070000	M3089
		M2371[3]
		M3100[3]
		M3165[3]

[1] Any of the units listed were manufactured subsequent to January 1979.

[2] Any magneto serial numbers between and including the lower and upper limits as shown are affected by this AD.

[3] These coupling numbers are for parts used as spares and also must be tested.

The magneto models as listed above are installed on, but not limited to, the following engines:

Lycoming
- AEIO-360
- AEIO-320
- IO-320
- O-235
- O-320
- O-360

Continental
- A-65-8
- A-75-8
- C-85-8
- C-90-8
- O-200-A
- O-300-A, -B, -C, -D
- O-470-U
- IO-360-KB
- IO-470
- IO-520-A, -B, -F
- TSIO-470
- TSIO-520-T

Compliance is required as indicated unless already accomplished. To prevent a possible magneto failure and subsequent engine or accessory malfunction, accomplish the following:

Prior to the next ten (10) hours of aircraft time in service, or within the next thirty (30) calendar days from the date of this AD, whichever occurs first, complete the following comparative hardness test procedures:

1. Remove the impulse coupling magneto(s) from the engine per engine manufacturer's instructions.

2. Remove the impulse coupling assembly from the magneto frame per Slick's maintenance and overhaul instructions.

3. Establish a reference level of acceptable metal hardness by sliding a fine cut mill file over the flat surface of either pawl. The file will slide freely and will only burnish the hard surface of the pawl.

4. By a similar filing action, test for the hardness of each of the two rivet heads.

5. If there is resistance to sliding and material is removed from the rivet head, the rivet has not been heat treated and the coupling assembly must be replaced. Return the defective coupling assembly to a Slick Electro, Inc. distributor.

6. If hardness of the rivet heads and pawls are equivalent, reassemble and identify AD compliance by metal stamping a letter "C" on the Slick insignia located on the side of the magneto identification plate.

7. If the results of the comparative hardness test on the rivet(s) are questionable, the coupling assembly must be replaced.

This amendment becomes effective March 28, 1980 as to all persons except those to whom it was made immediately effective by the airmail letter dated February 4, 1980, which contained this amendment.

(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)

The Federal Aviation Administration 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 final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois on March 7, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-8796 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-14-AD; Amdt. 39-3720]

McDonnell Douglas C-54 and DC-4 Aircraft

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends airworthiness directive (AD) 47-02-03, which requires replacement of aluminum hydraulic accumulators. This amendment is necessary to allow the use of a single alternate steel accumulator on the McDonnell Douglas C-54 and DC-4 Aircraft.

DATE: Effective March 27, 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, Attention: Director, Publications 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, S.W., Washington, D.C. 20591, or;

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

FOR FURTHER INFORMATION CONTACT: Kyle L. Olsen, 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: AD 47-02-03 requires replacement of 9" Douglas hydraulic accumulators with dual 7½" Bendix or Vickers accumulators or one 10" Vickers accumulator. In 1956, the Civil Aeronautics Administration in Los Angeles evaluated and approved a single 7½" steel accumulator. At that time, all airworthiness directives were issued by the Headquarters in Washington, D.C. and the Los Angeles Office provided a suggested change to the airworthiness directive, but the airworthiness directive was not amended. Use of the alternate single 7½" steel accumulator was recently requested by a DC-4 operator. Therefore, the FAA is amending AD 47-02-03 to add this alternate means of compliance. Since this amendment provides an alternate means of compliance and imposes no additional

burden on any person, notice and public procedure hereon are unnecessary and the amendment may become effective in less than thirty (30) days.

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 amending AD 47-02-03 by replacing the main paragraph with the following:

Because of failures in service of the main 9" Douglas aluminum accumulator, it is necessary to replace it with at least one 7½" steel accumulator, Bendix P/N 406920 or Vickers P/N AA 14308B, or Vickers 10" accumulator Model AA-14310. (Douglas Service Bulletin DC-4 No. 9 and Addendum dated January 6, 1956 cover the same subject).

This amendment becomes effective March 27, 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)

Issued in Los Angeles, California on March 13, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-8799 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 61 and 65

[Docket No. 20189; Amdt. Nos. 61-68 and 65-25]

Air Traffic Control Tower Operators: Medical Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This regulation excepts air traffic control tower operators who are employed by the FAA from the requirement that they hold a second class medical certificate. This revision is necessary to avoid the application of two different programs for physical qualification to FAA employees.

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Edward Harris (202) 426-8067.

SUPPLEMENTARY INFORMATION: An air traffic control tower operator is an airman, as defined in section 101 of the Federal Aviation Act of 1958 (the Act). In accordance with section 602 of the Act, the Administrator, in issuing an airman certificate to an applicant, determines whether the applicant is physically able to perform the duties pertaining to the position for which the airman certificate is sought. In accordance with this statutory mandate, § 65.33 of the Federal Aviation Regulations (14 CFR 65.33) requires that an applicant for an air traffic control tower operator certificate hold a second class medical certificate issued under Part 67, Medical Standards and Certification (14 CFR Part 67).

Even though other FAA employees with air traffic control (ATC) duties (enroute air traffic controllers and flight service station operators) are not airmen, as defined in the Act, the FAA has also required these persons to meet physical standards. A physical qualification program for all FAA ATC personnel, including control tower operators, was developed by the Civil Service Commission in the early 1960's. The availability of forms and guidelines that were being used in connection with Part 67 facilitated the administration of this program.

Recently, the agency requested the Office of Personnel Management to revise the physical standards for retention of ATC personnel. The proposed new standards further differentiate between requirements applicable to FAA personnel and the certification requirements in Part 67.

In order to avoid the application of two different programs for physical qualification to FAA employees, this amendment revises §§ 65.31 and 65.33. It excepts FAA employees from the requirement to hold a second class medical certificate in order to be eligible for, and to exercise the privileges of, an air traffic control tower operator certificate.

Part 65 still requires that non-FAA control tower operators hold second class medical certificates. Section 61.23(b)(1) is being revised to make clear the 12-month duration of the second class medical certificate as it applies to these non-FAA control tower operators.

Since FAA control tower operators are already required to meet medical standards that are equivalent to those required by Part 67, the Administrator finds that notice and public procedure are unnecessary.

Adoption of the Amendment:

Accordingly, Parts 61 and 65 of the Federal Aviation Regulations (14 CFR Parts 61 and 65) are amended effective April 23, 1980, as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

§ 61.23 [Amended]

1. By amending § 61.23(b)(1) by inserting the words "or an air traffic control tower operator certificate" after the words "commerical pilot certificate".

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

2. By amending § 65.31 by deleting the word "and" at the end of paragraph (a), by deleting the period at the end of the paragraph (b) and substituting for it a semicolon followed by the word "and", and by revising the heading and adding a new paragraph (c) to read as follows:

§ 65.31 Required certificates, and rating or qualification.

* * * * *

(c) Except for a person employed by the FAA, holds at least a second class medical certificate issued under Part 67 of this chapter.

3. By revising § 65.33(d) to read as follows:

§ 65.33 Eligibility requirements: General.

* * * * *

(d) Except for a person employed by the FAA, hold at least a second-class medical certificate issued under Part 67 of this chapter within the 12 months before the date application is made; and

* * * * *

(Secs. 313(a), 601, 602, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422); 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). In additicn, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, DC, on March 17, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-8830 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 79-CE-38]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, Storm Lake, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Storm Lake, Iowa, to provide additional controlled airspace for

aircraft executing a new instrument approach procedure to Runway 35 at the Storm Lake, Iowa Municipal Airport based on the Storm Lake Nondirectional Radio Beacon (NDB), a navigational aid. The existing instrument approach procedure to Runway 31 will be cancelled. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to Runway 35 at the Storm Lake Municipal Airport, Storm Lake, Iowa, is being established based on the Storm Lake NDB, a navigational aid. The existing instrument approach procedure to Runway 31 will be cancelled. The establishment of a new instrument approach procedure based on this approach aid entails the alteration of the transition area at Storm Lake, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 6411 of the **Federal Register** dated January 28, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Storm Lake, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rule Making.

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445), is amended effective 0901 GMT May 15, 1980, by altering the following transition area:

Storm Lake, Iowa

That Airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Storm Lake, Iowa Municipal Airport (latitude 42°36'00"N, longitude 95°14'31"W) and within 3 miles each side of the 174° true bearing from Storm Lake NDB extending from the 6.5 mile radius area to 8.5 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

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 reglatory evaluation.

Issued in Kansas City, Missouri, on March 13, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-8798 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 79-CE-19]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Ottawa, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Ottawa, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Ottawa, Kansas Municipal Airport, based on a Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Ottawa, Kansas, Municipal Airport is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport by the City of Ottawa. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Ottawa, Kansas at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 2658 and 2659 of the **Federal Register** dated January 14, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Ottawa, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT May 15, 1980, by adding the following new transition area:

Ottawa, Kans.

That airspace extending upwards from 700 feet above the surface within a 5 mile radius of the Ottawa Municipal Airport (Latitude 38°32'21"; Longitude 95°15'14"), and within 3 miles each side of the 167° bearing from the OWI NDB (Latitude 38°32'33"; Longitude 95°15'15"), extending from the 5 mile radius area to 8.5 miles southeast of the NDB facility.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

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 Kansas City, Missouri, on March 10, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-8802 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 79-CE-35]

Designation of Transition Area—Marshall, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Marshall, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to Marshall Memorial Airport, Marshall, Missouri based on the Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to Marshall Memorial Airport, Marshall, Missouri, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport by the City of Marhsall. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Marshall, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules.

Discussion of Comments

On page 2659 of the **Federal Register** dated January 14, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Marshall, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 G.M.T. May 15, 1980, by adding the following new transition area:

Marshall, Mo.

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Marshall Memorial Airport (Latitude 39°06'00"; Longitude 93°12'10"), and within 3 miles each side of the 347° bearing from the MHL NDB (Latitude 39°05'49"; Longitude 93°11'52"), extending from the 5-mile radius area to 8.5 miles northwest of the NDB facility; and within 3 miles each side of the 184° bearing from the MHL NDB extending from the 5-mile radius area to 8.5 miles southwest of the NDB facility.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (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 Kansas City, Missouri, on March 10, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-8803 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-CE-37]

Alteration of Transition Area—Fulton, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Fulton, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Fulton, Missouri Municipal Airport, based on the Fulton Non-Directional Radio Beacon (NDB), a navigational aid, installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Fulton Municipal Airport, Fulton, Missouri, is being established utilizing the Fulton Non-Directional Radio Beacon (NDB), a navigational aid, installed on the airport. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Fulton, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 2660 of the **Federal Register** dated January 14, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Fulton, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445), is amended effective 0901 G.m.t. May 15, 1980, by altering the following transition area:

Fulton, Mo.

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Fulton Municipal Airport (latitude 38°50'22"N; longitude 92°00'17"W), and within 2 miles each side of the Hallsville, Missouri VORTAC (latitude 39°06'49"; longitude 92°07'41") 154°R; extending from the 5-mile radius area to 6 miles NW of the Fulton Municipal Airport, and within 3 miles each side of the Fulton, Missouri NDB (latitude 38°50'34"; longitude 92°00'16") 229° bearing; extending from the 5-mile radius area to 8.5 miles SW of the NDB, and within 3 miles each side of the NDB facility 065° bearing; extending from the 5-mile radius area to 8.5 miles NE of the NDB; excluding that portion which overlies the Columbia, Missouri, 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (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 Kansas City, Missouri, on March 10, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-8804 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6199; 34-16647; IC-11081]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to delegate authority to the Director of the Division of Market Regulation to grant exemptions from Rule 13e-4, tender offers by issuers, under the Securities Exchange Act of 1934 [17 CFR § 240.13e-4] pursuant to paragraph (g)(5) thereof. Paragraph (g)(5) of Rule 13e-4 provides that the Commission, upon written request or on its own motion, may exempt transactions from Rule 13e-4 as not constituting a fraudulent, deceptive or manipulative act or practice. The Commission believes that it would facilitate the timely review of exemptive requests if the authority to grant exemptions from Rule 13e-4 were delegated to the Director of the Division of Market Regulation.

EFFECTIVE DATE: March 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mary E. Chamberlin (202-272-2828), Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Securities Exchange Act Rule 13e-4 (17 CFR 240.13e-4) and related Schedule 13E-4 (17 CFR 240.13e-101) impose certain filing and other requirements in the context of tender offers by issuers for their own equity securities. Paragraph (g)(5) of Rule 13e-4 provides that the Commission, upon written request or on its own motion, may exempt transactions from Rule 13e-4 as not constituting a fraudulent, deceptive or manipulative act or practice. The Commission believes that it would facilitate the timely review of exemptive requests if the authority to grant exemptions from Rule 13e-4 were delegated to the Director of the Division of Market Regulation. Accordingly, the Commission, acting pursuant to the Act of August 20, 1962, Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2) hereby amends Section 200.30-3 (17 CFR 200.30-3) of the Commission's rules relating to general organization by adding a new paragraph (a)(35) to delegate authority to the Director of the Division of Market Regulation to grant exemptions from Rule 13e-4.

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that this amendment relates solely to agency organization and procedure and, therefore, that notice and public procedures pursuant to 5 U.S.C. 553 are not necessary pursuant to subsection (b) thereof. Such amendment shall be adopted, effective immediately.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding a new paragraph (a)(35) to § 200.30-3, as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(35) To grant exemptions from Rule 13e-4 (§ 240.13e-4 of this chapter) pursuant to Rule 13e-4(g)(5) (§ 240.13e-4(g)(5) of this chapter).

* * * * *

(Pub. L. 87-592, 76 Stat. 394, (15 U.S.C. 78d-1, 78d-2))

By the Commission.

George A. Fitzsimmons,

Secretary.

March 13, 1980.

[FR Doc. 80-8515 Filed 3-21-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release Nos. 33-6197; 34-16645; IC-11079]

Application of Rule 10b-6 to Purchases Pursuant to Certain Tender Offers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Rule 10b-6, which prohibits trading by persons interested in a distribution of securities, to except certain purchases of an issuer's securities by the issuer or an affiliate pursuant to a tender offer subject to Rule 13e-4 or Section 14(d) (15 U.S.C. 78n(d)) which regulate such offers. The amendment will except such purchases if the issuer of affiliate is subject to Rule 10b-6 solely because the issuer has outstanding securities convertible into or exchangeable for the security for which the tender offer will be made. The Commission believes that adequate safeguards exist in the context of such offers and that additional regulation under Rule 10b-6 is not necessary.

EFFECTIVE DATE: March 13, 1980.

FOR FUTHER INFORMATION CONTACT: Mary E. Chamberlin (202-272-2828), Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On August 16, 1979, the Commission adopted Rule 13e-4 (17 CFR 240.13e-4) and related Schedule 13E-4 (17 CFR 240.13e-101) which impose certain filing and other requirements in the context of cash tender and exchange offers by issuers or their affiliates for equity

securities of the issuer.[1] In the Adopting Release, the Commission noted its intent to amend Rule 10b–6 (17 CFR 240.10b–6) to provide that, if the provisions of that Rule would apply to bids for or purchases of ("purchases") the subject security solely because the issuer has outstanding a class of securities which is immediately convertible into or exchangeable for the subject security, such provisions shall not apply if the bids and purchases are made in accordance with Rule 13e–4.[2] The Commission continues to believe that Rule 13e–4 provides sufficient safeguards in the context of issuer tender offers and that additional regulation of such offers under Rule 10b–6 is not necessary. Accordingly, the Commission has adopted this amendment with certain modifications.[3]

New paragraph (f) provides that the provisions of Rule 10b–6 shall not apply to purchases pursuant to an issuer tender offer if the issuer is engaged in a distribution of the subject security solely because the issurer has outstanding securities which are immediately convertible into, or exchangeable or exercisable for, the subject security, provided that the offer is subject to and made in compliance with Rule 13e–4 or, as applicable, Section 14(d) of the Act and the rules thereunder.[4] Thus, an issuer or an affiliate no longer will be required to seek exemptive relief under Rule 10b–6 to permit purchases pursuant to a tender offer for the issuer's common stock simply because the issuer has outstanding preferred stock, debentures or warrants which are convertible into, or exchangeable or exercisable for, common stock.[5]

The Commission finds, in accordance with 5 U.S.C. 553(b)(B) and 553(d) that, in view of the response by commentators on proposed Rule 13e–4 concerning the application of Rule 10b–6 to issuer tender offers and the Commission's notice of intent to amend Rule 10b–6 in the manner described above, notice and public procedures pursuant to 5 U.S.C. 533 are not necessary pursuant to subsection (b) thereof. Such amendment shall be adopted, effective immediately.

Text of Amended Rule

Part 240 of Title 17 of the Code of Federal Regulations is amended by redesignating paragraph (f) of § 240.10b–6 as paragraph (g), and adding a new paragraph (f) thereto, as follows:

§ 240.10b–6 Prohibitions against trading by persons interested in a distribution.

* * * * *

(f) If the provisions of this section would apply to bids for or purchases of any equity security pursuant to an issuer tender offer, as that term is defined in Rule 13e–4(a)(2) under the Act, or to a tender offer subject to section 14(d) of the act and the rules applicable thereto, solely because the issuer has outstanding securities which are immediately convertible into, or exchangeable or exercisable for, the security for which the tender offer is to be made, such provisions shall not apply to such bids and purchases if such bids and purchases are subject to and made in accordance with the provisions of Rule 13e–4 or section 14(d) and the rules applicable thereto.

* * * * *

(Secs. 3(b), 9(a)(6), 10(b), 13(e), 14(e), 15(c)(1), 23(a), 48 Stat. 882, 889, 891, 894, 895, 901, sec. 8, 49 Stat. 1379, sec. 5, 78 Stat. 569, 570, secs. 2, 3, 82 Stat. 454, 455, Secs. 1, 2, 3–5, 84 Stat. 1497, secs. 3, 18, 89 Stat. 97, 155 (15 U.S.C. 78c(b), 78i(a), 78j(b), 78m(e), 78o(c), 78w(a)))

By the Commission.

George A. Fitzsimmons,

Secretary.

March 13, 1980.

[FR Doc. 80–8514 Filed 3–21–80; 8:45 am]

BILLING CODE 8010–01–M

[1] Securities Exchange Act Release No. 16112 (August 16, 1979), 44 FR 49406 ("Adopting Release"). Rule 13e–4 applies to tender offers by issuers for their own equity securities where the issuer has a class of equity securities registered under Section 12 of the Act or is required to file periodic reports with the Commission pursuant to Section 15(d) of the Act or is a closed-end investment company registered under the Investment Company Act of 1940.

[2] Adopting Release, 44 FR 49406 n.7.

[3] Several commentators on proposed Rule 13e–4 addressed the application of Rule 10b–6 to purchases by an issuer of its securities pursuant to a tender offer subject to Rule 13e–4 and suggested that the Commission adopt some form of an amendment to Rule 10b-6 and generally clarify the extent to which both rules would apply to such purchases. *See, e.g.*, Letter from Leonard M. Leiman, Chairman, Committee on Securities Regulation of the Association of the Bar of the City of New York, to George A. Fitzsimmons, Secretary, SEC, dated February 23, 1978, contained in File No. S7–731.

[4] Paragraph (g)(5) of Rule 13e–4 excepts from the provisions of that Rule any tender offer subject to Section 14(d). Accordingly, as a general matter, a tender offer by an affiliate of an issuer for a class of the issuer's securities which is registered under Section 12 of the Act is subject to Section 14(d) rather than Rule 13e–4. Concurrently with the adoption of this amendment, the Commission is publishing for comment amendments to Rule 10b–6 which would provide that the Rule shall not apply to distributions of securities by an issuer to its employees or shareholders pursuant to employee or shareholder plans sponsored by the issuer. *See* Securities Act Release No. 6198 in this issue.

[5] However, if the common stock is the subject of any other distribution for purposes of the Rule, by or attributable to the issuer (*e.g.*, a distribution in connection with a pending acquisition), Rule 10b–6 will continue to prohibit any purchases of common stock by the issuer or any affiliate, including purchases pursuant to an issurer tender offer, absent an exemption from that Rule.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80–44; Order No. 72]

Final Regulations Implementing Section 109 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby reissues as final regulations its interim regulations implementing section 109 of the Natural Gas Policy Act of 1978 (NGPA). The primary purpose of the final rule is to resolve the central question of interpretation of section 109 by determining the proper scope of applicability of that section. In the final rule, the Commission reaffirms the interpretation of section 109 embodied in the interim regulations that section 109 applies only to first sales of natural gas not subject to a maximum lawful price under any other section of Title I of the NGPA.

EFFECTIVE DATE: March 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Mark Magnuson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 4016–I, Washingon, D.C. 20426, (202) 357–8511, or

Susan Tomasky, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8100, Washington, D.C. 20426, (202) 357–8461.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Issued: March 18, 1980.

I. Background

On December 1, 1978, the Commission issued interim regulations [1] implementing the Natural Gas Policy Act of 1978 (NGPA).[2] Under the interim regulations, the maximum lawful price established under section 109(b) is applicable to first sales of natural gas not subject to a maximum lawful price under sections 102, 103, 104, 105, 106, 107 or 108 of the NGPA.[3]

The interim regulation, which defines the scope of applicability of section 109, was based on the Commission's interpretation of the following language of section 109(a):

[1] 43 FR 56448 (Dec. 1, 1978).

[2] 15 U.S.C. 3301 *et seq.*

[3] 18 CFR 271.901

Sec. 109. Ceiling Price for Other Categories of Natural Gas.

(a) Application—The maximum lawful price computed under subsection (b) shall apply to any first sale of any natural gas delivered during any month, in the case of any natural gas which is not covered by any maximum lawful price under any other section of this subtitle, including—

(1) natural gas produced from any new well not otherwise qualifying for a higher maximum lawful price under this title; . . ." [paragraphs (2) through (4) omitted] [4]

As drafted, this language is ambiguous on its face. The language of section 109(a) which precedes paragraphs (1) through (4) appears to state a general rule of applicability which limits the scope of each of the four categories of specifically eligible (i.e., included) types of natural gas. However, listed among the four categories of gas specifically included within the scope of section 109 is "natural gas produced from any new well not otherwise qualifying for a higher maximum lawful price under this title," a category of gas that falls outside the general limitation of the preceding language.

Thus, section 109 is susceptible of two widely divergent interpretations. Read narrowly section 109(a) is intended to limit the scope of the categories which follow so that a new well which qualifies for a lower price under another section of the NGPA would be excluded from section 109. Read broadly, however, the specific categories are to be expressly included within the scope of section 109, superseding the preceding general limitation, so that a new well otherwise subject to a maximum lawful price lower than the section 109 price would nevertheless be eligible for the section 109 price.

In the interim regulation, the Commission took the view that the 109 ceiling price extended only to natural gas not qualifying for any other maximum lawful price established under Title I of the NGPA. A number of comments submitted in response to the interim regulation question that interpretation. Their objections are addressed below. For the reasons which are also set out more fully below, the Commission hereby affirms the position of the interim regulations, and adopts the interim regulation as the final regulation implementing section 109 of the NGPA.

II. Summary of Comments

Comments on the Commission's interpretation of section 109 concern, almost exclusively, its effect with regard to gas produced from new wells: in the Commission's view, natural gas from a well which qualifies for a lower maximum lawful price is ineligible for the higher price of section 109.

Objections to the Commission's interpretation rest on two grounds. Pennzoil, Tenneco, the Indicated Producers, Texaco, the Oklahoma Independent Petroleum Association (OIPA) and Exxon contend that the Commission's interpretation contravenes the language of the statute, by effectively ignoring the word "including" in section 109(a) as it pertains to the four categories described in clauses (1) through (4) of that section. They argue that the Commission is obliged to follow the "plain meaning" of the word "including" which is "something as a constituent, component, or subordinate part of a larger whole" [5] or "comprising, comprehending or embracing as a component part, item or member; enclosing within or containing".[6] Applying this plain meaning, these commenters conclude that any natural gas which falls within the specific categories of clause (1) through (4) is expressly included within the scope of section 109. In contrast, they argue, the Commission's interpretation reads the word including to mean "might include, but not necessarily including".[7] The Commission's interpretation, it is claimed, effectively eliminates from the scope of section 109 all gas described in clauses (a)(1) through (4), by requiring that a producer seeking to qualify for a section 109 price would first have to establish that the gas is not covered by any other maximum lawful price.

In addition to arguments based on the language of the statute, arguments were raised that the Commission's interpretation is contrary to Congressional intent as manifested in the Joint Explanatory Statement of the Committee on Conference (Joint Statement).[8] Grace Petroleum Corp., Texaco, the Interstate Natural Gas Association of America (INGAA), Panhandle Eastern Pipeline Co., Trunkline Gas Co., and Exxon point to language in the Joint Statement which states that section 109 applies to five enumerated categories of natural gas. Categories enumerated "(1)" through "(4)" in the Joint Statement are those categories described in clauses (1) through (4) of section 109 as drafted. Following these categories *in seriatum*, enumerated "(5)", is "any natural gas which is not covered by any maximum lawful price under any other section of this subtitle".[9] On the basis of this language, these commenters argue that Congress intended clause (1) of section 109(a) to enlarge, rather than to contract, the scope of applicability.

A comment submitted by Senator Pete V. Domenici agrees with the Commission that the language of section 109 is ambiguous on its face. However, it is his opinion that, despite the discrepancy between the language of the introductory clause and of clause (1), the intent of the Senate and House confereees was to apply the section 109(b) price to all new wells which didn't qualify for a higher price under another section.

The American Gas Association (AGA) voiced support of the Commission's interpretation of section 109(a). AGA argues that any other interpretation would negate the Congressional purpose in establishing the section 104 price, to retain the price ceiling (adjusted for inflation) applicable to interstate natural gas. They contend that if Congress had intended to price all gas supplies at a section 109 level or higher, it would have had no need to establish ceiling prices lower than the section 109 price. AGA further argues that any other interpretation of section 109 would render meaningless Section 121 of the NGPA. in 1984, Section 121 will deregulate intrastate gas subject to a contract price in excess of $1.00 per MMBtu; if all intrastate gas from new wells were subject to the 109 price of $1.45 per MMBtu, the eventual deregulation provided for under section 121 would accomplish the deregulation of virtually all intrastate gas produced from new wells.

III. Discussion

The crucial question of interpretation at issue here is the scope of applicability of section 109. Generally, the issue is whether section 109 is applicable to the four categories of natural gas described in clauses (1) through (4) of section 109(a) in addition to natural gas not

[4] NGPA, section 109(a)(1).

[5] Comment of OIPA.

[6] Comment of Exxon.

[7] Comment of Indicated Producers.

[8] S. Rep. No. 1126, 95th Cong., 2d Sess. (1978).

[9] The Joint Statement indicates that:

(T)his section applies to—

(1) Natural gas produced from any new well not otherwise qualifying for a higher ceiling price; and

(2) Natural gas committed or dedicated to interstate commerce for which a just and reasonable rate was not in effect under the Natural Gas Act; and

(3) Natural gas which was not committed or dedicated to interstate commerce and which was not subject to an existing contract; and

(4) Natural gas produced from the Prudhoe Bay Unit of the North Slope of Alaska and transported through the transportation system approved under the Alaska Natural Gas Transportation Act of 1976; and

(5) Any natural gas which is not covered by any maximum lawful price under any other section of this subtitle. *Id.* at 90.

covered by any other maximum lawful price, or is applicable only to natural gas not covered by any other maximum lawful price.

However, natural gas falling within the categories described in clauses (2) through (4) of section 109(a), in all cases, would not be subject to a maximum lawful price under another section, so that, as a practical matter, the issue is fundamentally narrower. Specifically, the issue is whether section 109 covers natural gas not covered by any maximum lawful price under any other section and natural gas produced from any new well not otherwise qualifying for a higher maximum lawful price under Title I, or only natural gas which is not covered by any maximum lawful price under any other section. Under the former interpretation, natural gas covered by sections 104, 105, or 106, could also qualify for section 109 if natural gas were produced from a new well. Under the latter interpretation, natural gas from a new well which is covered by section 104, 105, or 106 would be held to that applicable price, unless the gas qualifies for an incentive price under section 102, 103, 107 or 108.

Many commenters contend that our interpretation of section 109 must proceed from consideration of the language of the statute, and, more specifically, from an attempt to discern the intent of Congress underlying its use of the word "including" in subsection (a).[10] The Commission notes that the common definitions of that word supplied by commenters [11] are accurate and ordinarily serviceable definitions of that word. However, we cannot agree with the commenters who suggest that such a plain meaning of "including", properly applied, supplies any plain meaning to the language of subsection (a).

For example, it has been urged that the Commission define "including" as "something as a constituent, component, or subordinate part of a larger whole". In the context of section 109(a) the category in clause (1) (gas from new wells not subject to a higher maximum lawful price) would be the constituent part, and the introductory clause which precedes the word "including" (natural gas not covered by a maximum lawful price under any other section) would be the "larger whole". In this instance, however, the "component part" of clause (1) undisputably is not part of the larger whole of subsection (a).

The Commission is not prepared to ply the word "including" so that in some contorted form it "plainly" supports either a broad interpretation of section 109(a), or a narrow one. After attempting to discern the plain meaning of the word chosen by the drafters, we cannot reach any conclusion but that the meaning of the word "including" as used in section 109 is ambiguous. We therefore must look beyond the meaning of this one word in determining the scope of applicability of section 109.

Notwithstanding the ambiguity created by the use of the word "including" the Commission believes that the text of section 109, taken as a whole, compels us to follow a narrow interpretation. As noted above, the categories of natural gas described in clauses (2) through (4) of paragraph (a) are comprehended within the introductory language, "natural gas which is not covered under any section of this subtitle". In contrast, the natural gas prescribed in clause (1) falls within that category only to the extent that it is not subject to section 104, 105 or 106, or has not qualified for an incentive price under section 102, 103, 107, or 108. If Congress had intended the result which obtains under the broad interpretation, it could have defined the scope of section 109 by reference only to two categories of gas: natural gas which is not covered by a maximum lawful price under any other section and, natural gas produced from any new well not otherwise qualifying for an incentive price under 102, 103, 107, or 108.

To embrace the broad interpretation would lead us to the anomalous conclusion that Congress drafted four parallel clauses with the intent that one clause would have the substantive effect of expanding the scope of applicability of section 109 set forth in the introductory clause, but that the other three clauses, which do not expand the scope of applicability, would have no substantive effect whatsoever. In contrast, the Commission's interpretation recognizes the introductory clause as a general limitation on the scope of applicability of section 109, and gives equal although limited, effect to the four succeeding clauses, as illustrative of the scope of applicability contained in the introductory clause, to the extent not inconsistent therewith.

We also believe that the narrow reading of section 109 is the only interpretation that preserves the statutory scheme of Title I and is consistent with other sections of the NGPA. We are persuaded that Congress established the substantive standards under sections 102 and 103 to assure that a producer receive a higher price for gas from new wells when the well is necessary for the development and production of new reserves. Enforcing these substantive standards, the Commission has provided a producer the opportunity to demonstrate that a particular new well is of the type that Congress intended should receive a price higher than the section 104 price, *i.e.*, a new well drilled to produce additional natural gas from newly discovered or developed reserves. A producer of gas from a new, onshore production well is eligible for the section 103 price if it is determined that the well is necessary to effectively and efficiently drain the reservoir. Or, a producer may qualify for a section 102 price if new reserves of gas are produced from a new well which is 2.5 miles from the nearest marker well or, is produced from a previously existing well tapped by a deepening.[12] To make available a price higher than the section 104 price simply because a producer has drilled a new well violates the statutory scheme which contemplates that higher prices will be accompanied by the development of new reserves.

Congress specifically incorporated, in section 104, the just and reasonable price for natural gas already committed or dedicated to interstate commerce in order to provide for the continued production of flowing gas at current prices, adjusted periodically for inflation. To accept the broad interpretation is to suggest that Congress intended to apply the section 104 price to flowing interstate natural gas, and then intended to create a regulatory alchemy, activated by the drilling of a new well, which changes the price applicable to that natural gas from the expressly incorporated just and reasonable rate to the higher section 109 price. We do not believe that Congress intended that result.

Unquestionably, a fundamental purpose of the incentive prices of Title I of NGPA was to encourage investment in the exploration and development of new natural gas reserves. We do not believe however that the Congress intended to affect investment decisions in a manner which would tend to induce capital investment and the use of limited resources for the production of supplies of natural gas which are already available. Yet this result is an inevitable consequence of a broad interpretation of

[10] *See supra* notes 5–7 and accompanying text.

[11] *See supra* notes 5 and 6 and accompanying text.

[12] Implicit in section 102 is the assumption that a new well drilled 2.5 miles from the nearest marker well will produce new reserves. Similarly, section 102 further encourages the production of new reserves by providing an incentive price for gas from a new well, as defined in section 2(3)(B) of the NGPA, which is deepened and completed at a depth of at least 1000 feet below the completion location of each marker well within 2.5 miles of the new well.

section 109. Under the broad view of section 109, a producer could circumvent a lower price applicable under section 104, 105 or 106, by drilling a new well, even where the well would not qualify as a new onshore production well under section 103 or would not result in the production of new gas under section 102. Producers may be tempted to use available drilling rigs to drill unnecessary wells, diverting that equipment from efforts to explore and develop new reserves. Resources would be misused, no new gas reserves would be developed, and consumers would enjoy no added benefit for the higher prices they would be required to pay. We believe that Congress could not have intended the economic waste that would result if we adopted the broad interpretation of section 109.

The Commission's interpretation of section 109 also draws support from other sections of the NGPA. Section 503(e) provides for the interim collection of the section 109 price for gas from a new well during the period in which the state jurisdictional agency is determining the eligibility of the well for an incentive price. Section 503(e)(1)(B)(i) requires the seller who proposes to make interim collections to provide a sworn statement that the gas is produced from a new well and "that such seller believes in good faith that such natural gas is eligible under this Act to be sold at a price not less than the appropriate maximum lawful price under section 109."

If section 109 were intended to be read broadly, so that a new well would always get at least the section 109(b) price, then it would have been unnecessary for Congress to require the producer to attest that the gas is both from a new well and qualifies for a price no lower than the section 109 price. Unless gas from a new well could be subject to a lower price, the second requirement of the oath statement, that the seller in good faith believe that the gas is eligible for a price no lower than the section 109 price, would be surplusage.

The Commission's interpretation of section 109 is further reinforced by reference to section 503(e)(1)(B)(iii). This provision requires that any interim collections for sales of natural gas from new wells shall be collected subject to a condition of refund in the event it is determined by the appropriate jurisdictional agency that the applicable maximum lawful price is lower than that provided by section 109. However, if section 109 is read to be applicable in all cases to natural gas from a new well, there would be no situation in which the refund obligation in section 503(e)(1) would be triggered, and thus, no reason to have provided for a refund. Only by adopting the narrow interpretation of section 109 can the Commission give full effect to the requirements of section 503(e)(1)(B)(iii) which provide for a refund when gas produced from a new well is found to be subject to a lower maximum price.

In addition we observe that the narrow interpretation is consistent with the economic assumptions on which Congress based the pricing scheme of Title I. Congress had available to it a number of studies on the impact of the provisions of Title I on natural gas prices.[13] These studies assumed the continued applicability over time of sections 104, 105 and 106 to flowing gas. If that gas could be made subject to the section 109 price simply by the drilling of a new well, the continued applicability of section 104, 105 and 106 could not be assumed. Instead, over time, less and less natural gas will be subject to these sections as producers qualify this natural gas for the section 109 maximum lawful price. It would be possible, at some point, that all natural gas which is presently subject to sections 104, 105 and 106 of the NGPA would be subject to the section 109 maximum lawful price; the section 109 price would be the minimum "maximum lawful price" which would be applicable to all natural gas reserves. A reading of section 109 which has the potential to make sections 104, 105 and 106 inapplicable to flowing natural gas is neither reasonable nor consistent with the pricing scheme of the NGPA.

We acknowledge that the support for the Commission's interpretation implicit in the text and underlying policies of the statute is not borne out by the explanation of the scope of section 109 contained in the Joint Statement. As commenters have correctly pointed out, the language of the Joint Statement suggests that Congress intended that section 109 be applicable without limitation to five distinct categories of natural gas, thereby supporting the broad interpretation.[14] As a general rule, the legislative history, including the Conference Report and the accompanying Joint Explanatory Statement, is useful and persuasive evidence of Congressional intent underlying the enactment of a statute. It is, however, no talisman for divining Congressional intent in contradiction to the policies and purpose manifest in the language of the statute and the surrounding legislative scheme. Far greater, if not controlling, weight should be given to those policies and purposes and to the language of sections 109 and 503.[15] In this case, the language of the statute taken as a whole, and the policies underlying the enactment of the NGPA compel us to conclude that Congress intended section 109 to be read narrowly, notwithstanding the suggestion to the contrary that is contained in the legislative history.

III. Other Comments

A comment received from Grace Petroleum Corp. suggests that the Commission establish a procedure whereby a producer may obtain an advisory declaration as to the applicability of section 109 to natural gas which they will produce.

Such a procedure has, to some extent, been implemented. The Commission's NGPA Hotline allows producers to obtain informal advisory opinions as to the eligibility of their natural gas for the section 109 price. An official interpretation may be obtained by submitting a written request for such an interpretation to the Commission's General Counsel.[16]

The Natural Gas Pipeline Co. of America (Natural Gas Pipeline) requests the Commission to clarify its interpretation of clause (2) of section 109(a). That clause makes the section 109(b) price applicable to natural gas committed or dedicated to interstate commerce before November 9, 1978, but not subject to a just and reasonable rate under the Natural Gas Act (NGA). Natural Gas Pipeline comments that the Commission has not made clear the types of natural gas which would fall within this category. To avoid uncertainties with regard to filing and pricing requirements, they ask the Commission to identify the circumstance under which an NGA just and

[13] These studies were prepared by the Department of Energy/Energy Information Administration, the staff of the House Subcommittee of Energy and Power, and the Congressional Budget Office. Order No. 23, issued by the Commission on March 13, 1979, in Docket No. RM79-22, refers to the studies (mimeo, pp. 31-32, n. 27).

[14] *See* discussion *supra*, note 9, and accompanying text.

[15] The language in the Joint Statement deviates from the text of the statute not only in the area of the scope of applicability of section 109 but in another area. Reference to the Joint Statement also would indicate that section 109 applies to gas which is not the subject of a "first sale". This implication from the Joint Statement, however, is belied by the statutory language. The imprecision in the discussion of section 109 in the Joint Statement is a significant factor which bears on the weight which should be accorded that discussion.

[16] The exact scope and limitations of such interpretations are fully explained in the Commission's order establishing procedures for seeking interpretation or declaratory orders under the NGPA, issued on August 7, 1979, in Docket No. RM79-65, 44 FR 48171 (Aug. 17, 1979).

reasonable rate would not have been in effect on November 8, 1978, for gas that is committed or dedicated to interstate commerce. They also request that the Commission clarify the status of natural gas sold under protective orders pending the outcome of the Supreme Court's decision in *California v. Southland Royalty Co.* (*Southland*).[17]

Section 109(a)(2) requires the application of two-fold test: first, that the natural gas was committed or dedicated to interstate commerce on November 8, 1978, and second, that that natural gas was not subject to a just and reasonable rate under the Natural Gas Act on November 8, 1978. On November 8, 1978, the Commission had in effect just and reasonable rates for all natural gas subject to the NGA except gas from Alaska and Hawaii. Accordingly, since all natural gas from the lower 48 states was subject to a just and reasonable rate on November 8, 1978, such gas would not qualify under section 109(a)(2) for the section 109(b) price.

Also, gas that was sold pending the outcome of the *Southland* case would not qualify under section 109(a)(2). In that case the Supreme Court considered whether the expiration of a contract to deliver gas to the interstate market terminated the jurisdiction of the Commission to require abandonment authorization. On May 31, 1978, the Court held that the issuance of a certificate of unlimited duration created a Federal obligation to serve the interstate market until abandonment authorization had been obtained; in other words, the service obligation imposed by the Commission survives the expiration of the private agreement that originally gave rise to the Commission's jurisdiction. As a result, gas which was committed or dedicated to interstate commerce remained committed or dedicated, and could not be diverted to the intrastate market until abandonment authorization could be obtained.

Accordingly, if a producer of gas committed or dedicated to interstate commerce did not obtain an abandonment authorization for gas sold pending the outcome of *Southland* prior to November 9, 1978, such gas would have been subject to a just and reasonable rate and therefore outside the scope of section 109(a)(2). Where the application for abandonment authorization was made before November 9, 1978, but no order permitting abandonment was issued until after that date, natural gas sold during the intervening period would still be subject to a just and reasonable rate and therefore excluded from the scope of section 109(a)(2).

[17] *California v. Southland Royalty Co.*, 436 U.S. 519 (1978).

IV. Public Procedures and Effective Date

The regulation in Subpart I of Part 271 was originally proposed for comment in November of 1978 and issued as an interim regulation on December 1, 1978.[18] For sixty days thereafter comments were received and during that period public hearings were held on the interim regulations. By this process, the Commission has complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments" be afforded for certain regulations under the NGPA.

The regulation adopted by this order rests upon consideration given to the information received during this notice, comment and hearing process. The Commission finds that further notice and public procedure with respect to these rules is unnecessary.

Subpart I of Part 271, in final form, adopts the interim regulation without modification. For this reason, the Commission is dispensing with the publication requirements of 5 U.S.C. 553(d)(1). Accordingly, Subpart I of Part 271, issued as a final regulation, is effective immediately upon issuance of this order.

[Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Exec. Order No. 12,009, 42 FR 46267; Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350.]

In consideration of the foregoing, the interim regulations in Subpart I of Part 271, Subchapter H, Chapter I, Title 18, code of Federal Regulations are reissued as final regulations as set forth below, effective immediately.

By the commission.

Kenneth F. Plumb,

Secretary.

1. Part 271, Subpart I is reissued as final regulations as set forth below:

PART 271—CEILING PRICES

Subpart I—Other Categories of Natural Gas

§ 271.901 Applicability.

This subpart implements section 109 of the NGPA and applies to a first sale of natural gas that is not covered by a maximum lawful price under section 102, 103, 104, 105, 106, 107 or 108 of the NGPA.

[18] 43 FR 56448 (Dec. 1, 1978).

§ 271.902 Maximum lawful price.

The maximum lawful price, per MMbtu, for natural gas to which this subpart applies shall be the price specified for Subpart I of Part 271 in Table I of § 271.101(a).

§ 271.903 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101.

§ 271.904 Special rule.

First sales of natural gas described in section 109(a)(1), (2) (3) or (4) of the NGPA are covered by this subpart only to the extent such first sales are not covered by any maximum lawful price under section 102, 103, 104, 105, 106, 107 or 108 of the NGPA.

[FR Doc. 80-8915 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 276

[Docket No. RM79-30]

Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying rehearing.

SUMMARY: This order denies rehearing of the Commission's order issued March 23, 1979, Docket No. RM79-30, which issued final Part 276 regulations under the Natural Gas Policy Act of 1978, 15 U.S.C. § 3301, *et seq.* (NGPA) (order published at 44 Fed. Reg. 18647 on March 29, 1979). On April 20, 1979, Indicated Producers filed for rehearing on the basis that the Commission erred in promulgating the "Affidavit for Filing Under § 176.104" so as to exclude natural gas which is covered by any other section of the NGPA. On May 21, 1979, the Commission granted rehearing for purposes of further consideration. Today's order denies rehearing on the ground that in Docket No. RM80-44, the Commission declined to amend its interpretation of section 109 of the NGPA, on which the subject oath statement was based. The order also clarifies that the oath statement is for compliance purposes and does not affect or amend the Commission interpretation of section 109. Accordingly, it concluded that there is no reason to change the oath statement.

FOR FURTHER INFORMATION CONTACT: Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8317.

Final Part 276 Regulations Under the Natural Gas Policy Act of 1978

Issued March 18, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On April 20, 1979, pursuant to § 286.102 of the Commission's Interim Regulations, the Indicated Producers filed an application for rehearing of the final rule establishing Part 276 of the Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA).[1] In their application, Indicated Producers assert that the Commission erred in establishing its Affidavits for Filing Requirements under § 276.104,[2] which sets forth the Commission's reporting requirements with regard to first sales of gas which qualify for a maximum lawful price under section 109 of the NGPA. Section 276.104 requires a first seller to submit a statement that the natural gas sold in the reporting period was not committed or dedicated to interstate commerce on November 8, 1978; or if such natural gas was so committed or dedicated, a just and reasonable rate was not in effect under the Natural Gas Act on such date for the natural gas (including the basis for such conclusion); and with respect to any natural gas sold in the reporting period which was not committed or dedicated to interstate commerce on November 8, 1978, the natural gas sold in the reporting period is not subject to an existing intrastate contract as defined in § 270.102(b)(8) or intrastate rollover contract as defined in § 270.102(b)(11).[3]

These provisions parallel the language of paragraphs (1)–(3) of § 109.

On May 21, 1979, the Commission granted Indicated Producer's application for rehearing solely for purposes of further consideration of § 276.104. In their application the Indicated Producers note that § 276.104 provides no opportunity for a producer to file a statement that natural gas sold in a first sale qualifying for a section 109 price under the applicable Commission regulations [4] is not subject to a maximum lawful price under any section of Title I of the NGPA. In other words, the Affidavit for Filing contain no provision which parallels the language in subsection (a) of section 109 which language makes 109 applicable to natural gas not covered by any other section of Title I. In the Producers view, the effect of this provision is to exclude from the scope of section 109 gas which is not covered by any other section of the NGPA, by failing to treat such gas as a fifth category of gas subject to the section 109, in addition to the four categories of gas specifically included within the scope of section 109 by subsection (a)(1)–(4). Thus, the Indicated Producer would have us amend our regulations to conform to the Indicated Producer's view of the substantive provisions of section 109: they believe the introductory language of subsection (a) of section 109 is intended to broaden the scope of section 109, rather than to serve as a general limitation on the four categories of gas specifically enumerated in section 109(a)(1)–(4).

The Indicated Producer's interpretation of this section is contrary to the Commission's interpretation of section 109 that was embodied in §§ 271.904–276.104 of the interim regulations. In our Order Granting Rehearing, the Commission stated:

Since the oath statement prescribed by § 276.109(b), which is objected to in the application for rehearing, simply reflects the substantive requirements of § 271.904, it will change to the same extent that § 271.904 of the Interim Regulations changes.[5]

By separate order issued today in Docket No. RM80–44, we reaffirmed the interpretation of the substantive provisions of section embodied in the interim regulations, and have reissued the interim regulations as the final regulations implementing section 109. Because the substantive requirements of § 271.904 have not changed, there is no reason to modify the Affidavit for Filing under § 276.104.

In addition, the Commission emphasizes that the provisions of § 276.104 were promulgated for compliance purposes, and were not intended to parallel every substantive provision of section 109. These provisions do not affect or amend in any way the Commission's interpretation of section 109.

Accordingly, we find that, upon further consideration, Indicated Producers have raised no new facts or principles of law that warrant a modification of our order issued March 23, 1979, in Docket No. RM79–30, and that good cause exists to deny their application for rehearing of that order.

The Commission orders:

The Application of Indicated Producers For Rehearing filed April 20, 1979, in Docket No. RM79–30 is, in all respects, denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–8928 Filed 3–21–80; 8:45am]

BILLING CODE 6450–85–M

[1] § 286.102(a) of the Commission's regulations permits any person aggrieved by any order or regulation to file a petition for rehearing within 30 days after the order or regulation is issued. Part 276 was issued in Docket No. RM79–30, on March 23, 1979 (44 Fed. Reg. 18647 (March 29, 1979)).

[2] The form for submission of Affidavits for Filing Under § 276.104 is prescribed under § 276.109(b).

[3] 18 C.F.R. § 271.104(b)–(c).

[4] 18 C.F.R. Part 271, Subpart I.

[5] Order Granting Rehearing . . ., Docket No. RM79–30 (issued May 21, 1979).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

[T.D. 80–88]

Country of Origin Marking—Customs Regulations Amended

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Customs has become aware of a possible conflict between two sections of the Customs Regulations relating to the redelivery to Customs custody of a previously released imported article so that it may be marked with the country of origin. This document amends § 134.3 to clarify that a demand for redelivery to Customs custody of an imported article for country of origin marking must be made not later than 30 days after entry or examination of the article, as required in § 141.113. The amendment is not considered to be significant.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Samuel A. Orandle, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that every imported article (or its container) shall be marked to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR Part 134), contains the country of the origin marking regulations.

Section 134.3, Customs Regulations (19 CFR 134.3), provides that articles previously released may be ordered redelivered to Customs custody, and articles held in Customs custody shall not be delivered—

(1) Until every imported article (or its container) previously released from Customs custody or held in Customs custody for inspection, examination, or appraisement, is marked properly; or

(2) Until estimated duties payable under 19 U.S.C. 1304(c) for failure to mark the article properly, or adequate security for those duties, are deposited.

Section 141.113, Customs Regulations (19 CFR 141.113), provides that a demand for the redelivery to Customs custody for the purpose of requiring articles to be marked legally shall be made no later than 30 days after—

(1) The date of entry, in the case of articles examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(2) The date of examination, in the case of articles examined at the importer's premises or other appropriate places as determined by the district director of Customs.

Customs has become aware that these two sections of the Customs Regulations may be interpreted to be in conflict. Section 134.3 provides that redelivery to Customs custody of a previously released article may be ordered at *any* time until the article has been marked with the country of origin, or until estimated duties for failure to mark the article or adequate security for those duties are deposited. Section 141.113, however, provides that demand for the return to Customs custody of previously released articles for legal marking shall be made within *30 days* after entry or examination.

After review of the matter, Customs has determined that the existing practice of requiring that a demand for redelivery of articles for country of origin marking be made within 30 days after entry of examination should continue. Therefore, to clarify the matter, section 134.3 is being amended to provide that demand for redelivery of articles for country of origin marking must be made within the 30-day time period required in section 141.113. Failure to demand redelivery of articles for country of origin marking within 30 days after entry of examination does not affect the collection of the 10 percent additional duty as provided for in section 134.2, Customs Regulations.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely clarifies existing regulations and imposes no additional duty or burden on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Inapplicability of EO 12044

This document is not subject to the Treasury Department directive implementing Executive Order 12044, "Improving Government Regulations", because the amendment was in process before May 22, 1978, the effective date of the directive.

Drafting Information

The principal authors of this document were Shannon McCarthy and Paul G. Hegland, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

PART 134—COUNTRY OF ORIGIN MARKING

The heading and text of § 134.3, Customs Regulations (19 CFR 134.3), are amended to read as follows:

§ 134.3 Delivery withheld until marked and redelivery ordered.

(a) Any imported article (or its container) held in Customs custody for inspection, examination, or appraisement shall not be delivered until marked with its country of origin, or until estimated duties payable under 19 U.S.C. 1304(c), or adequate security for those duties (see § 134.53(a)(2)), are deposited.

(b) The district director may demand redelivery to Customs custody of any article (or its container) previously released which is found to be not marked legally with its country of origin for the purpose of requiring the article (or its container) to be properly marked. a demand for redelivery shall be made, as required under § 141.113(a) of this chapter, not later than 30 days after—

(1) The date of entry, in the case of merchandise examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(2) The date of examination, in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the district director.

(c) Nothing in this part shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

(R.S. 251, as amended, secs. 304, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1304, 1624))

R. E. Chasen,

Commissioner of Customs.

Approved: March 10, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-8923 Filed 3-21-80; 8:45 am]

BILLING CODE 4810-22-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

22 CFR Chapter XII

Establishment of Chapter and Adoption of Regulations for Employee Responsibilities and Standards of Conduct

AGENCY: United States International Development Cooperation Agency.

ACTION: Final Rule: Establishment of a Chapter.

SUMMARY: On October 1, 1979, the President established the United States International Development Cooperation Agency ("IDCA") pursuant to a Reorganization Plan and an Executive Order. IDCA establishes Chapter XII in Title 22 of the Code of Federal Regulations and adopts regulations concerning the responsibilities and standards of conduct of IDCA employees.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sylvia Rosemergy, (202) 632-9354.

SUPPLEMENTARY INFORMATION: On July 19, 1979, the President, by Executive Order 12147 (44 FR 42957, July 23, 1979) declared Sections 2, 3, and 4 of Reorganization Plan No. 2 of 1979 immediately effective to establish the positions of Director, Deputy Director, and Associate Directors of the United States International Development Cooperation Agency ("IDCA"). On October 1, 1979, the President, by Executive Order 12163 "Administration of Foreign Assistance and Related Functions" (44 FR 56673, October 2, 1979) ("the Executive Order") declared effective Sections 1, 5, 6, and 8 of Reorganization Plan No. 2 of 1979 and established IDCA. In Executive Order 12163, the President delegated (exclusive of functions reserved in the Executive Order) to the Director of IDCA the functions conferred upon him by the Foreign Assistance Act of 1961, as amended, the Latin American Development Act, Section 402 of the Mutual Security Act of 1954, Section 413(b) of the International Security Assistance and Arms Export Control

Act of 1976, and Title IV of the International Development Cooperation Act of 1979.

The Executive Order also stated: "Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified or terminated by appropriate authority."

Except for technical editorial changes, the regulations concerning employee responsibilities and standards of conduct are the same as those governing the employees of the Department of State, the Agency for International Development, and the International Communications Agency (22 CFR Part 10).

Dated: March 17, 1980.

Thomas Ehrlich,

Director.

1. Accordingly, there is hereby established a new chapter in Title 22 of the Code of Federal Regulations entitled:

CHAPTER XII—UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

PART 1203—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. Pursuant to Executive Order 11222 of May 8, 1965, as amended, and 5 CFR 735.104, the United States International Development Cooperation Agency hereby establishes a new Part 1203, Employee Responsibilities and Conduct, in Chapter XII of 22 CFR.

In establishing Part 1203 of 22 CFR, Employee Responsibilities and Conduct, IDCA adopts the language of the regulations found in 22 CFR 10.735–101 through 10.735–411 as its rules for employee responsibilities and standards of conduct. The regulations in 22 CFR Part 10 remain in place. The regulations are adopted as Part 1203 of 22 CFR Chapter XII with the following amendments:

§ 1203.735–102 [Amended]

3. In § 1203.735–102, paragraph (a) is amended to read: "'Agency' means the United States International Development Cooperation Agency ("IDCA")".

§ 1203.735–103 [Amended]

4. In § 1203.735–103, paragraph (a) is amended by striking the third sentence, and inserting in lieu thereof: "The Counselor for IDCA is the General Counsel".

§ 1203.735–202 [Amended]

5. In § 1203.735–202, paragraph (c) is amended by replacing "State and ICA" where those words appear with "IDCA".

§ 1203.735–204 [Amended]

6. In § 1203.735–204, paragraph (c) is amended by replacing "(3 FAM 628, for AID see Handbook 18)" with "(see AID Handbook 18)"; and paragraph (e) is amended by replacing the last sentence with "The appropriate officer for IDCA is the Assistant Director for Administration".

§ 1203.735–206 [Amended]

7. In § 1203.735–206, paragraphs (b) and (c) are deleted as inapplicable to IDCA.

§ 1203.735–211 [Amended]

8. In § 1203.735–211, paragraph (a) is amended by replacing 'State, AID, or ICA" with "IDCA"; paragraph (e) is amended in subparagraph (1) by replacing in the last sentence "State, AID, and ICA" with "IDCA", and in subparagraph (2) by replacing the last sentence with "The appropriate officer for IDCA is the Assistant Director for Administration"; and paragraph (f) is amended by replacing "State, AID, or ICA" with "IDCA".

§ 1203.735–217 [Amended]

9. In § 1203.735–217, paragraph (a) is amended in the second sentence by inserting "the Director for IDCA", immediately after the colon and by deleting the rest of the sentence.

§ 1203.735–401 [Amended]

10. In § 1203.735–401, the first paragraph is amended by replacing "State, AID, and ICA" with "IDCA"; and paragraph (c)(4) is amended by deleting the lists of position titles for State, AID and ICA immediately after the colon, and by replacing the colon with a period.

§ 1203.735–405 [Amended]

11. In § 1203.735–405, paragraph (b) is amended by deleting, "Form OF–107 for State and ICA, Form AID 4–450 for AID" and inserting in lieu thereof "Form AID 4–450 for IDCA".

§ 1203.735–407 [Amended]

12. In § 1203.735–407, paragraph (b) is amended by striking the last sentence.

The complete text of the regulations as adopted above will appear in Chapter XII of Title 22 of the Code of Federal Regulations.

The table below reflects the section numbers in the newly adopted Part 1203, and the section numbers in Part 10 to which the new Part 1203 provisions correspond.

Part 10	*Part 1203*
10.735–101	1203.735–101
10.735–102	1203.735–102
10.735–103	1203.735–103
10.735–104	1203.735–104
10.735–105	1203.735–105
10.735–201	1203.735–201
10.735–202	1203.735–202
10.735–203	1203.735–203
10.735–204	1203.735–204
10.735–205	1203.735–205
10.735–206	1203.735–206
10.735–207	1203.735–207
10.735–208	1203.735–208
10.735–209	1203.735–209
10.735–210	1203.735–210
10.735–211	1203.735–211
10.735–212	1203.735–212
10.735–213	1203.735–213
10.735–214	1203.735–214
10.735–215	1203.735–215
10.735–216	1203.735–216
10.735–217	1203.735–217
10.735–301	1203.735–301
10.735–302	1203.735–302
10.735–303	1203.735–303
10.735–304	1203.735–304
10.735–305	1203.735–305
10.735–306	1203.735–306
10.735–401	1203.735–401
10.735–402	1203.735–402
10.735–403	1203.735–403
10.735–404	1203.735–404
10.735–405	1203.735–405
10.735–406	1203.735–406
10.735–407	1203.735–407
10.735–408	1203.735–408
10.735–409	1203.735–409
10.735–410	1203.735–410
10.735–411	1203.735–411

[FR Doc. 80–8779 Filed 3–21–80; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 880

[Docket Number R–80–663]

Section 8 Housing Assistance Payments Program for New Construction

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

ACTION: Final rule.

SUMMARY: On October 15, 1979, a revision to the Section 8 new construction program regulation was published which amended Part 880 in its entirety. Subsequent to publication of the final rule, concern was expressed to the Department regarding an incongruity in the provisions of the regulation related to advanced marketing to lower-income families from impacted jurisdictions. A change is now being made to correct this. A change is also

being made to permit increases in the replacement cost limits in high cost areas from 50 percent to an amount not to exceed 75 percent to make the Section 8 program consistent with the HUD mortgage insurance programs in this respect. In addition, several miscellaneous corrections to the October 15, 1979 publication are being made.

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George O. Hipps, Jr., Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, 202–755–5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: A proposed rule for the Section 8 new construction program to amend the program regulations in their entirety was published on June 12, 1979. This rule, among other things, proposed to prohibit residency preferences and required marketing to non-elderly families from impacted jurisdictions in advance of marketing to other prospective tenants in order to expand housing opportunities for lower-income families. These provisions in the proposed rule generated an exceptionally large volume of comments, including many lengthy and thoughtful comments on these specific issues. In light of the comments and concerns expressed by the Congress and others, the provision relative to the prohibition of residency preferences was changed substantially in the final rule published October 15, 1979. The advanced marketing requirement remained essentially the same.

After publication of the final rule, it became apparent that the change relative to residency preferences and its relation to the advanced marketing requirement created a certain incongruity in the potential operation of these two associated provisions.

On November 9, 1979 a Notice of Suspension of Enforcement was published with respect to the requirement for advanced marketing to lower-income families from impacted jurisdictions contained in § 880.601(a)(3) pending issuance of a clarification of the nature and extent of this requirement and its relation to other aspects of the new construction program. Upon further consideration of the concerns expressed over this issue and an examination of the practical mechanics of implementing this rule as originally written or with additional clarification, the Department has determined that a change to the rule offers the best solution and will render unnecessary a clarification as described in the November 5 Notice of Suspension of Enforcement. The requirement for advanced marketing to families from impacted jurisdictions is, therefore, being deleted. However, the Department does not wish to indicate by this change that there is any lessening of our efforts to meet statutory objectives and requirements to provide increased housing opportunities for lower-income families, particularly minority families.

With respect to the change from 50 percent to 75 percent in the permitted increase in the limitation on replacement cost, Section 314 of the Housing and Community Development Amendments of 1979 amended the National Housing Act to raise the high cost area maximum mortgage amounts for HUD mortgage insurance programs by an amount not to exceed 75 percent. The amendment also permits the Secretary to increase the mortgage amount limitations on a project by project basis by an amount not to exceed 90 percent in such high cost areas.

Because of the Department's desire to make the Section 8 and mortgage insurance programs as consistent as possible in appropriate processing procedures and programmatic requirements, a conforming change is being made to § 880.204(c)(iii) to raise the 50 percent high cost factor to 75 percent. Final implementing regulations for the HUD mortgage insurance programs were published in the **Federal Register** on January 21, 1980, pursuant to the amendment to the National Housing Act. With respect to the Section 8 program, the Department finds it unnecessary to include the provision for a 90 percent high cost factor when warranted on a project by project basis since the Assistant Secretary for Housing may grant waivers to the Section 8 regulation on a case by case basis under current authority. This waiver authority is not found in the mortgage insurance program regulations.

In addition, the October 15, 1979 publication contained several minor errors which are now being corrected.

The undersigned has determined that notice and prior public procedure are unnecessary for this rule because of its history as outlined above. The advanced marketing requirement was subjected to public comment as part of a proposed rule published June 12, 1979. Substantial objection to the provision ultimately resulted in its suspension on November 5, 1979. The requirement is now being withdrawn permanently. There would be no reason to solicit further comment on this action.

It should also be noted that this rule provides benefits and relieves existing restrictions in regard to replacement cost limits in high cost areas. In light of the current economic situation, it is urgent that these benefits be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on this rule would cause a substantial delay in making urgently needed benefits available. Therefore, the undersigned also finds that prior notice and public procedure on this rule would be contrary to the public interest and that it is not necessary to delay its effective date for the 30 day period provided in 5 U.S.C. 553(d).

HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Part 880 is amended as follows:

§ 880.102 [Amended]

1. In § 80.102(c), sixth line, change "that" to "than."

2. Section 880.201, *Definitions,* is revised to delete the definition of "Impractical Jurisdiction."

§ 880.204 [Amended]

3. In § 880.204(c)(iii), the phrase "by up to 50 percent" is changed to "by an amount not to exceed 75 percent."

§ 880.205 [Amended]

4. In § 880.205, the second paragraph (6) should be (b).

§ 880.205 [Amended]

5. In § 880.205(f), fourth line, change "paragraphs (b) through (c)" to "paragraphs (b) through (d)."

§ 880.210 [Amended]

6. In § 880.210(d), ninth line, change "within" to "with."

7. Paragraph (h) of § 880.305, *Contents of preliminary proposal,* is revised as follows:

§ 880.305 Contents of preliminary proposals

* * * * *

(h) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil

Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968, and that the owner will undertake marketing activities as required by § 880.601(a).

§ 880.301 [Amended]

* * * * *

8. In § 880.307(b), twentieth line, delete the semicolon after "extent of displacement" in the phrase "extent of displacement and feasibility of relocation;" * * *"

9. Paragraph (a)(5) of § 880.308, *Contents of final proposal,* is revised as follows:

§ 880.308 Contents of final proposal.

(a)* * *

(5) A statement of the marketing activities the owner intends to take in accordance with the requirements of § 880.601(a)(3). Such efforts might include: Participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; and contact with and provision of information about the project to employers and their employees, labor unions, State or areawide employment service centers and interested community groups.

§ 880.403 [Amended]

10. In § 880.403, delete the word "or" at the end of paragraph (a)(4), change the period at the end of paragraph (a)(5) to a semicolon, and insert the word "or" at the end of paragraph (a)(5).

§ 880.502 [Amended]

11. In § 880.502(a)(2), sixth line, change "(ii) 30 years, or (iii) 40 years * * *" to "(ii) 30 years, or 40 years * * *"

12. Paragraph (a)(3) of § 880.601, *Responsibilities of Owner,* is revised as follows:

§ 880.601 Responsibilities of Owner.

(a)* * *

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to non-elderly families who are least likely to apply, as determined in the Affirmative Fair Housing Marketing Plan, and to non-elderly families expected to reside in the community by reason of current or planned employment.

* * * * *

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., March 17, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-8824 Filed 3-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 77-183]

Navigation Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing carriage of continuous depth sounding recording equipment and testing of other equipment by vessels of 1600 or more gross tons before entering or getting underway on United States waters on the Great Lakes. The lack of depth contours below 30 feet on charts of the Great Lakes and absence of demonstrated utility of a continuous echo depth sounding recorder on the Great Lakes makes required carriage of this equipment unnecessary. In addition, strict compliance with the existing equipment testing regulations requires vessels to unnecessarily re-test equipment every time they re-enter United States waters incident to a single passage. Strict compliance would require vessels entering the Great Lakes via the St. Lawrence Seaway to test their steering gear and other critical equipment while transiting the relatively confined channels of the St. Lawrence River, a practice which may create an unsafe condition.

This regulation eliminates the requirement that vessels navigating on the Great Lakes be equipped with a device which can continuously record the readings of the vessel's echo depth sounding device, allows vessels which have initially complied with equipment testing requirements of Part 164 to continue to their next port of call on the Great Lakes without re-testing, and allows vessels entering the Great Lakes from the St. Lawrence Seaway to complete equipment test requirements within one hour of passing Wolfe Island. The result of this rulemaking is a more reasonable and safe approach to navigation requirements on the Great Lakes.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy E. Foley, Office of Marine Environment and Systems (G-WLE-4/11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593, (202) 426-4958. Normal office hours are between 7:30 a.m. and 4:30 p.m. Monday through Thursday.

SUPPLEMENTARY INFORMATION: On Tuesday, September 4, 1979, the Coast Guard published a proposed rule (44 FR 51620) concerning these amendments. The public was given until October 17, 1979 to submit comments. Two comments were received.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Timothy E. Foley, Project Manager, Office of Marine Environment and Systems and Lieutenant Jack Orchard, Project Counsel, Office of the Chief Counsel.

Discussion of Major Comments

One commenter expressed support for the amendment eliminating the requirement that vessels re-test their equipment each time a vessel re-enters the United States waters on the Great Lakes and considers the present testing requirements impractical because Great Lakes sailing courses frequently cross the international boundary line between the United States and Canada. The commenter finds it particularly impractical in confined waters where the performance of such tests could increase the risk of collision or grounding. Both commenters supported the amendment which would eliminate the requirement that vessels navigating on the Great Lakes be equipped with a continuous echo depth sounding recorder. One commenter considered the continuous recording device to be of dubious benefit while the other considered it expensive to install and maintain while providing no useful navigational information. No comments directly concerning the proposal to amend the equipment testing requirements for vessels entering United States waters via the St. Lawrence River were received.

Evaluation

The Coast Guard has evaluated this final rule under the Department of Transportation's "Regulatory Policies and Procedures", published on February 26, 1979 (44 FR 11034). A copy of the Final Evaluation may be obtained from Commandant (G-CMC/24), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593.

This rule finalizes an exemption to the current regulations and is thus given an immediate effective date under the authority of 5 U.S.C. 553(d)(1).

In consideration of the foregoing, in Chapter I of Title 33, Code of Federal Regulations Part 164 is amended as follows:

1. § 164.25 is amended to read as follows:

§ 164.25 Tests before entering or getting underway.

(a) Except as provided in paragraphs (b) and (c) of this section no person may cause a vessel to enter into or get underway on the navigable waters of the United States unless no more than 12 hours before entering or getting underway, the following equipment has been tested:

(1) Primary and secondary steering gear.

(2) All internal vessel control communications and vessel control alarms.

(3) Standby or emergency generator, for as long as necessary to show proper functioning, including steady state temperature and pressure readings.

(4) Storage batteries for emergency lighting and power systems in vessel control and propulsion machinery spaces.

(5) Main propulsion machinery, ahead and astern.

(b) Vessels navigating on the Great Lakes and their connecting and tributary waters, having once completed the test requirements of this sub-part, are considered to remain in compliance until arriving at the next port of call on the Great Lakes.

(c) Vessels entering the Great Lakes from the St. Lawrence Seaway are considered to be in compliance with this sub-part if the required tests are conducted preparatory to or during the passage of the St. Lawrence Seaway or within one hour of passing Wolfe Island.

2. § 164.35(i) is amended to read as follows:

§ 164.35 Equipment: All vessels.

Each vessel must have the following:

* * * * *

(i) A device that can continuously record the depth readings of the vessel's echo depth sounding device, except when operating on the Great Lakes and their connecting and tributary waters.

* * * * *

(92 Stat. 1471 (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)(4)).

Dated: March 13, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-8946 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 222

[ER 1110-2-106]

Engineering and Design; National Program for Inspection of Non-Federal Dams

AGENCY: Corps of Engineers.

ACTION: Final rule.

SUMMARY: This regulation prescribes procedures for the implementation of a National Program for Inspection of Non-Federal Dams. This amendment to 33 CFR Part 222 changes the hazard potential criteria for the classification of dams, relieves the Corps of funding expenses of state employees for training activities relating to dam inspection work, and reduces the length of the Hayward and White Wolfe Faults on the seismic zone map. The inspection program will alert the states and the owners of non-Federal dams to conditions that may constitute a danger to human life or property.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Smith, Structures Branch, Office, Chief of Engineers, Department of the Army, Washington, D.C. 20314 (202) 272-0219.

FOR THE CHIEF OF ENGINEERS:

Date: March 19, 1980.

Forrest T. Gay III,

Colonel, Corps of Engineers Executive Director, Engineer Staff.

Accordingly, 33 CFR 222.8 is amended as follows:

§ 222.8 National Program for Inspection of Non-Federal Dams.

1. Paragraphs (h)(3), (m)(2), and (m)(3) are revised to read as follows:

* * * * *

(h)(3). The hazard potential classification shall be in accordance with paragraph 2.1.2 Hazard Potential of the Recommended Guideline for Safety Inspection of Dams (Appendix D to this section).

* * * * *

(m)(2). Salaries, per diem and travel expenses relating to training activities of State employees will be a State expense. There will be no tuition charge for State employees.

(m)(3). Architect-Engineer firms will be required to pay expenses and tuition costs for their employees participating in Corps-sponsored training activities.

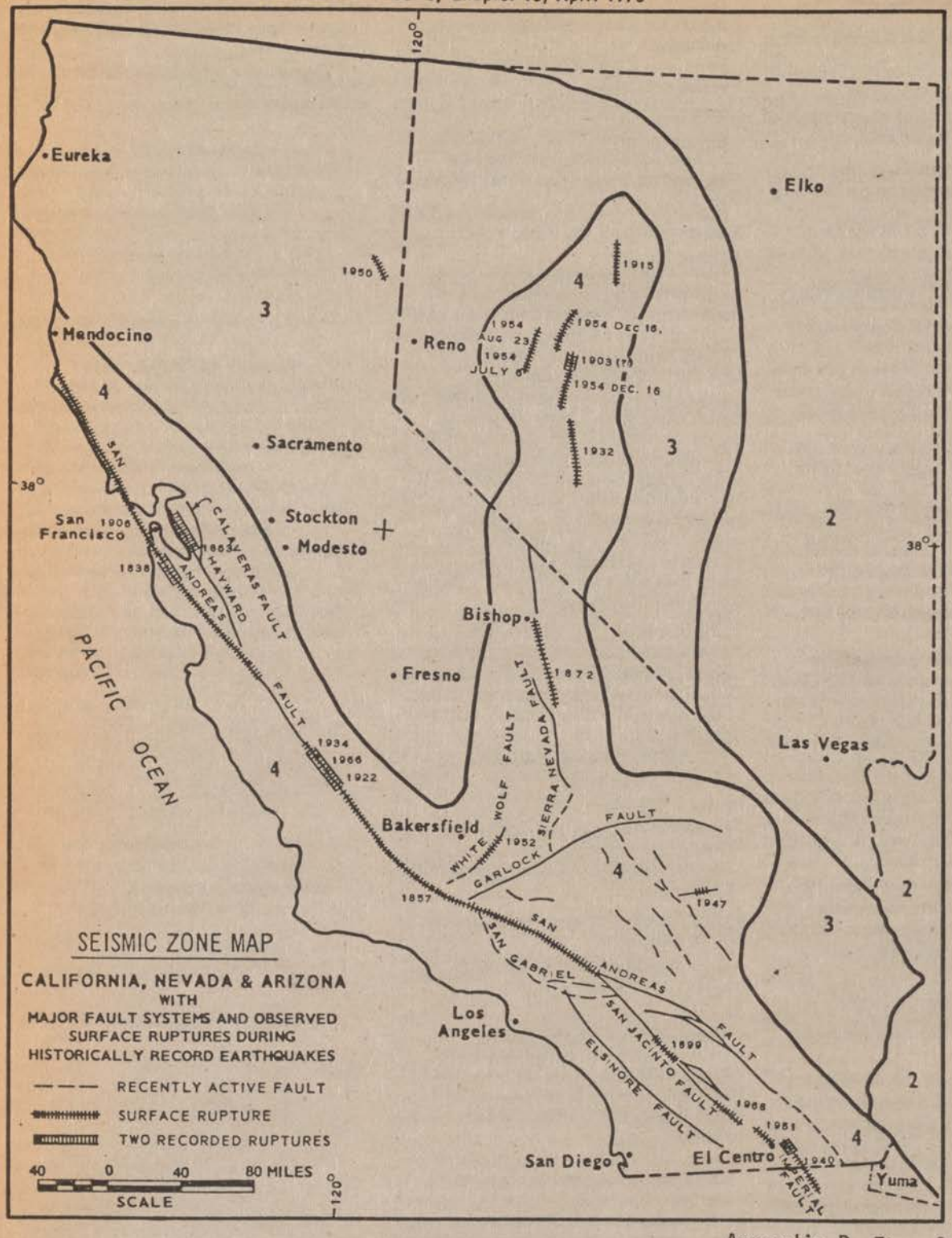
* * * * *

2. The Seismic Zone Map for California, Nevada and Arizona in Figure 2, Appendix D, is revised as shown below:

Appendix D [Amended].

BILLING CODE 3710-92-M

From TM 5-809-10/ NAVFAC P-355/AFM 88-3, Chapter 13; April 1973



Appendix D, Figure 2

[FR Doc. 80-8866 Filed 3-21-80; 8:45 am]
BILLING CODE 3710-92-C

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement of Hospital-Based Physicians

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction to Final Rule Document.

SUMMARY: On March 11, 1980, we published in the **Federal Register** (45 FR 15550) a document (FR Doc. 80–7261) announcing our intention to begin uniform enforcement of the regulations regarding Medicare reimbursement for services furnished by hospital-based physicians. In that document, we requested public comment on issues raised by the regulations, but inadvertently did not specify the address to which comments should be sent. That address is shown below.

DATES: Effective date: July 1, 1980. Comment date: To assure consideration, comments should be received on or before May 23, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 5220, Switzer Bldg., 330 C Street, SW., in the District; or to Room 789, East High Rise Bldg., 6401 Security Blvd., in Baltimore.

Please refer to file code BPP–18–FN.

Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202–245–0950).

FOR FURTHER INFORMATION CONTACT: William Birnie, (301) 594–5431.

(Secs. 1102, 1832, 1833, 1861, 1866 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395k, 1395l, 1395x, 1395cc, and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; and No. 13.774, Medicare-Supplementary Medical Insurance Program.)

Dated: March 14, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 80–8996 Filed 3–21–80; 8:45 am]

BILLING CODE 4110–35–M

FEDERAL MARITIME COMMISSION

46 CFR Part 531

[General Order No. 38, Amdt. No. 2; Docket No. 79–1]

Regulations Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce

AGENCY: Federal Maritime Commission.

ACTION: Final Rules.

SUMMARY: Part 531 of Title 46 CFR which contains the regulations governing the form and manner of filing tariffs by common carriers by water in the domestic commerce of the United States has been revised. The changes are necessary in order to incorporate the provisions of Public Law 95–475, an amendment to the Intercoastal Shipping Act, 1933.

EFFECTIVE DATE: March 24, 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: This proceeding was initiated by a Notice of Proposed Rulemaking published in the **Federal Register** on January 5, 1979 (44 FR 1418–19). The Federal Maritime Commission proposed to revise its Regulations Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce in order to enable it to comply with the requirements of P.L. 95–475, 92 Stat. 1494 (1978), which amends the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 et. seq.), and to correct a clerical error in the existing rules.

Comments received from the Government of the Virgin Islands (GVI) have been carefully reviewed and considered. The GVI's comments, which are discussed below, were confined to suggested changes to be made to the Commission's proposed amendment of section 531.10.

The GVI would include the requirement that the Attorney General (or other designated officials) of every State, Commonwealth, Possession, or Territory which is affected by a general rate increase or decrease must receive the same exhibits, workpapers, statements of direct testimony, and underlying financial data that are required to accompany the tariff amendments effectuating such increase or decrease.

The GVI also requested that the proposed rules be amended to specify that the Commission shall receive within 15 days of the filing of a general increase or decrease in rates, proof that the exhibits, workpapers, statements of direct testimony, and underlying financial data have been served upon each of the designated officials. Said proof to consist of copies of United States Postal Service Return Receipts or a subscribed and verified statement containing the name and address of the official or officials served, the date served, and the manner of service.

The Commission has determined that these are matters which come within the purview of the Commission's Rules of Practice and Procedure (46 CFR 502.67). Rather than attempt to incorporate these provisions into section 531.10, the proposed rules have been modified to direct the tariff users to the applicable requirements.

The Commission has amended section 531.3(1) to incorporate the GVI's suggestion that failure by the carrier to comply with the applicable requirements (46 CFR 502.67 and/or 46 CFR 512) may result in the rejection of the tariff matter.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553); section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)); and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), Part 531 of Title 46, Code of Federal Regulations, is amended as set forth hereinafter.

Section 531.2 is amended by incorporating the following definitions to be designated 531.2(j) and 531.2(k):

§ 531.2 Definitions.

* * * * *

(j) *General Decrease*: any change in rates, fares, or charges which will (1) result in a decrease in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in a decrease in gross revenues of said carrier for the particular trade of not less than 3 percent.

(k) *General Increase:* any change in rates, fares, or charges which will (1) result in an increase in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in an increase in gross revenues of said carrier for the particular trade of not less than 3 percent.

§ 531.2 [Amended].

The definitions in section 531.2 presently designated as paragraphs (j) through (x), inclusive, are redesignated paragraphs (l) through (z), inclusive.

The reference in section 531.2(c) which reads "(see section 531.2(u))" is amended to read "(see section 531.2(w))."

§ 531.3(l) [Amended].

Section 531.3(l) is amended by inserting after the first sentence: Tariff matter may be rejected for failure of the filing carrier to comply with the provisions of Rule 67 of the Commission's Rules of Practice and Procedure (46 CFR 502.67) and/or Part 512 of Title 46 Code of Federal Regulations.

§ 531.6(m)(1) [Amended].

The reference in section 531.6(m)(1) which reads "Section 531.1(o)" is amended to read "section 531.2(q)."

(1) Revising the introductory sentence of paragraph (b) and adding paragraph (c) to read as follows; and redesignating paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g).

§ 531.10 Amendment to tariffs.

(b) Amendments establishing new or initial rates, or changing rates, fares, charges, rules, or other tariff provisions, which do not constitute a general increase or decrease in rates shall be posted and filed together with any supporting material required by 46 CFR 512 at least 30 days prior to their effective dates; * * *

(c) Amendments changing rates, fares, charges, rules, or other tariff provisions, which constitute a general increase or decrease in rates, shall be posted and filed together with any supporting material required by 46 CFR 512 and 46 CFR 502.67 at least 60 days prior to their effective date.

Section 531.11(g)(3) is amended to read as follows:

§ 531.11 Supplements to tariffs.

(g) * * *

(3) Publish, in the upper right-hand corner, an effective date which conforms with section 531.10(b) and 531.10(c) of this Part.

* * * * *

Section 531.13(a) is amended to read as follows:

§ 531.13 Suspension of tariff matter.

(a) The Commission may suspend from use any rate, fare, charge, classification, regulation, or practice for a period of up to 180 days beyond the time it would otherwise have lawfully taken effect;

* * * * *

§ 531.13(c)(1) [Amended].

The reference in section 531.13(c)(1) which reads "(see sections 531.10(c) and 531.11(h)(iii))" is amended to read "(see sections 531.10(d) and 531.11(g)(2)(iii) and (iv))."

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8918 Filed 3-21-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567 and 568

[Docket No. 80-04; Notice 1]

Certification

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the certification regulations to modify the certification statement required to be made on alterers' labels. This notice responds to a petition by the National Truck Equipment Association to change the certification statement to show that alterers are only responsible for the compliance of their vehicles with standards that are affected by their alteration. The agency has frequently issued interpretations taking that position and accordingly modifies the certification statement to reflect this interpretation. Since this amendment merely incorporates an existing interpretation it is being made without notice and opportunity for comment.

EFFECTIVE DATE: Since this amendment incorporates an existing interpretation, it is effective March 24, 1980. However, since manufacturers and alterers need time to modify their labels in accordance with this change and may have supplies of labels with the old language, the NHTSA will permit the use of either the new or the existing label language.

FOR FURTHER INFORMATION: Mr. David Fay, Engineering Systems Staff, National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590 (202-426-2817).

SUPPLEMENTARY INFORMATION: In response to the decision in *Rex Chainbelt v. Brinegar,* 511 F.2d 1215 (7th Cir. 1975), the agency issued several amendments to its certification regulations bringing them into compliance with the court's mandate. The court ordered the agency to establish a certification scheme that would require each manufacturer of a vehicle to be responsible for the standards affected by its manufacturing process. During the amendment of the certification regulation, the agency did not change the label used by vehicle alterers. Vehicle alterers are those businesses or individuals that alter previously certified vehicles prior to their first sale. The agency concluded that the simplicity of the alterers' label should be retained, and that, as it was then worded, the alterers' label was sufficient to indicate that alterers were only responsible for the compliance of standards that might have been affected by their alteration.

The National Truck Equipment Association (NTEA) first petitioned the agency in December 1978 to amend the alterers' label stating that the language in fact made the alterer responsible for the entire compliance of the vehicle with all standards even though the alterer may not have affected any of those standards by its alteration. To accomplish its goal, the NTEA proposed a complicated alterers' label that would have listed the standards affected by the alteration as well as listing those standards for which the alterer claimed no responsibility. The label would have looked much like the current incomplete—or intermediate—manufacturer's labels.

The agency objected to this proposal, because it would have overly complicated the alterers' label. Alterers frequently are small businesses and the alterations they perform are often minor. Many of these small businesses are aware of their responsibilities and know that their alterations do not affect the compliance of a vehicle with safety standards. However, many of these businesses are not familiar with all of the agency's safety standards. Accordingly, it would have burdened them extensively to have familiarized themselves to the point where they could list all of the standards on their labels indicating which, if any, were affected by their alterations. In light of this problem, the agency denied the NTEA's petition while indicating that the agency would be responsive to the suggestion of an amendment that would achieve their goals without adding complexity to the alterers' label.

On August 16, 1979, the NTEA again petitioned the agency to amend the label. This time, however, the NTEA asked the agency simply to add several

words to the alterers' label to indicate that the alterer is responsible only for the standards "affected by the alteration". The NTEA argued that this would accomplish their goal of ensuring that an alterer would not be held responsible for compliance of vehicles with safety standards that are not affected by an alterer's modifications. This notice grants their petition.

The agency has indicated by letter in the past that it considers each manufacturer or alterer only to be responsible for the compliance of the standards that it affects by its manufacture or alteration. Thus, the agency would not hold an alterer responsible for the compliance of the entire vehicle when in actuality the final-stage manufacturer or some other manufacturer in the manufacturing chain might have been responsible for a noncompliance with a standard. The agency can understand, however, how some people might read the existing language of the label more broadly than intended. To avoid any such misunderstandings, the agency is amending Part 567 *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, to incorporate the agency's interpretation of an alterer's responsibilities for compliance with safety standards.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 567, *Certification*, is amended by changing the first sentence of § 567.7(a) to read:

§ 567.7 Requirements for persons who alter certified vehicles.

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)."

2. Part 568, *Vehicles Manufactured in Two or More Stages*, is amended by revising section 568.8 as follows:

§ 568.8 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has been previously certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters a vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes other than resale, shall ascertain that the vehicle as altered conforms to the standards which are affected by the alteration and are in effect on the original date of manufacture of the vehicle, the date of final completion, or a date between those two dates. That person shall certify the vehicle in accordance with § 567.7 of this chapter.

Since this modification of the alterers' label merely incorporates an existing interpretation of the certification regulations, the Administrative Procedure Act (5 U.S.C. 553) permits the NHTSA to make the amendment without notice and opportunity to comment. Further, the change is being made effective immediately since it does not change the certification responsibilities of any manufacturer or alterer.

The agency realizes that alterers preprint their labels, and accordingly, any change in the language on the alterers' label requires some leadtime for manufacturers to obtain new complying labels. Accordingly, the agency will permit the use of either the old or new language on the alterers' label until existing supplies of labels are depleted. This will allow those alterers who wish to change their labels immediately the opportunity to do so while providing for an orderly transition for those alterers that wish to use their existing supply of labels. The agency has reviewed this amendment in accordance with E.O. 12044 and implementing departmental guidelines and concludes that it is not significant within the meaning of the Order. The agency has concluded further that preparation of a regulatory evaluation is not warranted. This amendment permits alterers to exhaust their current label supply and to obtain modified labels with their next order. Further, the new labels will be no more costly than the current ones. Accordingly, there should be minimal costs associated with the implementation of this amendment.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50).)

Issued on March 17, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-8718 Filed 3-18-80; 2:34 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

50 CFR Part 17

Listing of Sarracenia Oreophila, Green Pitcher Plant; Report of Public Meeting in Alabama

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

ACTION: Report of public meeting.

SUMMARY: On February 7, 1980 the U.S. Fish and Wildlife Service held a public meeting in Gadsden, Alabama. The purpose of the meeting was to better inform the people of northeastern Alabama about the listing of *Sarracenia oreophila* (green pitcher plant). The meeting was conducted in the form of a colloquy, and comments and questions from the audience were accepted. The Service has now evaluated all the comments and information received at the February 7, 1980, public meeting and a summary is contained in this notice.

DATES: The effective date of the final rule designating *Sarracenia oreophila* to be an Endangered species is April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald E. Lambertson, Associate Director-Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343-4646).

BACKGROUND: On September 21, 1979, the Fish and Wildlife Service published in the **Federal Register** a final rule announcing its determination that *Sarracenia oreophila* (green pitcher plant) is an Endangered species under the provisions of the Endangered Species Act of 1973, as amended (44 FR 54922). The final rule indicated that the prohibitions and restrictions applicable to this plant would take effect on October 21, 1979. Prior to that date, the Director of the Fish and Wildlife Service, in the exercise of administrative discretion, took action to extend the effective date of the final rule until February 22, 1980. In a **Federal Register** notice of October 25, 1979, (44 FR 61351), the Service announced this action and indicated that a public meeting would be held. On December 19, 1979, (44 FR 75165), the Service announced the date, time, and place of the meeting and extended the effective date of the final rule until April 7, 1980, so the Service could fully evaluate all comments and information received at the February 7, 1980 meeting. The public meeting was held at the Gadsden Convention Hall, in Gadsden, Alabama on February 7, 1980, from 2-5 p.m. and 7-12 p.m.

SUMMARY OF MEETING: The public meeting was held on February 7, 1980

from 2–5 p.m. and 7–12 p.m. at the Gadsden Convention Hall in Gadsden, Alabama. The purpose of the meeting was to better inform the people of northeastern Alabama about the listing of *Sarracenia oreophila* (green pitcher plant). The meeting was conducted in the form of a colloquy in order to explain the Service's actions, to answer public questions, and to accept comments from the audience. Approximately 180 people attended the meeting. Service personnel made presentations concerning the listing of *Sarracenia oreophila* (green pitcher plant). Private individuals and representatives of various organizations then made oral statements and a question and answer session followed.

Forty-eight private individuals and representatives of various organizations either made oral statements, handed in written statements, or did both. Thirty-two people made oral statements (11 of whom also submitted written statements for the record). Of those 32: 13 supported the listing of *Sarracenia oreophila* as Endangered, 15 opposed the listing, 3 voiced unfavorable concerns over the listing, and 1 comment did not deal with the listing. Sixteen written statements, which were not orally presented at the meeting, were submitted for the record. Of these 16: 6 supported the listing of *Sarracenia oreophila*, 8 opposed the listing, 1 voiced unfavorable concerns over the listing, and one in the form of a petition supporting the listing was signed by 107 persons. A number of private individuals and organization representatives asked questions which Service personnel answered.

Many written comments were received in the mail in response to the meeting notice and the actural public meeting. Nineteen written comments favoring the listing of *Sarracenia oreophila* were received from organizations including: the Alabama Wildflower Society, the Garden Club of America and several of its local chapters, the National Wildlife Federation, and the Tennessee Native Plant Society. Sixty-seven written comments were received from individuals: 66 supported the listing and 1 voiced unfavorable concern over the listing.

A brief summation of the commets is presented. Those comments supporting the listing will not be discussed here since they reiterate what was stated in the September 21, 1979 **Federal Register** determining *Sarracenia oreophila* to be an Endangered species and support the Service's actions to date. Some of the concerns voiced by the other commentors and the Service's responses follow:

Many of the commentors indicated that the six entire northeast Alabama counties had been designated as Critical Habitat and would now be involved in Section 7 consultations concerning *Sarracenia oreophila.*

Service Response: This was a misconception and was discussed at length. It was pointed out that the Service chose not to determine Critical Habitat for *Sarracenia oreophila* at the time of listing. Over-collection is a major threat to the green pitcher plant and therefore the Service utilized its discretion in determining that it would not be prudent to determine Critical Habitat. At the public meeting service personnel indicated that the 15 areas in Alabama where the pitcher plant occurs are restricted to Sand and Lookout Mountains. The specific areas where the green pitcher plant occurs occupy less than 20 acres. Only the specific sites where the plant occurs could potentially be affected by Section 7 and then only if there was a Federal involvement.

Many of the commentors expressed fears that the listing of *Sarracenia oreophila* would have an adverse economic impact upon agriculture, forestry, business, industry, and private landowners in Alabama.

Service Response: Service personnel pointed out that all known sites occur in rural areas, primarily on privately owned lands and the listing of the green pitcher plant would generally have no effect upon these private landowners. It was also pointed out that, after extensive investigation, no major or minor Federal projects have been identified which would be affected by the listing of *Sarracenia oreophila.* No economic impact resulting from the listing of *Sarracenia oreophila* is foreseeable at this time.

A number of concerns were voiced over the procedures followed in promulgating the September 21, 1979, final rulemaking. The procedures followed, along with the regulations and laws dictating those procedures, are discussed in the final rulemaking. These were also discussed in detail at the public meeting reflecting the Service's compliance with the Act and its implementing regulations.

A number of questions were raised concerning the documentation of the Service's information covering the biology of, range of, and threats to *Sarracenia oreophila.* The Service utilized the best available scientific and commercial data in developing the September 21, 1979, final rulemaking. No new information relating to the species' biology, status, or range was presented at the meeting or by any of the written comments. Therefore, the September 21, 1979 rule determining *Sarracenia oreophila* to be Endangered will become effective April 7, 1980.

The transcripts and the written comments are on file in the Washington Office of Endangered Species (1000 N. Glebe Road, Arlington, Virginia, 703/235–1975) and are available for public inspection during normal business hours, by appointment.

Dated: March 18, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80–8823 Filed 3–21–80; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 621

Fishery Conservation and Management Act of 1976—Civil Procedures

AGENCY: National Oceanic and Atmospheric Administration/Department of Commerce.

ACTION: Final Amendments to 50 CFR Part 621, Civil Procedures.

SUMMARY: The regulations governing civil procedures under the Fishery Conservation and Management Act of 1976 are amended and made final. The amendments accomplish the following objectives: (1) alter the existing civil penalty assessment procedures to provide for issuance of a single Notice of Violation and Assessment to replace the two documents presently used to assess civil penalties; (2) authorize the separate implementation of additional procedures to impose sanctions against domestic fishing permits; (3) specify the hearing procedures available to holders of fishing permits against which sanctions may be imposed; and (4) effect certain amendments of a technical nature.

EFFECTIVE DATE: These regulations are effective April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or David Allan Fitch, NOAA Office of General Counsel (GCEL), Room 280, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235. Telephone (202) 254–8350.

SUPPLEMENTARY INFORMATION: NOAA published a proposed rulemaking (44 FR 76829) on December 28, 1979, seeking public comment on new procedures for assessing civil penalties under the Fishery Conservation and Management

Act of 1976 (FCMA). The main thrust of the proposed rule was to move from a two-step process (Notice of Violation followed by a notice of Assessment, after which a respondent could request a hearing) to one which required only one agency action (the Notice of Violation and Assessment, or "NOVA") before a hearing request would become timely. As noted in the proposal, NOAA's experience in assessing civil penalties over the past three years has shown the present system to be cumbersome, time-consuming, and an excessive strain on limited Agency resources. The effect has been the substantial frustration of the goal of prompt adjudication of alleged violations, contrary to efficient administration of an enforcement program and the best interests of the parties. A sample of the one-step charging and assessment document, the NOVA, was set out in the proposal.

The proposal would also have authorized the establishment by separate rulemaking of procedures for the imposition of sanctions (revocation, suspension, or modification) against domestic fishing vessel permits other than the procedures in the present Subpart D of this Part 621. An example of such an alternate procedure is the Atlantic Groundfish Permit Point System proposed by the Agency on December 3, 1979 (44 FR 69312). The accumulation of sufficient points under this or other regulations implementing a fishery management plan would serve as a basis for imposing permit sanctions and making such sanctions effective earlier than the 30 day notice period now provided by § 621.54. In addition, a sanction could become effective immediately under the proposed rulemaking if the offense serving as the sanction's basis was willful or egregious.

To protect fully the interests of vessel owners, the proposal would clarify that such persons are entitled to a hearing as to an alleged violation which could lead to sanctions against the vessel's permit. The owner's hearing right would apply even if the owner were not a civil penalty Respondent (for example, if only the vessel master was charged with the offense); and the owner's hearing right would still obtain even if the individual charged did not request a hearing on the offense.

Certain technical amendments were proposed, among them that the word, "Administrator," was to be substituted for the word, "Director," in the present civil procedure regulations.

Four comments were received during the public comment period, which ended on February 11, 1980. These comments, and NOAA's response, are summarized below.

Time Periods for Response to NOVA

A basic purpose of the NOVA system is to reduce the time needed to bring contested cases to hearing. Thus, two 45-day response periods (one following the Notice of violation and one after a Notice of Assessment) are to be replaced by one 30-day period, which may be extended upon request for up to 15 days. The U.S. agent for certain foreign fishing vessels indicated that some respondents could not be contacted even in the 45-day periods under current regulations because of mail delays, the need to work through vessel owners, and problems of locating captains who were still at sea, often far from the United States or their home ports. The commenter asked that at least 60 days be provided for response to a NOVA.

In preparing the proposed rule, we considered a special time period for foreign cases. However, not all foreign cases present these time problems, and many different domestic vessel situations were envisioned which could present a similar problem.

It is clear that no uniform response period will fit every Respondent's situation perfectly. Nonetheless, if the NOVA proposal is to be effective in improving FCMA enforcement, contested cases must be brought more promptly to adjudication than at present, and other means must be utilized to continue in particular cases the informal prehearing discussions which may lead to settlement. Such other means are available under current procedures: (1) § 621.3(c) permits extensions of time upon a showing of good cause; and (2) the fact that a case has been docketed for hearing does not preclude the parties from continuing attempts to settle the case informally. In sum, we are convinced that the proposed 30-day NOVA response period is adequate in the majority of cases and that the other informal procedures available for extending the response period are adequate to deal with the exceptional cases.

We agree, however, with the commenter who pointed out a possible inequity which could result from the proposal's procedure for acting on a request to extend the 30-day response period for up to 15 days. The comment noted that if a Respondent asked on, for example, the 28th day for additional time to respond, the Respondent's 30 days may run before the Agency acts on the request. We do not believe the Respondent should be left in this uncertain position if the Agency does not act on the request in a timely manner. Section 621.22(b) has, therefore, been changed to provide that if the request has not been acted on within 48 hours after its receipt, the request may be treated as automatically granted for the extension requested (up to 15 days).

Penalty Amounts

One comment questioned deletion of the statutory guidelines for determining the amount of the penalty, which are in § 621.23 of the current regulations. Although they only restate what is in section 308(a) of the statute, NOAA agrees that including them in the regulations would avoid misunderstandings, and they are included in this final rule.

The comment also suggested an informal agency appeal of the initial proposed penalty amount, in order to safeguard against inconsistent assessment or mitigation policies. We find the suggestion unnecessary, since (1) penalties are proposed in accordance with established Agency schedules; (2) it would add further delay to the process; (3) review of the proposal is the very purpose of the hearing process; and (4) overall consistency is insured by a continuing review and overview at Agency Headquarters of all of the penalty schedules and each individual proposed penalty after it is sent.

Nevertheless, the comment does indicate a lack of knowledge concerning how penalty amounts are set in NOAA. NOAA attorneys dealing with enforcement cases have been working from nationally-adopted penalty schedules which are fairly detailed guidelines. These schedules are available to the public on request to a Regional NOAA Attorney or to the NOAA Office of General Counsel listed at the beginning of this rulemaking.

Clarification of Decision Authority

One comment indicated that the proposed rule obscured the decentralization of the assessment process, and suggested that the rule more clearly identify the actual decisionmaker. The proposed rule used the term "Administrator" throughout to indicate the responsible person, and defined that term to include a designee. The purpose was to avoid the regulations becoming outdated every time titles or delegations of authority were changed. Moreover, some cases will be acted upon at headquarters and others in the field, depending upon a variety of factors which will change from time to time. We do not believe that confusion is created by the process as proposed, since the charging NOVA will clearly indicate to the Respondent

the person with whom he or she is to deal. The benefits of this approach outweigh the benefits to be gained by greater specificity in these regulations.

Permit Sanctions

One comment questioned NOAA's authority to implement the Atlantic Groundfish Permit Point System, proposed separately at 44 FR 69312. That comment will be addressed during the Agency's consideration of that proposed rulemaking, although we here record our disagreement with the comment's legal conclusion.

As noted earlier, the present proposal would authorize the imposition of permit sanctions on the basis of separate regulations implementing a fishery management plan, such as the point system referenced above. Since these changes to § 621.52(a) and § 621.54(c) do not in and of themselves either implement such permit sanction systems or otherwise impact permit holders, they will be adopted as proposed. These changes will not impact the public unless separate rulemaking is undertaken; public impact and comment will be considered in the context of such separate rulemaking. Adopting these changes as proposed will avoid unnecessary procedural changes to this Part 621.

Other comments were received which did not relate to the substance of the proposal. These include the refinement of the statutory penalty factors, the internal administrative appeal process, and similar matters. The Agency has taken these matters under advisement.

A number of stylistic and editorial changes of a nonsubstantive nature have been made throughout Part 621.

NOAA's Assistant Administrator for Fisheries has determined that these amendments: (1) do not constitute a major federal action requiring the preparation of an Environmental Impact Statement; and (2) do not constitute a significant action requiring the preparation of a regulatory analysis under NOAA Directive 21–24.

Accordingly, the previously proposed regulations, with the changes indicated, are adopted and made final as set forth hereafter.

Signed at Washington, D.C., this 19th day of March, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801, *et seq.*)

50 CFR Part 621, regulations governing civil procedures under the Fishery Conservation and Management Act of 1976, is hereby amended as proposed with the changes noted above, and repromulgated as final, with the Table of Contents and otherwise as set forth in full below:

PART 621—CIVIL PROCEDURES

Subpart A—Introduction

Subpart B—Assessment Procedure

Subpart C—Hearing and Appeal Procedures

Subpart D—Permit Sanctions

Subpart E—Remission of Forfeitures

Authority: 16 U.S.C. 1801–1882.

Subpart A—Introduction

§ 621.1 Purpose and scope.

(a) Section 308 of the Act authorizes the Secretary to assess a civil penalty, in an amount not to exceed $25,000, for each violation against any person found to have committed an act prohibited by section 307. Each day of a continuing violation is considered a separate offense. The Administrator has been delegated the authority to assess these administrative money penalties.

(b) Section 204(b)(12) of the Act details the circumstances under which the Administrator is to revoke, suspend, or modify certain foreign fishing vessel permits. Regulations implementing specific fishery management plans contain provisions for permit sanctions in respect both to foreign and domestic fishing vessels.

(c) Section 310(c) of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures and the compromise of claims, applicable to forfeitures of fishing vessels and fish alleged to be authorized under the Act. The Department of Commerce is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(d) The regulations in this Part provide uniform rules and procedures for the assessment of civil penalties (Subparts B and C), permit sanctions (Subpart D), and the remission or mitigation of forfeitures (Subpart E).

(e) Subparts B and C of this Part shall apply to any civil penalty proceeding initiated by Notice of Violation and Assessment (NOVA) subsequent to the effective date of revisions to this Part which authorized issuance of the NOVA, regardless of when the act or omission which is the basis of a civil penalty proceeding occurred. Proceedings initiated by Notice of Violation under former Subparts B and C, promulgated March 1, 1977, 42 FR 12026, shall be governed by those procedures, except as otherwise stipulated by the parties.

§ 621.2 Enforcement policy.

(a) The Act provides four basic enforcement remedies for violations, in ascending order of severity as follows: (1) Issuance of a citation (a type of warning), usually at the scene of the offense (see 50 CFR Part 620); (2) assessment by the Administrator of a civil money penalty; (3) for certain violations, judicial forfeiture action against the vessel and its catch; and (4) criminal prosecution of the owner or operator for some offenses. It shall be the policy of the Agency to enforce vigorously and equitably the provisions of the Act by utilizing that form or combination of authorized remedies best suited in a particular case to this end.

(b) Processing a case under one remedial form usually means that other remedies are inappropriate in that case. However, further investigation or later review may indicate the case to be either more or less serious than initially considered, or may otherwise reveal

that the penalty first pursued is inadequate to serve the purposes of the Act. Under such circumstances, the Agency may pursue other remedies either in lieu of or in addition to the action originally taken. Forfeiture of the illegal catch does not fall within this general rule and is considered in most cases as only the initial step in remedying a violation by removing the ill-gotten gains of the offense (see paragraph (d) of this section).

(c) If a fishing vessel for which a permit has been issued under the Act is used in the commission of an offense prohibited by section 307 of the Act, the Agency may impose permit sanctions whether or not civil or criminal action has been undertaken against the vessel or its owner or operator. In some cases, the Act requires permit sanctions following the assessment of a civil penalty or the imposition of a criminal fine. In sum, the Act treats sanctions against the fishing vessel permit to be the carrying out of a purpose separate from that accomplished by civil and criminal penalties against the vessel or its owner or operator.

(d)(1) In view of the perishable nature of fish, any person authorized to enforce the regulations contained in this Chapter may cause to be sold, and any person may purchase, for not less than its fair market value, such quantities of perishable fish as may be seized pursuant to the Act.

(2) The proceeds of any such sale, after deducting the reasonable costs of the sale, if any, shall be submitted to an appropriate court of competent jurisdiction and an *in rem* complaint for forfeiture shall be filed with respect to such proceeds.

(3) Seizure and sale of fish shall be without prejudice to any other remedy or sanction authorized by law and this Chapter.

§ 621.3 Filing and service of documents.

(a) Whenever the regulations in this part require service of a document or other paper, such service may effectively be made on the agent for service of process or on the attorney for the person to be served. Refusal by the person to be served, or his or her agent or attorney, of service of a document or other paper shall be considered effective service of the document or other paper as of the date of such refusal.

(b) Whenever the regulations in this part or in an order issued hereunder require a document or other paper to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is required. Time periods shall begin to run on the day following the date of the document, paper, or event which begins the time period and, unless otherwise provided by law or these regulations, includes the last day of the period, unless such day is a Saturday, Sunday, or Federal holiday, in which event it includes the next following day which is not a Saturday, Sunday, or Federal holiday.

(c) If an oral or written application is made to the Administrator within 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Administrator may permit a late filing if he or she finds reasonable grounds for an inability or failure to file within the time period. All such extensions shall be in writing. Except as provided in this paragraph, by § 621.22, or by order of an administrative law judge under Subpart C of this Part, no requests for an extension of time may be granted.

§ 621.4 Definitions.

Unless the context otherwise requires, terms in these regulations have the meanings prescribed in section 3 of the Act, and special reference is made to the following terms: "Fishery conservation zone," "fishery resource," "fishing vessel," and "Secretary." In addition, the following definitions apply:

(a) *Act.*—Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 to 1882.

(b) *Administrator.*—Administrator, National Oceanic and Atmospheric Administration, or his or her designee.

§§ 621.5—621.20 [Reserved]

Subpart B—Assessment Procedure

§ 621.21 Notice of violation and assessment (NOVA).

(a) A Notice of violation and assessment (NOVA) shall be issued by the Administrator and served personally or by registered or certified mail, return receipt requested, upon the person alleged to be subject to a civil penalty (the respondent). A copy of the NOVA shall similarly be served upon the owner of an affected vessel, as defined in § 621.26, if the owner is not the respondent. Although no specific form is prescribed, the NOVA shall contain: (1) a concise statement of the facts believed to show a violation; (2) a specific reference to the provisions of the Act, regulation, permit, or governing international fishery agreement allegedly violated; (3) the findings and conclusions upon which the administrator has based the proposed assessment; and (4) the amount of penalty proposed to be assessed.

(b) In respect to the amount of civil penalty, the Administrator shall take into account information available to the agency concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(c) The NOVA may also contain an initial proposal for compromise or settlement of the case. The Administrator may also attach documents which illuminate the facts believed to show a violation. The NOVA shall advise the respondent of his or her rights at that point in the proceeding, and shall be accompanied by a copy of regulations governing civil procedures, this Part 621.

§ 621.22 Procedures upon receipt of NOVA.

(a) The respondent shall have 30 calendar days from receipt of the NOVA in which to respond. During this time the respondent may:

(1) Accept the proposed penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(2) Seek to have the NOVA amended or modified as prescribed in paragraph (b) of this section;

(3) Request a hearing, as prescribed in paragraph (d) of this section; or

(4) Take no action, in which case the NOVA shall become final in accordance with § 621.23. Options 2, 3 and 4 above may also be exercised by the owner of an affected vessel, as defined in § 621.26.

(b) The respondent, or the owner of an affected vessel, may seek amendment or modification of the NOVA to conform to the facts or law as he or she sees them. In such case, he or she shall so notify the Administrator at the telephone number or address specified in the NOVA. Where amendment or modification is sought, the Administrator shall either amend the NOVA or decline to amend it, and shall so notify the respondent or owner, as appropriate.

(c) The respondent or owner of an affected vessel may, within the 30-day period specified in paragraph (a), for good cause shown which makes it impracticable to respond within 30 days, request an extension of time to respond, not to exceed an additional 15 days. If, in the Administrator's judgment, good

cause is not shown, the Administrator may deny the request within 48 hours of its receipt by the Administrator. If the request is not so denied, it shall be considered granted automatically for the extension requested, up to a maximum of 15 days. Telephonic communication of a denial within the 48-hour period shall be considered effective denial, and shall be followed by written confirmation.

(d) If the respondent or the owner of an affected vessel wishes a hearing, such request shall be dated and in writing, and shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOVA. The request shall either attach a copy of the relevant NOVA or refer to the relevant NOAA case number.

(e) Any denial, in whole or in part, of any request under this section which is based upon untimeliness shall be made in writing.

(f) The Administrator may, in his or her discretion, treat any communication from a respondent or owner as a request for a hearing pursuant to paragraph (d).

§ 621.23 Final administrative decision.

(a) If no request for hearing is filed as provided in § 621.22, the NOVA shall become effective and shall constitute the final administrative decision and order of the Secretary on the 30th calendar day after service of the NOVA, or on the last day of any delay period granted.

(b) If a request for hearing is filed in accordance with § 621.22, the date of the final administrative decision shall be as provided in Subpart C of this Part 621.

§ 621.24 Payment of final assessment.

(a) Respondent shall make full payment of the civil penalty assessed within 30 calendar days of the date upon which the assessment becomes effective as the final administrative decision and order of the Secretary under § 621.23 or § 621.41 of this Part; or, if judicial review of the assessment is initiated under section 308(b) of the Act during such 30 day period, within 10 calendar days after the appropriate court has entered final judgment in favor of the Secretary, unless the court's order provides otherwise. Payment shall be made by mailing or delivering to the Administrator at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States."

(b) Upon any failure to pay the civil penalty assessed, the Administrator may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or may take action under § 621.25 of this part.

§ 621.25 Compromise of civil penalty.

(a) In his or her sole discretion, the Administrator may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty which has been imposed under this Part 621, or which is subject to such imposition.

(b) The compromise authority of the Administrator under this section shall be in addition to any similar authority provided in the Act or in these regulations, and may be exercised either upon the initiative of the Administrator or in response to a request of the alleged violator or other interested person.

(c) If the Administrator takes action under this section prior to the issuance of a NOVA or after a final assessment becomes payable under § 621.24, the Administrator will prepare a document indicating the action taken and citing this section and section 308(d) of the Act as authority. Once the case has been assigned for hearing under § 621.31 of this Part, the Administrator will, except in unusual circumstances, defer any compromise action under this section until the administrative law judge has rendered an initial decision in the matter. Neither the existence of the compromise authority of the Administrator under this section nor the Administrator's exercise thereof at any time shall change the date upon which an assessment becomes final or payable.

(d) If compromise action is requested or otherwise becomes appropriate for the Administrator's consideration during the pendency of a petition for relief from forfeiture, filed under Subpart E of this Part 621, the Administrator may consolidate in a manner consistent with the provisions of Subpart E his or her consideration of the two matters.

§ 621.26 Application of this subpart to vessel owners.

(a) The provisions of this subpart shall apply to owners of affected vessels. "Affected vessel" shall mean a fishing vessel of the United States whose federal fishing permit may be subject to sanction as a result of a civil penalty proceeding under this Part.

(b) The provisions of this subpart shall also apply to vessel owners where such application is expressly provided by regulations in this Chapter implementing a fishery management plan.

§ 621.27–621.30 [Reserved]

Subpart C—Hearing and Appeal Procedures

§ 621.31 Commencement of hearing procedures.

Following receipt of a written request for hearing filed in a timely manner in accordance with § 621.22 of Subpart B of this part, the Administrator will commence procedures under this subpart by forwarding the request, a copy of the NOVA, and any response thereto, to the NOAA Office of Hearings and Appeals, which shall docket the matter for hearing. Written notice of the assignment shall promptly be given to the respondent and the owner of an affected vessel (as defined in § 621.42) if the owner is other than the respondent, with the name and address of the attorney who will represent the Administrator in the proceedings (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the NOAA Office of Hearings and Appeals, and a copy will be served on the opposing party (respondent or agency representative).

§ 621.32 Ex parte communications.

(a) For purposes of this section, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports.

(b) Upon assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, neither the judge nor any of the following agency employees shall make or knowingly cause to be made to any interested person outside the Department of Commerce an ex parte communication relevant to the merits of the proceeding:

Administrator, Assistant Administrator for Fisheries, Deputy Assistant Administrator for Fisheries, and the Executive Director, the Office of Resource Conservation and Management Director, the Enforcement of Division Chief, and all Regional Directors, National Marine Fisheries Service.

(c) Upon notice of the assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, no interested person outside the Department of Commerce shall make or knowingly cause to be made to the judge or to an agency employee listed in paragraph (b) of this section an ex parte

communication relevant to the merits of the proceeding.

(d) An agency employee or judge who makes or receives a prohibited communication shall cause to be placed in the hearing record the communication and any response thereto and the judge, or Administrator, as appropriate, may take action in this respect consistent with these regulations, the Act, and 5 U.S.C. 556(d) and 557(d).

(e) This section shall not apply to communications to or from the agency representative; however, the agency representative may not participate or advise in the initial decision of the judge or the agency review thereof except as witness or counsel in the proceeding in accordance with the regulations in this part. This section shall be interpreted so as not to diminish the compromise authority of the Administrator under § 621.25 of this part. In addition to the foregoing requirements of this section, the judge shall not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(Sec. 4, Pub. L. 94–409, 5 U.S.C. 557(d))

§ 621.33 Duties and powers of judge.

(a) The administrative law judge shall have all powers and responsibilities necessary to preside over the parties and the proceeding, to hold prehearing conferences, to conduct the hearing, and to make the initial decision, in accordance with these regulations and 5 U.S.C. 554, to 557, including the authority and duty to:

(1) Rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, provided, however, that the respondent, the owner of an affected vessel (as defined in § 621.42), and the agency representative shall be parties, and provided further that the judge shall prior to ruling ascertain the views of the other parties and base the ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings;

(2) Ascertain, both prior to scheduling a hearing and at other times the judge considers appropriate, from the record at hand or upon further inquiry to the parties, whether a reasonable basis exists for settlement of the matter or simplification of the issues by consent; and hold conferences or otherwise require the parties to consider settlement or to simplify the issues;

(3) Schedule the time and place of the pre-hearing conference or hearing, continue the hearing from day to day, adjourn the hearing to a later date or a different place, and reopen the hearing at any time before issuance of the initial decision, all in the judge's discretion, having due regard for the convenience and necessity of the parties.

(4) Regulate the course of the hearing and the conduct of the participants, including the power to establish rules for media coverage of the proceedings, to close the hearing in the interests of justice, to seal confidential or privileged documents from public scrutiny, and to strike testimony of a witness refusing to answer a question ruled to be proper;

(5) Administer oaths and affirmations;

(6) Rule on discovery requests and, whenever the ends of justice would thereby be served, take or cause depositions or interrogatories to be taken:

(7) Receive, exclude, limit and otherwise rule on offers of proof and evidence, provided that formal rules of evidence shall not apply to the proceeding; irrelevant, immaterial, unreliable, nonprobative, or unduly repetitious or cumulative evidence shall be excluded; and hearsay evidence shall not be inadmissible as such;

(8) Rule on motions, procedural requests, and similar matters;

(9) Examine and cross-examine witnesses and introduce into the record on the judge's own initiative documentary or other evidence;

(10) Rule on requests for appearance of witnesses or production of documents and take appropriate action upon a failure of a party to effect the appearance or production of a witness or document ruled relevant and necessary to the proceeding; as authorized by law, issue subpoenas for the appearance of witnesses or production of documents such as will aid the administrative court's jurisdiction;

(11) Require a party or witness at any time during the proceeding to state his or her position concerning any issue or his or her theory in support of such position;

(12) Take official notice of any matter not appearing in evidence which is among the traditional matters of judicial notice, or of technical or scientific facts within the general or specialized knowledge of the Department of Commerce as an expert body; or of a nonprivileged document required by law or regulation to be filed with or prepared or published by a duly constituted government body; or of any public document reasonably available to the public; provided, that the parties shall be advised of the matter so noticed and given reasonable opportunity to show the contrary; and

(13) Prepare and submit the initial decision and certify the record in accordance with § 621.39 of this part.

(b) The judge shall enter no order which purports in and of itself to effectuate the forfeiture of any property seized or otherwise detained in connection with the proceedings, except that:

(1) The judge may take account in an order of dismissal or similar decree under § 621.36 of this part that voluntary forfeiture of such property forms a part of a settlement agreement between respondent and the agency representative; or

(2) The judge may recommend to the Administrator at the time the initial decision is submitted under § 621.39 of this part that the Administrator either pursue or not pursue forfeiture or that the Administrator respond affirmatively to a petition for relief from forfeiture submitted under Subpart E of this part.

(c) The judge shall enter no order which purports in and of itself to revoke, suspend, or modify any permit issued under the Act to a vessel used in the commission of a violation which is a subject of the proceeding, except that:

(1) The judge may receive for the record, on his or her own initiative or at the request of a party, evidence otherwise admissible which is relevant to the question of what vessel was involved in the commission of the violations with which respondent has been charged and to the question of what revocation, suspension, or modification of the permit (or, if the permit was issued under section 204(b) of the Act, what modification of all permits issued to the nation under whose flag such vessel operates) the Administrator might appropriately order pursuant to Subpart D of this part; and

(2) The judge may recommend to the Administrator at the time the initial decision is submitted under § 621.39 of this part that the Administrator pursue or not pursue certain permit sanctions under Subpart D of this part.

§ 621.34 Participation by parties.

(a) The respondent, the owner of an affected vessel (where prescribed by § 621.42), the agency representative, and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of his or her case or defense, and conduct oral argument at the close of testimony, provided, however, that this section shall not be interpreted to diminish the powers and

duties of the judge set forth in § 621.33 of this part.

(b) Failure of any party to appear at the hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

§ 621.35 Record.

(a) The Administrator shall provide the services of an official reporter to transcribe verbatim the testimony taken and arguments made in the hearing. Copies of the official transcript may be obtained from the reporter upon payment of the applicable rates fixed by the contract with the reporter.

(b) The official transcript, exhibits, briefs, requests, and other documents and papers filed or officially noticed in the proceeding shall constitute the exclusive record for decision.

§ 621.36 Settlements.

An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final administrative decision of the Secretary, shall terminate the proceedings and vacate any initial or administrative appellate decision which has been issued. However, if settlement is reached before the judge has submitted the initial decision and certified the record under § 621.39 of this part, the judge may require submission of a copy of the agreement solely to assure that the judge's consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

§ 621.37 Interlocutory appeals.

(a) At the request of a party or on the judge's own motion, the judge may certify to the Administrator for review a ruling which does not finally dispose of the proceeding if the judge determines that such ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter.

(b) Upon certification by the judge of an interlocutory ruling for review, the Administrator shall expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 calendar days of certification. The Administrator's order on an interlocutory appeal shall not be considered the final administrative decision of the Secretary except by operation of other provisions in this part.

(c) No interlocutory appeal shall lie as to any ruling not certified to the Administrator by the judge. Objections to non-certified rulings shall be a part of the record and shall be subject to review at the same time and in the same manner as the Administrator's review of the initial decision of the judge upon any appeal therefrom under § 621.40 of this part.

§ 621.38 Proposed findings and conclusions.

Unless a different schedule is established in the discretion of the judge, the parties may file proposed findings of fact and conclusions of law, together with supporting briefs, within 30 calendar days after the judge closes the hearing. Reply briefs may be submitted within 15 calendar days after receipt of the proposed findings and conclusions to which they respond, unless the judge sets a different schedule.

§ 621.39 Initial decision.

(a) After expiration of the period provided in § 621.38 of this part for filing reply briefs, the judge shall render a written initial decision upon the record in the case, setting forth therein:

(1) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge shall not be bound by the amount proposed or assessed in the notice of violation, NOVA, notice of assessment, or elsewhere, but shall decide the matter de novo, stating the reasons in view of the applicable factors which must be considered, as set forth in section 308(a) of the Act and § 621.21 of this part;

(2) Reasons for the rejection of findings and conclusions proposed by the parties;

(3) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(4) Such other matters as the judge considers appropriate, including recommendations, if any, regarding forfeiture action and permit sanctions, as described in paragraphs (b) and (c) of § 621.33 of this part.

(b) The judge shall submit the initial decision to the Administrator, serve copies on the parties, and transmit to the Administrator the record of the proceeding together with a certification to the effect that, to the best of the judge's knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

§ 621.40 Appeals.

(a) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Administrator, at the address specified by the agency, within 45 calendar days of the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellant takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on the other parties.

(b) The Administrator shall decide the appeal upon the record already made or may issue orders specifying the filing of supplemental briefs, remanding the matter for the receipt of further evidence by an administrative law judge, or otherwise assisting in the determination of the matter. The decision of the Administrator shall be in writing and shall state the reasons for acceptance or rejection of exceptions taken by the appellant. To the extent the Administrator's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision shall be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

§ 621.41 Final decision.

(a) Unless a notice of appeal is timely filed in accordance with § 621.40, the initial decision of the judge shall become effective and shall constitute the final administrative decision and order of the Secretary on the 45th calendar day from the date it is rendered.

(b) If a notice of appeal is timely filed as provided in § 621.40 of this part, the Administrator's decision thereon shall become effective and shall constitute the final administrative decision and order of the Secretary on the date thereof, or as otherwise specified by the Administrator in the decision.

(c) Payment of any assessment which becomes final under this section shall be made in accordance with § 621.24 of this Part.

§ 621.42 Application of this subpart to vessel owners.

(a) The provisions of this subpart shall apply to owners of affected vessels. "Affected vessel" shall mean a fishing vessel of the United States whose federal fishing permit may be subject to sanction as a result of a civil penalty proceeding under this Part.

(b) The provisions of this subpart also apply to vessel owners where such application is expressly provided by regulations in this chapter implementing a fishery management plan.

§§ 621.43–621.50 [Reserved]

Subpart D—Permit Sanctions

§ 621.51 Application of subpart.

The provisions of this subpart shall govern the revocation, suspension, and modification of any permit issued under the Act for a fishing vessel, including:

(a) Permits issued for foreign fishing vessels pursuant to section 204(b) of the Act in respect to a governing international fishery agreement;

(b) Registration permits issued for foreign fishing vessels pursuant to section 204(c) of the Act with respect to an existing international fishery agreement, except to the extent that such agreement is inconsistent with the provisions of this subpart; and

(c) Permits issued for fishing vessels of the United States in accordance with section 303(b)(1) of the Act and regulations issued by the Secretary under section 305 of the Act implementing a fishery management plan, except to the extent such regulations expressly limit application of the provisions of this subpart.

§ 621.52 Basis for sanctions.

(a) The Administrator may take action under this subpart with respect to a permit issued under the Act for a fishing vessel if:

(1) The fishing vessel for which the permit was issued has been used in the commission of an offense prohibited by section 307 of the Act; or

(2) A civil penalty pertaining to a fishing vessel for which the permit was issued has been assessed under Subparts B or C of this Part 621 but full payment of the penalty has not been made in accordance with § 621.24 of this part; or

(3) A criminal fine pertaining to a fishing vessel for which the permit was issued has been imposed under section 309 of the Act but full payment of the fine has not been made in accordance with the Court's decree; or

(4) The requirements of a regulation issued under the Act to govern permit sanctions in the implementation of a fishery management plan have been satisfied, including, but not limited to, permit sanction point systems.

(b) If the provisions of paragraphs (a)(2) or (a)(3) of this section are met and the fishing vessel involved is a foreign fishing vessel the permit for which was issued under section 204(b) of the Act in respect to a governing international fishery agreement, the Administrator shall take action under this subpart with respect to such permit.

(c) Any permit which is suspended solely on the basis described in paragraph (a)(2) of this section shall be reinstated by affirmative order of the Administrator promptly upon receipt, in the manner prescribed in § 621.24 of this part, of full payment of the civil penalty assessed, together with interest thereon at the annual rate provided by current regulations of the Department of the Treasury as to late payment of amounts due the Government, computed from the date payment first became overdue under § 621.24 of this part.

§ 621.53 Nature of sanctions.

In his or her discretion and subject to the requirements of this subpart, the Administrator may take any of the following actions or combinations thereof with respect to a permit issued under the Act;

(a) Revoke the permit and, if appropriate, prohibit the issuance of a permit in future years to the fishing vessel involved, or impose additional requirements for such future issuance;

(b) Suspend the permit, either for a specified period of time or until certain stated requirements are met, or both;

(c) Modify the permit, as by imposing additional conditions and restrictions thereon and, if the permit was issued for a foreign fishing vessel operating under a governing international fishery agreement, by imposing additional conditions and restrictions on the application of the foreign nation involved which was approved under section 204 of the Act, and on any of the permits under such application.

§ 621.54 Notice of permit sanction.

(a) The Administrator shall prepare a notice of permit sanction (NOPS) setting forth the sanction to be imposed and the basis therefor. If an opportunity for hearing is provided by § 621.55 of this part, the notice will advise that the permit holder has 30 calendar days from receipt of the notice in which to request or waive a hearing. The notice shall further state the effective date of the sanction, which shall not be earlier than 30 calendar days after the date of the notice unless the Administrator takes action under paragraph (c) of this section. If a hearing opportunity is provided and a hearing is requested in a timely manner, the sanction shall become effective pursuant to § 621.56 of this part, unless the Administrator provides otherwise pursuant to the authority of paragraph (c) of this section.

(b) The NOPS shall be served personally or by registered or certified mail, return receipt requested, on the owner or operator of the fishing vessel for which the permit was issued. However, if the vessel is a foreign fishing vessel, service shall be made on the agent for service of process for such owner or operator, except that if no agent for service of process has been appointed, or if the identity or location of such agent is unknown to the Administrator, service may be made on the consular or other officials of the foreign nation involved through, and as considered appropriate by, the U.S. Department of State.

(c) The Administrator may make the permit sanction effective immediately or otherwise earlier than 30 days after the notice of permit sanction if the Administrator finds, and summarizes such finding and the basis therefor in the notice, that

(1) Substantial harm to a fishery resource of the United States may result from a later effective date; or

(2) The offense serving as the basis for the permit sanction was willful or egregious; or

(3) The basis for the sanction is the accumulation of sufficient points under other regulations in this Chapter implementing a fishery management plan.

If the Administrator acts under this paragraph, he or she shall seek to expedite a hearing the opportunity for which is provided by § 621.55, but a request for hearing shall not delay the effectiveness of the sanction.

§ 621.55 Opportunity for hearing.

(a) The owner or operator of the fishing vessel for which the permit was issued, or the designated agent for service of process, shall have 30 calendar days from receipt of the NOPS to request a hearing. The Administrator shall not, however, be required to hold a hearing if such owner or operator had, with respect to the violation which forms the basis for the permit sanction, the previous opportunity to participate as a party in a judicial hearing on a criminal charge brought under section 309 of the Act or in an administrative hearing on a civil penalty action initiated under section 308 of the Act and Subparts B and C of this part, whether or not the owner or operator so participated, and whether or not such a hearing was held.

(b) If no hearing opportunity is required by paragraph (a) of this section, the Administrator may nonetheless order a hearing if he or she determines that there are material issues of fact or equity to be further explored.

§ 621.56 Hearing and decision.

(a) If a timely request for the hearing provided by § 621.55(a) of this part is received or the Administrator orders a hearing under § 621.55(b) of this part,

the Administrator shall appoint a hearing examiner to conduct a fact-finding inquiry into the matter.

(b) If the Administrator has initiated sanctions under § 621.53(c) of this part as to more than one permit and has received hearing requests properly made under § 621.55 of this part from the owners or operators of two or more of the affected fishing vessels, he or she may order the hearings to be consolidated into a single proceeding.

(c) The hearing examiner shall hold an informal hearing in the matter and expeditiously thereafter furnish the Administrator a report with recommendations.

(d) Upon receipt of the report and recommendations of the hearing examiner, the Administrator shall as soon as practicable decide the matter and serve notice of the decision on the permit holder in the manner provided by § 621.54(b). The decision of the Administrator shall be final and unappealable.

§§ 621.57–621.60 [Reserved]

Subpart E—Remission of Forfeitures

§ 621.61 Application of subpart.

(a) Authorized enforcement officers are empowered by section 311 of the Act to seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) which reasonably appears to have been used in violation of the Act, of any permit or regulation issued pursuant to the Act, or of any applicable international fishery agreement. Enforcement agents may also seize illegally taken or retained fish, as well as other evidence related to a violation. Section 310 provides for the judicial forfeiture of such vessels and fish. This subpart establishes procedures for filing with the Administrator a petition for relief from forfeitures incurred or alleged to be authorized under section 310 of the Act.

(b) For purposes of this part, the "remission or mitigation of a forfeiture" or "relief from forfeiture" means action by the Administrator, following coordination as necessary with other federal agencies and the courts, to release from the custody of the United States property seized and subject to forfeiture under the Act, or part of such property, upon compliance with any terms and conditions set by the Administrator, such as payment of a stated amount in settlement of the forfeiture aspects of a violation. Although the Administrator may properly combine consideration of a petition for relief from forfeiture with other consequences of a violation of the Act, his or her action in remission or mitigation of a forfeiture shall not be considered dispositive of a criminal charge which may be filed under section 309 of the Act, or a civil penalty which may be assessed under Subparts B and C of this part, or a permit sanction which may be imposed under Subpart D, unless the action expressly so states. Remission or mitigation of a forfeiture is in the nature of executive clemency granted in the sole discretion of the Administrator only when consistent with the purposes of the Act and the provisions of this subpart.

§ 621.62 Petition for relief from forfeiture.

(a) Any person having an interest in a fishing vessel, fish, or other property seized and subject to forfeiture under the Act may file a petition for relief from such forfeiture. The petition shall be addressed to the Administrator and filed within 60 days of the seizure by mailing or delivering the petition to the Regional Director, National Marine Fisheries Service, nearest to the place where such property is held:

Seattle, Washington 98109.
Terminal Island, California 90731.
Juneau, Alaska 99801.
Gloucester, Massachusetts 01930.
St. Petersburg, Florida 33702.

(b) The petition need not be in any particular form, but shall set forth the following:

(1) A description of the property seized;

(2) The date and place of the seizure;

(3) The interest of petitioner in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;

(4) The facts and circumstances relied upon by petitioner to justify the remission or mitigation;

(5) Any request for release under § 621.66 of all or part of the seized property pending final decision on the petition, together with any offer of payment to protect the Government's interest that petitioner makes in return for such release, and the facts and circumstances relied upon by petitioner in the request; and

(6) The signature of petitioner, his or her attorney, or other authorized agent. A false statement in a petition will subject petitioner to prosecution under 18 U.S.C. 1001.

§ 621.63 Investigation.

The Administrator shall promptly cause an investigation to be made of the facts and circumstances shown by the petition and the seizure, and may in this respect appoint an examiner to find the facts, by informal hearing on sworn testimony or otherwise, and to prepare a report with recommendations.

§ 621.64 Decision on petition.

(a) After the investigation authorized by § 621.63, the Administrator shall decide the matter and notify petitioner. The Administrator may remit or mitigate the forfeiture, on such terms and conditions as under the Act and the circumstances he or she deems reasonable and just, if he or she finds:

(1) That the forfeiture to which the property is subject was incurred without willful negligence and without any intention on the part of petitioner to violate the Act; or

(2) That other circumstances exist which justify remission or mitigation of the forfeiture.

(b) Unless he or she determines no valid purpose would thereby be served, the Administrator will condition a decision to remit or mitigate a forfeiture upon the submission by petitioner of an agreement, in a form satisfactory to the Administrator, to hold the United States and its officers or agents harmless from any claim based on loss of or damage to the seized property. If petitioner is not the beneficial owner of the property, the Administrator may require petitioner to submit such an agreement executed by the beneficial owner. The Administrator may also require that the property be promptly exported from the United States.

§ 621.65 Compliance with decision.

A decision by the Administrator to remit or mitigate the forfeiture upon stated conditions, as upon payment of a specified amount, shall be effective for 60 days after the date of the decision. If petitioner has not within such period complied with the stated conditions, in the manner prescribed by the decision, or made arrangements satisfactory to the Administrator for later compliance, the matter will promptly be referred to the Attorney General of the United States to effect judicial forfeiture in full of the seized property to the United States under section 310 of the Act.

§ 621.66 Release of seized property pending decision.

(a) Upon request in the petition for relief from forfeiture, and taking account of any interim report or recommendation of an examiner appointed under § 621.63, the Administrator may order the release, pending final decision on the petition, of all or part of the seized property upon payment by petitioner of the full value of the property to be released or such lesser amount as the Administrator in his or her sole

discretion deems sufficient to protect the interests served by the Act.

(b) If the Administrator grants the request, he or she will cause the amount paid by petitioner to be deposited in a suspense account maintained for the purpose. The amount so deposited shall for all purposes be considered to represent the property seized and subject to forfeiture under the Act, and payment of the amount by petitioner constitutes a waiver of any claim of defective seizure, custody and control, commingling of proceeds, or related defenses. The Administrator will cause records to be kept of amounts deposited in the suspense account and will retain such deposits pending his or her further order or a court order issued under sections 310 or 311 of the Act.

(c) The provisions of paragraph (b) of § 621.64 of this part will apply to a release of property made under this section.

[FR Doc. 80-8920 Filed 3-21-80; 8:45 am]

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Proposed Rules

Federal Register
Vol. 45, No. 58
Monday, March 24, 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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Procedures for Decisions on Appropriated Fund Expenditures in Federal Labor-Management Relations Program

AGENCY: General Accounting Office.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend GAO's procedures governing requests for decisions in Federal labor-management 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 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 proposed rule retains existing procedures which provide labor organizations and agencies with access to GAO, but deletes references to obsolete agencies and functions, and provides for deference to the jurisdiction of the Federal Labor Relations Authority where appropriate.

DATE: Comments will be considered if received no later than May 2, 1980.

ADDRESSES: Comments should be addressed to: Robert L. Higgins, Assistant General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

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

SUPPLEMENTARY INFORMATION: Section 21.1 of the proposed rule covers requests for decisions from agencies and labor organizations participating in the labor-management program established by Title VII of the Civil Service Reform Act, as well as requests from agencies and labor organizations participating in other Federal sector labor-management programs. This expanded coverage had been suggested in comments received prior to publication of the existing rule and consideration of its adoption was deferred pending this opportunity for notice to all affected parties, and the opportunity to comment. See, 43 FR 32395, July 27, 1978.

In recognition of the role of the Federal Labor Relations Authority, this proposed rule authorizes deference to the jurisdiction of that agency. Thus, § 21.3(d) of the proposed rule requires the parties to give notice if other procedures have been invoked to adjudicate the same or substantially similar matter before the Federal Labor Relations Authority or any other administrative body. Section 21.5(b) of the proposed rule evidences our intent to refuse to issue a decision on a matter which is more properly within the jurisdiction of the Federal Labor Relations Authority. For example, the Comptroller General will not issue a decision on a matter which is the subject of an arbitration award which is final and binding pursuant to 5 U.S.C. 7122 (a) and (b). Thus, while the scope of the proposed rule permits agencies and labor organizations to submit matters of mutual concern to GAO, the Comproller General retains discretion under § 21.5(b) to decline to issue a decision.

Accordingly, it is proposed to amend 4 CFR Chapter I, Part 21, to read as follows:

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

Sec.

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 under which the General Accounting Office will render decisions concerning the legality of appropriated fund expenditures on matters which are of mutual concern to agency representatives and labor organizations participating in the labor-management program established pursuant to Chapter 71 of Title V, United States Code, and other Federal sector labor-management programs.

§ 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), authorized certifying officers, and disbursing officers may request a decision under this part.

§ 21.3 Contents of request.

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 involved, and a statement of the party's argument;

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

(d) Notification as to whether any other procedure has been invoked to adjudicate the same or substantially similar matter before the Federal Labor Relations Authority or other administrative body; and

(e) A power of attorney if required by 4 CFR 1.3.

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

§ 21.5 Considerations governing the issuance of a decision.

(a) Decisions under this part will be issued as expeditiously as possible, normally within 60 calendar days of responses received pursuant to § 21.4(c). Where a delay is anticipated in the issuance of a decision, interested parties will be notified and provided with a tentative date for issuance of the decision.

(b) The Comptroller General may refuse to issue a decision on a matter that is the subject of a proceeding before a court or administrative body of competent jurisdiction, on a matter which is unduly speculative, or otherwise not appropriate for decision.

§ 21.6 Joint requests for decisions.

In an effort to reduce the amount of time required for the decision-making process, agencies and labor organizations are encouraged to submit joint requests for decisions on matters where both parties agree on or can stipulate to the facts and the only question that remains to be resolved is the legality of the expenditure.

§ 21.7 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 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. 80-8829 Filed 3-21-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-WE-9-AD]

Airworthiness Directives; Lockheed Model L-1011 Series Airplane

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an amendment that would require removal of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California for the Lockheed Model L-1011 Series Airplane. These components have not been shown to conform to FAA approved type design data and, therefore, the airworthiness of these components is questionable.

DATES: Comments must be received on or before May 26, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Excutive 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: Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

During an overhaul test, an operator discovered that a Boeing 737 rudder power control unit (PCU) exhibited reverse control. The problem was isolated to a PCU dual servo valve that had been repaired by Fortner Engineering and Manufacturing, Inc. of Glendale, California. This valve and two other overhauled valves were returned to Fortner Engineering and Manufacturing, Inc. for overhaul tests. Data gathered from these tests indicated that not all the overhaul tests had been conducted as directed by the Fortner overhaul specification. The valves were overhauled by Fortner Engineering by honing out the housing that contains the primary and secondary slides, and replacing the primary and secondary slides with slides manufactured by Fortner in accordance with Fortner data. These data had not received FAA approval.

For the above reasons, a Telegraphic Airworthiness Directive dated January 29, 1980, was issued to require the removal from service of the Boeing 737 rudder PCU servo valves that had been overhauled by Fortner Engineering and Manufacturing, Inc. Subsequent FAA investigation has revealed that Fortner Engineering has overhauled or manufactured numerous components which are used on various airplanes. These components had slide and sleeve replacements manufactured by Fortner Engineering and Manufacturing, Inc. in accordance with Fortner data that had not been approved by the FAA. This proposed airworthiness directive will require that these hydraulic components be removed from service unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner because the airworthiness has not been established. Improper operations of these components could affect safety of flight.

The operators will have difficulty in identifying which components have been repaired or contain parts that have been manufactured by Fortner Engineering and Manufacturing, Inc. Identification on the component may be an ink stamp with the letter "FE". However, this will most likely be rubbed away, or it will be in an obscured position on the hydraulic component, when a visual check of the component is attempted on the airplane.

A method of locating the suspecting parts is by reviewing maintenance overhaul data since 1969. The operator may have dealt with a supplier or repair

station that handles hydraulic components, who, in turn, may have been dealing with Fortner Engineering for components for the assemblies noted. The repair paperwork from the supplier or repair station should include a maintenance release tag or serviceable parts tag provided by Fortner Engineering for the subcomponent part. It may be necessary for the operator to contact their hydraulic supplier or repair station and confirm if components repaired or manufactured by Fortner have been utilized.

If this method does not produce conclusive results, an alternate method must be established, such as part removal and detail inspection.

As stated previously, the basis for this proposed amendment is that the components specified have not been found to comply with FAA approved type design data. Therefore, the airworthiness of the airplanes in which they are installed is questionable. The effect of this rule is to require the removal of such hydraulic components.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Model L-1011 Series airplanes certificated in all categories. Compliance is required as indicated unless accomplished. To prevent improper operation of specified components which could adversely affect safety, accomplish the following:

(a) Within one calendar year from the effective date of this AD, remove from service any of the following components unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California. Applies only to components repaired, or parts manufactured by Fortner prior to February 15, 1980.

L-1011 Hydraulic Components

Component	Part No.[1]	Supplier
L.H. Inb/d Aileron Servo	382700	National Waterlift.
Servo Control, Rudder	382800	National Waterlift.
Servo Control, Direct Lift Control.	401-67400	E-Systems.
Servo Control, Horizontal Stabilizer.	201800 217500 274900	Bertea.
Flow Control, Electro Hyd. Valve Assy.	75130	Abex.
Control Assy., Servo Inboard Spoiler.	401-67300	E-Systems.
Control Assy., Servo Mid Spoiler.	401-67310	E-Systems.
Control Assy., Servo Outboard Spoiler.	401-67320	E-Systems.
Control Valves Assy.	401-67344	E-Systems.
Valve, Phase Control Main Landing Gear.	2690180	Parker.

L-1011 Hydraulic Components—Continued

Component	Part No.[1]	Supplier
Valve Cartridge, Run-a-round, Hydraulic.	2690221	Parker.
Spool & Sleeve Assy., Gear Input.	2692129	Parker.
Valve, Dual Power Brake	41300-11	Sterer.
Piston & Sleeve Assy	27502	Sterer.
Module Assy. Landing Gear Control.	75C75602	Ronson.
Valve-Cartridge, By-pass Selector, Manually Operated.	AV14H3169	ITT Controls.

[1] Including all dash numbers.

(b) 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 the action required by this AD.

(c) 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.

(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)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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 impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on March 11, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-8805 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-12-AD]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplane

AGENCY: Federal Aviation Administration (FFA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an amendment that would require removal of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California for the McDonnell Douglas Model DC-8 Series Airplane. These components have not been shown to conform to FAA approved type design data and, therefore, the airworthiness of these components is questionable.

DATES: Comments must be received on or before May 26, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

During an overhaul test, an operator discovered that a Boeing 737 rudder power control unit (PCU) exhibited reverse control. The problem was isolated to a PCU dual servo valve that had been repaired by Fortner Engineering and Manufacturing, Inc. of Glendale, California. This valve and two other overhauled valves were returned to Fortner Engineering and Manufacturing, Inc. for overhaul tests. Data gathered from these tests indicated that not all the overhaul tests had been conducted as directed by the Fortner overhaul specification. The valves were overhauled by Fortner Engineering by honing out the housing that contains the primary and secondary slides, and replacing the primary and secondary slides with slides manufactured by Fortner in accordance with Fortner data. These data had not received FAA approval.

For the above reasons, a Telegraphic Airworthiness Directive dated January 29, 1980, was issued to require the removal from service of the Boeing 737 rudder PCU servo valves that had been overhauled by Fortner Engineering and Manufacturing, Inc. Subsequent FAA investigation has revealed that Fortner Engineering has overhauled or manufactured numerous components which are used on various airplanes. These components had slide and sleeve replacements manufactured by Fortner Engineering and Manufacturing, Inc. in accordance with Fortner data that had not been approved by the FAA. This proposed airworthiness directive will require that these hydraulic components be removed from service unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner because the airworthiness has not been established. Improper operations of these components could affect safety of flight.

The operators will have difficulty in identifying which components have been reparied or contain parts that have been manufactured by Fortner Engineering and Manufacturing, Inc. Identification on the component may be an ink stamp with the letter "FE". However, this will most likely be rubbed away, or it will be in an obscured position on the hydraulic component, when a visual check of the component is attempted on the airplane.

A method of locating the suspect parts is by reviewing maintenance overhaul data since 1969. The operator may have dealt with a supplier or repair station that handles hydraulic components, who, in turn, may have been dealing with Fortner Engineering for components for the assemblies noted. The repair paperwork from the supplier or repair station should include a maintenance release tag or serviceable parts tag provided by Fortner Engineering for the subcomponent part. It may be necessary for the operator to contact their hydraulic supplier or repair station and confirm if components repaired or manufactured by Fortner have been utilized.

If this method does not produce conclusive results, an alternate method must be established, such as part removal and detail inspection.

As stated previously, the basis for this proposed amendment is that the components specified have not been found to comply with FAA approved type design data. Therefore, the airworthiness of the airplanes in which they are installed is questionable. The effect of this rule is to require the removal of such hydraulic components.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnel Douglas: Applies to Model DC-8 Series airplanes certificated in all categories. Compliance is required as indicated unless accomplished. To prevent improper operation of specified components which could adversely affect safety, accomplish the following:

(a) Within one calendar year from the effective date of this AD, remove from service any of the following components unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California. Applies only to components repaired, or parts manufactured by Fortner prior to February 15, 1980.

DC-8

Component	Part No.[1]	Supplier
Nose Gear Control Valve Assy	3597299	Douglas
Nose Wheel Steering Relief Valve Assy	3536653	Douglas
Main Gear Control Valve Assy	5714674	Douglas
Aileron & Rudder Shut-off Valve Assy	3772374	Douglas
Aileron & Rudder Shut-off Valve Assy	3597307	Douglas
Aileron Control Valve & Cylinder Assy	5714715	Douglas
Aileron Control Valve & Manifold	5641734	Douglas
Aileron Actuator Cylinder	5714709	Douglas
Aileron Tab Lockout Cylinder	5597273	Douglas
Outboard Aileron Damper	5266023	Douglas
Inboard Spoiler Control Valve Assy	3597308	Douglas
Outboard Spoiler Power Control Mech	5719327	Douglas
Outboard Spoiler Power Control Valve Assy	5719331	Douglas
Outboard Spoiler Power Control Cylinder	3719328	Douglas
Outboard Spoiler Power Control Cylinder	3719345	Douglas
Rudder Power Control Mechanism Assy	5714723	Douglas
Rudder Power Actuator Assy	5755386	Douglas
Rudder Power Control Valve & Manifold	5755425	Douglas
Rudder Power Control Valve Manifold	5772536	Douglas
Longitudinal Trim Motor Shut-off Valve Assy	5640408	Douglas
Longitudinal Trim Motor, Brake, Valve Assy	5708872	Douglas
Longitudinal Trim Motor Control Valve Assy	5710133	Douglas
Aux. Pump Supply Selector Valve Assy	3652374	Douglas
Wing Slot Control Valve Assy	3719509	Douglas
Wing Flap Control Valve Assy	5767218	Douglas
Thrust Reverser Control Valve Assy	3754493	Douglas
Nose Wheel Steering Valve Assy	7597297, 29200	Douglas, Bertea
Rudder Power Actuator Solenoid Control Valve Assy	5755386, 59600	Douglas, Bertea

[1] Including all dash numbers.

(b) 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 the action required by this AD.

(c) 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.

(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 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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 impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on March 11, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-8801 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-11-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplane

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an amendment that would require removal of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California for the McDonnell Douglas Model DC-9 Series Airplane. These components have not been shown to conform to FAA approved type design data and, therefore, the airworthiness of these components is questionable.

DATES: Comments must be received on or before May 26, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, 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:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

During an overhaul test, an operator discovered that a Boeing 737 rudder power control unit (PCU) exhibited reverse control. The problem was isolated to a PCU dual servo valve that had been repaired by Fortner Engineering and Manufacturing, Inc. of Glendale, California. This valve and two other overhauled valves were returned to Fortner Engineering and Manufacturing, Inc. for overhaul tests. Data gathered from these tests indicated that not all the overhaul tests had been conducted as directed by the Fortner overhaul specification. The valves were overhauled by Fortner Engineering by honing out the housing that contains the primary and secondary slides, and replacing the primary and secondary slides with slides manufactured by Fortner in accordance with Fortner data. These data had not received FAA approval.

For the above reasons, a Telegraphic Airworthiness Directive dated January 29, 1980, was issued to require the removal from service of the Boeing 737 rudder PCU servo valves that had been overhauled by Fortner Engineering and Manufacturing, Inc. Subsequent FAA investigation has revealed that Fortner Engineering has overhauled or manufactured numerous components which are used on various airplanes. These components had slide and sleeve replacements manufactured by Fortner Engineering and Manufacturing, Inc. in accordance with Fortner data that had not been approved by the FAA. This proposed airworthiness directive will require that these hydraulic components be removed from service unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner because the airworthiness has not been established. Improper operations of these components could affect safety of flight.

The operators will have difficulty in identifying which components have been repaired or contain parts that have been manufactured by Fortner Engineering and Manufacturing, Inc. Identification on the component may be an ink stamp with the letter "FE". However, this will most likely be rubbed away, or it will be in an obscured position on the hydraulic component, when a visual check of the component is attempted on the airplane.

A method of locating the suspect parts is by reviewing maintenance overhaul data since 1969. The operator may have dealt with a supplier or repair station that handles hydraulic components, who, in turn, may have been dealing with Fortner Engineering for components for the assemplies noted. The repair paperwork from the supplier or repair station should include a maintenance release tag or serviceable parts tag provided by Fortner Engineeering for the subcomponent part. It may be necessary for the operator to contact their hydraulic supplier or repair station and confirm if components repaired or manufactured by Fortner have been utilized.

If this method does not produce conclusive results, an alternate method must be established, such as part removal and detail inspection.

As stated previously, the basis for this proposed amendment is that the components specified have not been found to comply with FAA approved type design data. Therefore, the airworthiness of the airplanes in which they are installed is questionable. The effect of this rule is to require the removal of such hydraulic components.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to Model DC-9 Series airplanes certificated in all categories. Compliance is required as indicated unless accomplished. To prevent improper operation of specified components which could adversely affe safety, accomplish the following:

(a) Within one calendar year from the effective date of this AD, remove from service any of the following components unless it can be conclusively determined tha they have not been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California. Applies only to components repaired, or parts manufactured by Fortner prior to February 15, 1980.

DC-9

Component	Part No.[1]	Supplier
Nose Wheel Steering Control Valve Assy.	5914296	Douglas
Landing Gear Control Valve Assy.	5916460	Douglas
Rudder Hyd. Power Shutoff Valve Assy.	3772374	Douglas
Rudder Throw Limitor Valve Assy.	3925397	Douglas
Rudder Power Actuator	5914066	Douglas
Flight Spoiler Actuator	5913900	Douglas
Flap Two Speed Valve Assy	3917778	Douglas
Flap and Slat Control Valve Assy.	5914294	Douglas
Flap and Slat Control Valve Assy.	5926880	Douglas
Elevator Return Relief & Manually Operated Valve Assy.	3918165	Douglas
Elevator Control Valve Assy	5918161	Douglas
Elevator Boost Cylinder	5918160	Douglas
Thrust Reverser Control Valve Assy.	5914890	Douglas
Hydraulic Pressure Reducing Valve Assy.	7913861	Douglas
	1005080	Bendix
Electric Shutoff Valve Assy	7956169	Douglas
	18220	Consolidated Controls
Hydraulic Dual Power Brake Valve Assy.	28470	Weston
Hydrualic Dual Brake Valve Assy.	22270	Weston

[1] Including all dash numbers.

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

(c) 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.

[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 1 CFR 11.85]

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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 impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California on March 11, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-8800 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-10-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplane

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an amendment that would require removal of hydraulic components that have been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California for the McDonnell Douglas Model DC-10 Series Airplane. These components have not been shown to conform to FAA approved type design data and, therefore, the airworthiness of these components is questionable.

DATES: Comments must be received on or before May 26, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Agneles, California 90009.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (212) 536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

During an overhaul test, an operator discovered that a Boeing 737 rudder power control unit (PCU) exhibited reverse control. The problem was isolated to a PCU dual servo valve that had been repaired by Fortner Engineering and Manufacturing, Inc. of Glendale, California. This valve and two other overhauled valves were returned to Fortner and Manufacturing, Inc., for overhaul tests. Data gathered from these tests indicated that not all the overhaul tests had been conducted as directed by the Fortner overhaul specification. The valves were overhauled by Fortner Engineering by honing out the housing that contains the primary and secondary slides, and replacing the primary and secondary slides with slides manufactured by Fortner in accordance with Fortner data. These data had not received FAA approval.

For the above reasons, a Telegraphic Airworthiness Directive dated January 29, 1980, was issued to require the removal from service of the Boeing 737 rudder PCU servo valves that had been overhauled by Fortner Engineering and Manufacturing, Inc. Subsequent FAA investigation has revealed that Fortner Engineering has overhauled or manufactured numerous components which are used on various airplanes. These components had slide and sleeve replacements manufactured by Fortner Engineering and Manufacturing, Inc., in accordance with Fortner data that had not been approved by the FAA. This proposed airworthiness directive will require that these hydraulic components be removed from service unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner because the airworthiness has not been established. Improper operations of these components could affect safety of flight.

The operators will have difficulty in identifying which components have been repaired or contain parts that have been manufactured by Fortner Engineering and Manufacturing, Inc. Identification on the component may be an ink stamp with the letter "FE". However, this will most likely be rubbed away, or it will be in an obscured position on the hydraulic component, when a visual check of the component is attempted on the airplane.

A method of locating the suspect parts is by reviewing maintenance overhaul data since 1969. The operator may have dealt with a supplier or repair station that handles hydraulic components, who, in turn, may have been dealing with Fortner Engineering for components for the assemblies noted. The repair paperwork from the supplier or repair station should include a maintenance release tag or serviceable parts tag provided by Fortner Engineering for the subcomponent part. It may be necessary for the operator to contact their hydraulic supplier or repair station and confirm if components repaired or manufactured by Fortner have been utilized.

If this method does not produce conclusive results, an alternate method must be established, such as part removal and detail inspection.

As stated previously, the basis for this proposed amendment is that the components specified have not been found to comply with FAA approved type design data. Therefore, the airworthiness of the airplanes in which they are installed is questionable. The effect of this rule is to require the removal of such hydraulic components.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive.

McDonnell Douglas: Applies to Model DC-10 Series airplanes certificated in all categories. Compliance is required as indicated unless accomplished. To prevent improper operation of specified components which could adversely affect safety, accomplish the following:

(a) Within one calendar year from the effective date of this AD, remove from service any of the following components unless it can be conclusively determined that they have not been repaired by or contain parts manufactured by Fortner Engineering and Manufacturing, Inc., of Glendale, California. Applies only to components repaired, or parts manufactured by Fortner prior to February 15, 1980.

DC-10

Component	Part No.[1]	Supplier
Slat Control Valve Assay	APG7000	Douglas
Elev. Buzz Dampter Assy	ALG7024	Douglas
Damper Valve Assy. Elevator Buzz Damper	ALG7022	Douglas
Damper Assy. Outbd. Elev., Flutter	ALG7051	Douglas
Damper Valve Assy. Outbd. Elev. Flutter Damper	ALG7052	Douglas
Wing Flap Control Valve Assy	AYG7030	Douglas
Prim. Trim Valve Assy	AJG7041	Douglas
Ldg. Selector Valve Assy	AYG7050	Douglas
Steering Control Valve Assy	ACG7130	Douglas
Steering Bypass Valve Assy	ACG7164	Douglas
OB Aileron Buzz Damper Assy	ARG7231	Douglas

DC-10—Continued

Component	Part No.[1]	Supplier
Damper Instl.-Outbd. Aileron	ARG7228	Douglas
Dual Brake Control Valve Assy	BYG7004	Douglas
Flow Control electro Hydraulic Valve	75130	Abex

[1] Including all dash numbers.

(b) 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 the action required by this AD.

(c) 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.

(Secs. 313(a), 601, and 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)); 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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 impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on March 11, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-8806 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Ch. 1

Line of Business Reports Program and Quarterly Financial Reports Program; Proposed Confidentiality Rules and Procedures—Amendment of Notice of Proposed Rulemaking and Reopening of Comment Period, as to 1977 LB Reports

AGENCY: Federal Trade Commission.

ACTION: Amendment of Notice of Proposed Rulemaking and reopening of Comment Period.

SUMMARY: The Federal Trade Commission published a notice of proposed rulemaking on October 16, 1979 (44 FR 59552), concerning proposed confidentiality rules for 1977 Line of Business (LB) reports, proposed revision of confidentiality rules for prior years' LB reports, and proposed revision of confidentiality rules governing Quarterly Financial Reports (QFR). It is now amending that notice of proposed rulemaking as to the rules governing 1977 LB reports only and is reopening the comment period as to that amendment.

DATE: The Commission reopens the comment period on this proposal until April 23, 1980.

ADDRESS: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments will be entered on the public record in Room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Sophie A. Krasik, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, Telephone (202) 523-3866.

SUPPLEMENTARY INFORMATION: On October 16, 1979, the Commission published for 60 days' comment proposed confidentiality rules for 1977 LB reports, proposed conforming revisions for prior years' LB reports, and similar proposed revisions to confidentiality rules governing QFR reports. The principal change in the proposed LB rules was a revision of the commitment not to disclose LB reports outside the Commission. This change was, the prior notice explained, "occasioned by the fact that Congress has not reenacted the statutory provision, found in earlier appropriations acts, which has been the legal basis cited by the Commission for its prior commitment not to disclose LB reports outside the Commission."

However, since that proposal, legislation (H.R. 2313) has been passed by the Senate which would permanently reimpose the same type of special statutory protection for LB reports that was imposed in FTC appropriations riders for fiscal years 1975, 1976, and 1977. See 126 Cong. Rec. S1371 (daily ed. Feb. 8, 1980). The bill also contains provisions concerning disclosure of other data submitted by companies which would affect QFR reports.

If that legislation is enacted, it will govern the confidentiality of all LB reports, as well as QFR reports. However, in the interim condidentiality rules should be formulated for 1977 LB reports, as order to file those reports are outstanding. Notwithstanding the analysis of the prior **Federal Register** notice, the recent legislative deliberations suggest a basis for applying the existing, pre-1977 LB confidentiality rules to 1977 LB reports as an interim measure until Congress completes action on H.R. 2313. Specifically, the Commission proposes to apply the most recent LB confidentiality rules, those governing 1975/76 reports (41 FR 28041, 34703 (1976)), to the 1977 LB reports. Therefore, the Commission amends its notice of proposed rulemaking to this effect and reopens the comment period to invite comment on this proposal.

Such an extension of the prior rules may be justified for two reasons. First, the prior appropriations riders represented the last clear indication of Congressional intent as to LB confidentiality. Subsequently, later years' appropriations continued to fund an indentical LB program, and the absence of these riders in later legislation cannot be taken as Congressional intent substantively to change the protection afforded. Further, the riders may be interpreted as having been intended to apply the special statutory protection to LB reports as a generic category, even though the means of expressing this Congressional intent were appropriations measures of a time-limited nature. Indeed, the committee report on the bill that became H.R. 2313 states that "[t]he addition of [the LB provision] eliminates the need to reenact annually what is meant to be a continuing protection." S. Rep. No. 96-500, 96th Cong., 1st Sess. 12 (1979).

The Commission recognizes that its prior LB rules state that their protection as to outside disclosure will apply during the period that the appropriations rider or a substantialy similar provision in subsequent appropriations acts remains in effect. However, as set out above, extending the protection of the prior Commission rules as an interim measure may be justified at this time.

Therefore, the Commission amends its notice of proposed rulemaking as outlined herein. The text of the proposed 1977 LB confidentiality rules set out below is identical to that of the 1975/76 LB confidentiality rules, with two exceptions: (1) the statement of their authority is revised as outlined above; and (2) organizational changes at the Commission (elimination of the Statistical Reports Unit and designation of the relevant data processing unit as the Division of Information Systems) are reflected. These organizational changes do not affect the substantive protection afforded. The Commission reopens the comment period on this proposal for thirty days, until [thirty days after publication].

The time for compliance with the 1977 LB orders has been extended until thirty days after the 1977 LB rules are published in the **Federal Register.** It is expected that any such rules would become effective thirty days after publication. The reporting companies have already been advised of this extension of time in which to file. The

companies have further been informed that they will be sent a copy of the rules when they are issued and will at that time be advised of the filing deadline.

In consideration of the foregoing, the Commission proposes to adopt the following confidentiality rules for 1977 LB reports for this interim period:

FEDERAL TRADE COMMISSION

Line-of-Business Reporting Program; Condidentiality Rules and Procedures for the 1977 Reporting Year

Notice is hereby given that the Federal Trade Commission has approved and adopted certain rules and procedures hereinafter set forth prescribing the confidential handling and use of reports to be filed by companies pursuant to an Order to File Special Report under the Line of Business Program. The rules and procedures shall apply to reports relating to the 1977 reporting year. They are in substance the same rules that apply to reports relating to the 1974–76 reporting years.

Definitions

For purposes of these Rules and Procedures, the following definitions apply:

"LB Report" means a report filed by a company pursuant to an Order to File Special Report under the Line of Business (LB) Program.

"Reporting Company" means a company ordered to file an LB Report.

Confidentiality of LB Reports With Respect to Persons Outside the Commission

Pub. L. 94–121 and Pub. L. 94–3624, which provided Federal Trade Commission appropriations for the fiscal years 1976 and 1977, stated in part that:

No part of these funds may be used to pay the salary of any employee, including Commissioners, of the Federal Trade Commission who—

* * * * *

(2) permits anyone other than sworn officers and employees of the Federal Trade Commission to examine the line-of-business reports from individual firms * * *.

Similar provisions were in effect for fiscal year 1975 (88 Stat. 1840 (1974)), and legislation has been passed by the Senate which would reimpose the same type of special statutory protection. See 126 Cong. Rec. S1371 (daily ed. Feb. 8, 1980); S. Rep. No. 96–500, 96th Cong., 1st Sess. (1979). The Commission has applied in substance its most recent confidentiality rules, those governing the 1975–76 reports (41 Fed. Reg. 28041, 34703 (1976)) to the 1977 LB reports. The extension of the rules is premised on the following points:

First, the prior appropriations riders represented the last clear indication of Congressional intent as to LB confidientiality. Subsequently, later years' appropriations continued to fund an identical LB program, and the absence of these riders in later legislation cannot be taken as Congressional intent substantively to change the protection afforded. Further, the riders may be interpreted as having been intended to apply the special statutory protection to LB reports as a generic category, even though the means of expressing this Congressional intent were appropriations measures of a time-limited nature. Indeed, the committee report on the bill that became H.R. 2313 states that "[t]he addition of [the LB provision] eliminates the need to reenact annually what is meant to be a continuing protection." S. Rep. No. 96–500, 96th Cong., 1st Sess. 12 (1979).

Accordingly, under these rules, the Commission will not disclose LB Reports to any person outside the Commission including Congress, parties in court proceedings, governmental agencies and members of the public. LB Reports will not be disclosed to any person outside the Commission except pursuant to a superseding act of Congress; or pursuant to an order of a court but only after motion by the Commission to quash and for a protective order have been disposed of by the court. In the event that the Commission receives a subpoena for an LB Report, it will promptly notify the Reporting Company.

Under Section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor and upon conviction thereof, may be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

Confidentiality of LB Reports Within the Commission

Access to and use of LB Reports within the Commission shall be restricted as hereinafter set forth, and persons authorized to have access thereto and use thereof shall not release any LB Report, or in any way provide access thereto, to anyone not authorized to have access. LB Reports shall be used to compile statistical and other economic reports authorized by the Commission. The latter reports may be utilized in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, they shall not be compiled in such way that LB data furnished by a particular Reporting Company can be identified. LB Reports shall not be made available to any person within the Commission for use in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, this restriction shall not limit the authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Except as hereinafter provided, access to and use of LB Reports within the Commission shall be restricted to the Division of Financial Statistics, Bureau of Economics; and the Division of Information Systems as hereinafter set forth.

The Division of Financial Statistics plans, develops and prepares for publication statistical and other economic reports such as the Quarterly Financial Report and the Annual Line of Business Report. The Division shall have access to and use of LB Reports for planning, developing and preparing such statistical and economic reports. Procedures sufficient to assure that LB data furnished by a particular Reporting Company cannot be identified shall be developed and implemented by that Division in connection with each statistical or other economic report to be published which is derived from LB data.

With respect to each such report, the Assistant Director for Financial Statistics shall certify to the Director, Bureau of Economics, that he has reviewed and approved the procedures applied thereto.

The Division of Information Systems shall have access to LB Reports but only during and for the purpose of electronic processing of information and data contained in LB Reports. The Division may employ the services of an outside computer facility for purposes of computer processing of LB data subject to the restriction that no one other than authorized employees of the Federal Trade Commission may examine the LB Reports from individual Reporting Companies.

Employees of the Division of Financial Statistics, while assigned to either of

these units, shall not participate in any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. Any employee who transfers into or out of either of these units shall be formally notified in writing that he is subject to these Rules and Procedures and to Section 10 of the Federal Trade Commission Act.

The Director, Bureau of Economics, shall not have access to LB Reports. He shall, however, have supervisory responsibility and authority with respect to the Division of Financial Statistics. Such responsibility and authority shall include approving any reports prepared by them, making recommendations with respect to the preparation of such reports, and exercising any other supervisory control not requiring access to LB Reports.

Upon notification to the General Counsel by the Assistant Director for Financial Statistics that a Reporting Company has failed adequately to comply with an Order to File Special Report under the LB Program, the following additional Commission officers and employees shall have access to such parts of that company's LB Report required to evaluate the non-compliance and to advise and represent the Commission with respect to any proceeding initiated because of a refusal or failure of the Reporting Company to file an adequate LB Report: the General Counsel and his staff and the Commissioners and their assistants.

Security of LB Reports

All Commission members and employees authorized to have access to and use of LB Reports as hereinbefore provided shall, while in possession of any such material, be personally responsible for ensuring that unauthorized personnel do not obtain access to such material and for observing the following procedures:

1. All LB Reports and reproductions of LB data from individual Reporting Companies (such as tabulations, punch cards, tapes or printouts, etc.) shall be conspicuously marked "Confidential."

2. All rooms containing LB Reports and reproductions of LB data from individual Reporting Companies shall be locked except when occupied.

3. All LB Reports and reproductions of LB data from individual Reporting Companies shall be stored in locked drawers, files or cabinets except when being used.

4. All LB Reports and reproductions of LB data from individual Reporting Companies shall be returned to the Division of Financial Statistics immediately after any authorized use of such material is no longer required.

Limitations

The Rules and Procedures set forth above shall not apply to:

(1) Disclosure to a court of an LB Report of a Reporting Company in connection with a proceeding initiated because of a refusal or failure of that company to file an adequate LB Report;

(2) The identity of a Reporting Company;

(3) Information or data furnished by a Reporting Company in a context other than an LB Report (*e.g.*, a motion to quash or other motion challenging an Order to File Special Report under the LB program); such information or data shall be treated as confidential pursuant to §§ 4.10–4.11 of the Commission's procedures and rules of practice only upon request with a showing of justification therefor, and a determination by the Commission, with due regard to statutory restrictions, the Commission's procedures and rules of practice and the public interest, that such information or data should not be made public;

(4) Information or data which (a) are in the public domain, (b) enter the public domain from a source other than the Commission or its employees, (c) were in the Commission's possession prior to transmission to the Commission in an LB Report, or (d) are supplied to the Commission or its employees by a third party lawfully in possession thereof; or

(5) Information or data which are supplied to the Commission in response to a compulsory process order other than an Order to File Special Report under the LB Program.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-8809 Filed 3-21-80; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33-6198; 34-16646; IC-11080]

Application of Rule 10b-6 to Certain Distributions of Securities by Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission, under the Securities Exchange Act of 1934 ("Act"), is proposing for comment amendments to Rule 10b-6, prohibitions against trading by persons interested in a distribution, which would except from the application of that rule distributions of securities pursuant to employee or shareholder plans sponsored by an issuer. The Commission believes that such distributions generally do not appear to present the potential for the manipulative abuse Rule 10b-6 was designed to prohibit.

DATE: Comments should be submitted on or before April 30, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capital Street, Washington, D.C. 20549. All submissions should refer to File No. S7-826 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mary E. Chamberlin (202-272-2828), Office of Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Paragraph (e) of Rule 10b-6 (17 CFR 240.10b-6) currently provides that the provisions of that Rule do not apply to any distribution of securities by an issuer to its employees, or to employees of its subsidiaries, or to such securities for the account of such employees, pursuant to certain specified types of employee plans.[1] Since 1977, however, the staff consistently has taken the position that it would not recommend that the Commission take enforcement action under Rule 10b-6 with respect to purchases by an issuer of its securities where the issuer maintains employee or shareholder plans which may involve a distribution of such securities although the plans do not fall within the literal language and scope of paragraph (e).[2] As a general matter, such purchases do not present the potential for abuse which Rule 10b-6 was designed to prohibit. It is unlikely that an issuer would have an incentive to purchase for manipulative purposes to facilitate an offering of securities to its employees or shareholders pursuant to such plans. Accordingly, the staff has not viewed such offerings as distributions for purposes of paragraph (a) of the Rule.

The Commission is publishing for comment amendments to paragraph (e) of the Rule which would codify the staff's position regarding the applicability of the Rule to employee

[1] *See* Rule 10b-6(e)(1)-(2).

[2] *See, e.g., McDonald's Corporation* (June 6, 1977); *American Security Corporation* (June 29, 1977).

and shareholder plans. If adopted, the amendments will exclude from the provisions of Rule 10b–6 any distribution of securities by an issuer to its employees or shareholders pursuant to a plan, as that term is proposed to be defined in new paragraph (c)(4) of the Rule.[3]

Text of Proposals

Part 240 of Title 17 of the Code of Federal Regulations is proposed to be amended by adding a new paragraph (c)(4) to § 240.10b–6 and revising paragraph (e) thereof, as follows:

§ 240.10b–6 Prohibitions against trading by persons interested in a distribution.

* * * * *

(c) * * *

(4) The term "plan" shall include any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, dividend reinvestment or similar plan for employees or shareholders of an issuer.

* * * * *

(e) The provisions of this section shall not apply to any distribution of securities by an issuer to its employees or shareholders, or to employees or shareholders of its subsidiaries, or to a trustee or other person acquiring such securities for the account of such employees or shareholders pursuant to a plan.

(Secs. 3(b), 9(a)(6), 10(b), 13(e), 14(e), 15(c)(1), 23(a), 48 Stat. 882, 889, 891, 894, 895, 901, sec. 8, 49 Stat. 1379, sec. 5, 78 Stat. 569, 570, secs. 2, 3, 82 Stat. 454, 455, secs. 1, 2, 3–5, 84 Stat. 1497, secs. 3, 18, 89 Stat. 97, 155 (15 U.S.C. 78c(b), 78i(a), 78j(b), 78m(e), 78o(c), 78w(a)).)

By the Commission.

George A. Fitzsimmons,

Secretary.

March 13, 1980.

[FR Doc. 80–8516 Filed 3–21–80; 8:45 am]

BILLING CODE 8010–01–M

[3] The term "plan" would include any bonus, profitsharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, dividend reinvestment or similar plan for employees or shareholders of an issuer.

Concurrently with the proposed amendment to paragraph (e), the Commission has adopted an amendment to Rule 10b–6 which excepts from the Rule purchases pursuant to tender offers by issuers or affiliates for securities of the issuer which are subject to and conducted in compliance with Rule 13e–4 under the Act or, as applicable, with Section 14(d) of the Act and the rules thereunder. *See* Securities Act Release No. 6197 in this issue.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 600 and 891

[Docket No. R–80–783]

Areawide Housing Opportunity Plans

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Housing and Urban Development (HUD) is considering a revision of its regulations for the approval of Areawide Housing Opportunity Plans (AHOPs). By this document, HUD: (1) Gives advance notice of its interest in strengthening its current efforts in promoting broader geographic choice of housing opportunities for lower income persons outside areas and jurisdictions containing concentrations of low-income or minority households, and (2) solicits advice and information from interested parties prior to the issuance of more specific policies and procedures under this proposed rulemaking.

COMMENTS DUE DATE: Comments received by May 23, 1980 will be considered prior to publication of a proposed rule.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410

FOR FURTHER INFORMATION CONTACT: Eugene Hix, Office of Planning and Program Coordination, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5649. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On January 16, 1978, HUD published Subpart E, "Approval of Areawide Housing Opportunity Plans," and Subpart F, "Special Allocations Based Upon Areawide Housing Opportunity Plans" of 24 CFR Part 891. Subpart E contains the policies and procedures for the development and implementation of an areawide housing allocation plan and program adopted by an Areawide Planning Organization (APO) and its constituent local jurisdictions. AHOPs must expand the choice of housing opportunities for lower-income persons outside areas and jurisdictions containing concentrations of lower-income or minority persons. AHOPs approved by HUD under Subpart E serve, to the extent practicable, as the basis for the distribution of contract authority for housing assistance allocated by HUD within the approved AHOP area. AHOPs approved under Subpart E which best meet the criteria in Subpart F may be selected by HUD to receive special allocations of contract and budget authority for housing assistance, Community Development Block Grant (CDBG), and Comprehensive Planning Assistance (701) funds.

As of January 7, 1980, HUD had approved 31 AHOPs under Subpart E. There have been two competitions for special allocations under Subpart F. Seven APOs and their jurisdictions were selected for special allocations in the first competition held in Fiscal Year 1976. Ten APOs were selected in the second competition held in Fiscal Year 1978.

HUD recently contracted for an evaluation of the performance of APOs selected as winners under both the first and second round competitions for special allocations. The purpose of the evaluation was to determine the extent to which APOs have been successful through their AHOPs in achieving the program objective of providing a broader choice of housing opportunities for lower-income persons.

The results of this evaluation, coupled with HUD's own experience in administering the program, have raised a number of issues and questions about program operations. These issues and questions are discussed below along with preliminary considerations for changing the AHOP program. During this initial stage of rulemaking, HUD is soliciting general information and advice about the issues presented, the preliminary considerations for addressing them and any other suggestions for improving the AHOP program.

1. *Promoting Access to Housing for Persons Who Live in Areas of Concentration.* The outreach requirements (§ 891.503(d)) of the AHOP program were designed to ensure that lower-income persons have expanded opportunities to move out of areas and jurisdictions containing lower-income or minority concentrations. The AHOP regulations include a formula for identifying target jurisdictions and for establishing outreach goals. In meeting the AHOP program objective, outreach efforts, designed to increase opportunities for lower-income persons to find housing in non-concentrated areas and jurisdictions, are as important to HUD as increasing the supply of

assisted housing. Experience with the AHOP program indicates that the concept of outreach is not well understood. Outreach efforts are often not given sufficent priority in the development of an AHOP or in the implementation of plans once they are approved.

Experience has shown also that approved AHOPs have been successful in increasing the supply of assisted housing in jurisdictions and areas containing little or no concentrations of lower-income or minority persons. The AHOP program has been less successful, however, in providing access to those units for lower-income persons presently living in concentrated areas.

To emphasize outreach requirements in the AHOP program, HUD is considering eliminating the present formula approach for outreach target jurisdictions and goals. Instead of the formula, HUD would require APOs to develop a clearly defined strategy for outreach activities.

The strategy would include an identification of areas and jurisdictions with undue concentrations of low income or minority households, an analysis of factors which limits opportunities for lower-income persons to move outside of these areas, the development of a program of action to increase opportunities for interjurisdictional mobility of lower-income persons, and an indication of the commitment by the APO and participating jurisdictions to carry out the program of action.

Would such a strategy requirement be a viable approach to increase the choice of housing opportunities for lower-income households outside areas and jurisdictions containing undue concentrations? What other approaches could be used?

2. *Special Allocations Based on AHOPs.* Listing the Subpart F selection criteria in the regulations (24 CFR Part 891) limits HUD's ability to modify the criteria to reflect new initiatives and program directions in response to changing conditions. Furthermore, if the criteria are not changed, the chances for previous winners of Subpart F Special Allocations to successfully compete again for funds are increased, since the use of the bonus funds has been to reinforce their current program efforts.

One option is for HUD to retain Subpart F review and selection procedures in the AHOP regulations. Specific selection criteria could be listed in the separate **Federal Register** Notice that announces each new competition for special allocations.

A second solution is to impose additional requirements upon previous recipients of special allocations.

Is a change necessary? What other approaches address these concerns?

3. *Relationship of HAPs to AHOPs.* The AHOP regulations (24 CFR Part 891) and CDBG HAP regulations (24 CFR Part 570) both require housing goals. If a HAP jurisdiction is within the plan area of an AHOP, the jurisdiction's HAP goals and the AHOP goals must be consistent. AHOPs and HAPs establish goals by household type (family, large family and elderly) and housing type (new construction, rehabilitation and existing). AHOPs typically establish goals to distribute housing assistance funds among the jurisdictions in the plan area. However, AHOP goals may be limited in their ability to guide the assisted housing allocation process because they do not interrelate household type and housing type.

HUD is considering revising the AHOP regulations to eliminate duplication and to promote convenient development of consistent HAP and AHOP goals.

One option is to remove from the AHOP regulations the requirement to establish goals by household type and by housing type. An AHOP would be required to include a mechanism for distributing total contract authority between jurisdictions. HAP requirements would remain unchanged and would establish goals by household type and housing type within each community.

A second option is for the AHOP to partially substitute for the HAP of any participating jurisdiction. Under this option, the AHOP would indicate housing conditions and housing assistance needs. The AHOP would also establish a goals matrix by housing type and household type for each jurisdiction in the plan area. Participating jurisdictions would continue to submit information on specific assisted housing locations.

A third option is for the AHOP to fully substitute for the HAP of any participating jurisdiction. The AHOP would include all information of the previous option plus specific assisted housing locations.

Is a change necessary? Which option, or combination of options, would improve the AHOP/HAP relationship? What other approaches could be used?

4. *Scope of AHOP Areas.* Questions have been raised about the area to be covered by an AHOP and whether single county non-metropolitan APOs should be eligible to apply. The AHOP program is intended to increase housing choice for lower-income persons within an entire housing market area. Since housing market areas are generally regional and go beyond individual jurisdictional boundaries, AHOPs are interjurisdictional in scope. The regional scope of the AHOP provides a framework upon which individual counties and communities establish assisted housing needs and goals in their HAPs. This allows all participating jurisdictions to address and share equally in the assisted housing problems of the entire housing market area. HUD is concerned that some AHOP areas are not consistent with housing market areas.

Metropolitan Regions. In a metropolitan region, the housing market area is generally the same as the Standard Metropolitan Statistical Area (SMSA). Similarly, metropolitan APOs of these regions most often include the SMSA within their plan area. There are situations, however, where APO plan areas do not conform to housing market areas, or to SMSA boundaries. For example, in interstate metropolitan regions, SMSA's frequently extend over two or more APO plan areas. To assure that AHOPs address housing problems of entire housing market areas, HUD is considering a requirement that all APOs, whose plan areas include only part of an SMSA, jointly prepare one AHOP for the entire SMSA.

What would be the impact of this change? What other approaches could address this issue?

Non-metropolitan Regions. An AHOP for non-metropolitan regions aggregates small housing markets into a larger market of sufficient size to accommodate economically feasible assisted housing projects. The AHOP program objective of providing a broader choice of housing opportunities for lower-income persons outside concentrated areas and jurisdictions can be addressed separately for each of the small housing market areas that together constitute the plan area of an APO.

Participation in the AHOP program has been limited to multi-county APOs and single-county APOs with boundaries coterminous with that of an SMSA. HUD has received a number of inquires from single-county non-metropolitan APOs that are interested in preparing an AHOP.

HUD does not believe that single-county non-metropolitan APOs should be eligible as AHOP applicants. The area covered by a single-county non-metropolitan APO is often too small to be a useful guide for HUD. Additionally, single counties are eligible themselves as grantees for CDBG Small Cities discretionary funds. Therefore, single counties should be considered as

participating jurisdictions in an AHOP for a multi-county region. Single county APOs can join with other non-metropolitan APOs in the development of an AHOP. This arrangement is especially encouraged in the very rural regions where the amount of HUD assisted housing resources is generally insufficient to accommodate any flexibility in allocations of housing assistance among jurisdictions within any single-county plan area.

HUD is seeking public response on the eligibility of single-county, non-metropolitan APOs to have an approved AHOP.

5. *Distribution Procedure.* The AHOP regulations (§ 891.503(b)) require APOs to address seven factors in developing a procedure for distributing housing assistance among jurisdictions within the plan area. The seven factors include: An assessment of needs, population projections, "expected-to-reside" needs, locations of assisted housing, pertinent HAP data of CDBG recipients, capacity of jurisdictions to accommodate assisted housing, and areawide planning policies.

The regulations allow APOs considerable flexibility in developing a distribution procedure. APOs may include other factors. While APOs must address the seven factors identified in the regulations, they may choose not to use one or more of them if the reasons for not using the factor or factors are clear in the narrative of the distribution procedure.

HUD is seeking public response on the appropriateness of the seven factors in addressing the AHOP program objective. Specifically, should HUD change or modify any of the seven factors used in the regulations? What other factors should be considered in the distribution procedure to further the AHOP program objective?

6. *Relationship of AHOPs to Areas with Limited Problems of Concentration.* The AHOP program was created to provide a broader choice of housing opportunities for lower-income persons outside areas of undue low income or minority concentrations. Many regions of the country contain little or no concentrations of lower-income or minority persons, particularly in rural non-metropolitan areas. This raises questions as to the appropriateness of an AHOP, if the problem does not exist. HUD believes that the interest in AHOPs by many rural APOs may be based largely on the desire for the CDBG Small City 50 bonus points for their jurisdictions, rather than on increasing the housing opportunities of lower-income persons outside areas of low income and minority concentrations.

HUD believes that AHOPs in rural areas can be useful in allocating scarce housing resources in accordance with local priorities. AHOPs can assist HUD by facilitating the allocation of HUD assisted housing resources. An approved AHOP can also increase HUD's ability to deliver economically feasible projects in rural areas.

HUD is considering several options for dealing with this issue. One option would be to eliminate non-metropolitan APOs as eligible to participate in the AHOP program.

A second option would be to limit participation in the AHOP program to those metropolitan and non-metropolitan APOs containing significant and readily identifiable concentrations of lower-income or minority persons.

A third option would be to either eliminate the Small City 50 Bonus points or award the bonus points only to metropolitan areas.

Another option would be to modify the regulations to include special requirements for non-metropolitan areas and areas with no or limited concentrations.

What regulatory changes should be made, if any, to address this issue?

7. *Percentage Requirements for Local Approval of AHOPs.* The AHOP regulations require at least fifty percent of the jurisdictions, representing seventy-five percent of the population, to be participating jurisdictions. (§ 891.504(a)). This requirement applies regardless of the number and population of the jurisdictions within a plan area. This appears to have worked well, in most instances, in serving as an indication of the extent of local commitment to the AHOP program. However, experience has shown this requirement to be burdensome for large metropolitan APOs where the plan area may include hundreds of communities. Is a change necessary?

If changes were made, one option would be to vary the percentage requirements based on the number of jurisdictions within a plan area. Another option would be to give the Secretary the discretion to modify this requirement for large metropolitan areas. What other approaches could address this issue?

8. *Identifying Housing Needs and Establishing Goals by Population.* The current regulations require APOs to identify housing needs and establish goals for each jurisdiction of over 25,000 population (§ 891.503(c)). Experience indicates that 25,000 may be too low for the large metropolitan areas and too high for non-metropolitan areas.

HUD is considering a change in the regulations to address this issue. One option is to vary the requirements of the regulations by the population of the plan area. Another option is to allow the Secretary the discretion to set a higher minimum level for the large metropolitan APOs and a lower minimum for small non-metropolitan APOs.

Is a change necessary? What would be the impact of these changes? What other approaches could address this issue?

9. *Evidence of Agreement.* Several problems have been experienced with the evidence of agreement requirements (§ 891.504(c)). These include how specific the agreement should be in defining local commitment on implementation activities, who has local authority to commit the jurisdiction to an agreement, and whether the format of the agreement should be standardized.

HUD is considering several options in proposing to change the evidence of agreement requirements.

One option would be to require a written letter of agreement for each participating jurisdiction as the appropriate evidence of agreement and to define who would be considered eligible as the local authority to commit a jurisdiction to an agreement. The extent of local commitment on implementation activities would also be defined.

A second option would be the adoption of a resolution by each participating jurisdiction as evidence of agreement.

A third option would be a vote of the APO, if it included the chief elected official of each participating jurisdiction.

What would be the impact of such requirements? What other ways could be employed to achieve this purpose?

10. *AHOP Impacts on Large Center Cities.* The percentage requirements for local approval of AHOP's (§ 891.504(a)) reflect HUD's desire for large cities to be included as participating jurisdictions in AHOPs. To assure that development strategies and programs of large cities in metropolitan areas are not adversely affected by the allocation procedures and implementation programs contained in an AHOP, HUD is considering a requirement that cities with populations of over a specific size must be included as participating jurisdictions within an AHOP.

What would be the impact of such a requirement? What other ways could be employed to ensure that the interests of large center cities are protected in the AHOP process?

Issued at Washington, D.C., March 18, 1980.

Moon Landrieu,

Secretary of Housing and Urban Development.

[FR Doc. 80-8825 Filed 3-21-80; 8:45 am]

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Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 865

[Docket No. R-80-784]

PHA-Owned Projects—Project Management; Consolidated Supply Program

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would set forth regulations under which HUD would provide technical assistance to Public Housing Agencies (PHAs) by entering into open-end contracts under which PHAs may procure certain supplies, materials, equipment, and services necessary in the development, operation and maintenance of low-income housing through a Consolidated Supply Program. It, further, would establish regulations governing the provisions and administration of contracts with suppliers entered into by HUD in the operation of that program.

DATE: Public comments must be received by HUD on or before May 23, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Clarence Meadows, Office of Public Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-5840. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Consolidated Supply Program was initiated by the Public Housing Administration, a predecessor agency of HUD, in 1954 as a means for providing technical assistance to PHAs. Its operation is recognized in HUD Procurement Regulations. The programs's objective is to assist PHAs to operate efficiently and economically and to assure the availability to PHAs of supplies, material and equipment with the extra durability required for safety and security and economical maintenance of low income housing.

The basic concept of the Consolidated Supply Program is that HUD enters into open-end contracts with suppliers of common use items under which PHAs are entitled to make purchases through issuance of a purchase order. There is no guarantee to the suppliers of any specific, or minimum, volume of business under the contracts and, except as discussed below, all ordering, billing, and payment is handled through direct contact between the suppliers and PHAs without further HUD involvement. Catalogs are published by HUD to inform PHAs of the contracts and their terms. PHA use of the contracts in making their purchases is voluntary.

Consolidated Supply Contracts presently cover the following categories of items:

- Ranges
- Lawn Mowers & Tractors
- Plumbing
- Refrigerators
- Storm and Screen Doors
- Prime Doors
- Electric Meters
- Playground Equipment
- Space Heaters
- Faucets
- Water Heaters
- Paint[1]
- Spray Paint Equipment
- Window Shades
- Garbage Cans and Holders
- Floor Tile
- Sheet Vinyl Floorcoverings
- Commerical Water Heaters
- Gas Meters
- Water Meters
- Screening
- Security Screens
- Storm Windows
- Prime Replacement Windows
- Water Closet Seats
- Energy Control Equipment
- Community Room Furniture
- Smoke Detectors

The proposed regulation very largely follows policies, procedures and practices that have been used in the operation of the program over a number of years. It covers two separate arrangements—Consolidated Supply Contracts and Purchase Agreements. Consolidated Supply Contracts are entered into on the basis of formal advertising by HUD. Purchase Agreements are negotiated by HUD and PHA purchases under them are limited to the dollar amount below which a PHA is not required under Annual Contributions Contracts (ACC) with HUD to advertise for proposals. The standard form of Annual Contributions Contract is being amended to exempt from the competitive bidding requirements thereunder purchases made under a Consolidated Supply Contract entered into between HUD and a contractor pursuant to HUD regulations.

For Consolidated Supply Contracts, the proposed regulation establishes requirements pertaining to Supply Items covered; preparation of invitations; solicitation and submission of bids; award of contracts; contract provisions; publication of catalogs; PHA purchasing procedures; and deliveries and invoices. A special effort has been made in the development of regulations pertaining to award criteria to satisfy both the need to assure the availability of quality products and the need to obtain such products at the lowest possible price. This has been done by establishing, as a general rule, that multiple awards would be made to those suppliers whose bids for a specified Supply Item are below the average of all responsive bids submitted for that item. In arriving at this approach the Department considered making use of a "benchmark" system under which multiple awards would be negotiated on the basis of a criterion expressed as a discount, a discount spread or a discount ratio. The latter was rejected, first, because the procedure is staff-intensive and, second, because there is a high degree of subjectivity involved.

Related to this, however, is that, for the first time in the operation of the Consolidated Supply Program, arrangements are proposed for HUD review of major PHA Consolidated Supply Contract purchase proposals. The reviews would be made by HUD Field Offices and would cover PHA purchase orders in excees of "amounts as determined by HUD." Tentatively, an amount of $50,000 is being considered. HUD believes it is possible, in spite of the price reduction provisions specified for Consolidated Supply Contracts, that PHA advertising with a specific point and time of delivery, may, on occasion, result in lower prices and that a HUD Field Office review of major purchase proposals may, therefore, be desirable. Nevertheless, it was not considered to be in the public interest to foreclose the possibility of major purchases under Consolidated Supply Contracts. Under the proposed regulation, HUD Field Offices are required to act on such purchase proposals within 10 working days and approve them unless they

[1] It is necessary that contractors who participate in the program comply with the Department of Housing and Urban Development's rule which stipulates that all paint which is a consumer product or which is used by consumers after sale (e.g., paint sold for use on interior or exterior surfaces readily accessible to children as defined in 24 CFR 35.54) not contan more than .06 percent lead. Paint containing more lead than the safe lead level as stipulated by the Consumer Product Safety Commission is deemed a "banned hazardous product" and is *NOT* to be used in any HUD-assisted housing as defined in 24 CFR 35.3.

determine that the Supply Items ordered could be obtained at a lower price through PHA advertising or from other Consolidated Supply Contract suppliers.

To facilitate further consideration of this aspect of the proposed regulation, public comments directed to the following would be especially helpful:

1. Examples, with amounts involved, where PHA advertising for supply and materials requirements resulted in prices below those available under the Consolidated Supply Program.

2. The amount which should be established by HUD as the level at which a Field Office review should be required.

3. The efficacy of a review by the PHA Board of Commissioners rather than by the HUD Field Office.

With respect to Purchase Agreements, the proposed requirements generally follow those applicable to Consolidated Supply Contracts, except that, as noted previously, they provide for HUD negotiation of contracts and specify that PHA purchases shall not exceed the applicable Open Market Purchase Limitation. Suppliers under PAs are also required to certify that items are being made available through the Purchase Agreements at prices that are lower than those at which the supplier would sell comparable quantities of those items to PHAs through normal purchasing channels and that the supplier's organization is prepared to undertake nationwide distribution to all PHAs.

A Finding of No Significant Impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures and a copy of this Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, it is proposed that Chapter VII of Title 24 of the Code of Federal Regulations be amended by adding a new Subpart E to Part 865 as set forth below.

Subpart E—Consolidated Supply Program

Sec.

Authority: Sec. 6(a), United States Housing Act of 1937 (42 U.S.C. 1437d); Sec. 7(d), Dept. of HUD Act (42 U.S.C. 3535(d)).

Subpart E—Consolidated Supply Program

§ 865.501 Purpose.

(a) This subpart establishes regulations governing operation of the Consolidated Supply Program (CSP) as provided in the Department of Housing and Urban Development Procurement Regulations at 41 CFR 24–1.4512(d) in order to assist Public Housing Agencies (PHAs) to assure the low-income character of projects as required under Sections 6(a) and 9(a) of the United States Housing Act of 1937, as amended. Under the CSP, the Department of Housing and Urban Development (HUD) furnishes technical assistance to PHAs in purchasing certain supplies, materials, equipment, and services necessary in the development, operation and maintenance of low-income housing by entering into and administering contracts for the voluntary use of those agencies.

(b) All procurement activities of a PHA under the CSP shall be undertaken in conformance with the requirements of this Subpart and any other applicable rules and regulations.

(c) In administering the program, the Department shall undertake affirmative efforts to encourage greater participation by business firms owned and operated by members of minority groups and women as Contractors in accordance with the provisions of Executive Orders 11625 and 12138.

§ 865.502 Applicability.

(a) The provisions of this Subpart shall apply to purchases undertaken by PHAs for programs operated pursuant to the Housing Act of 1937, as amended.

(b) In undertaking procurement activities pursuant to this subpart, PHAs must assure that applicable requirements of state and local laws permit such action.

§ 865.503 Definitions.

(a) *Consolidated Supply Contract (CSC).* An agreement between HUD and a Contractor, based upon formal advertising, which allows PHAs to make purchases of Supply Items, subject to conditions set forth in this Subpart, at prices and under terms as specified in the CSC.

(b) *CSC Contracting Officer.* The Director, Program Services Division, Office of Public Housing, HUD.

(c) *Contractor.* Any person, firm, association or corporation entering into a Consolidated Supply Contract or Purchase Agreement with HUD.

(d) *Line of Items.* Two or more categories of Supply Items regularly dealt in, or manufactured by, a Contractor.

(e) *Open Market Purchase Limitation.* The dollar amount of PHA purchases of equipment, materials, supplies and services in excess of which a PHA is generally required under its ACC with HUD to award contracts to the lowest, responsive, responsible bidder after advertising.

(f) *Purchase Agreement (PA).* A negotiated agreement between HUD and a contractor which allows a PHA to make purchases of Supply Items, subject to conditions as set forth in this Subpart, at discounted prices and under terms as specified in the agreement.

(g) *Supply Item.* An item commonly needed by PHAs to equip or maintain a low-income housing project.

(h) *Public Housing Agencies (PHA).* Public Housing Agencies includes all Indian Housing Authorities.

§ 865.504 Consolidated supply contracts.

(a) *Award of Contracts.* (1) At least 60 days prior to the closing date for receipt of bids for each Consolidated Supply Contract, HUD shall publish a notice in the Commerce Business Daily announcing that it is soliciting such bids.

(2) CSCs shall be awarded on the basis of competitive bids submitted by Contractors to HUD in response to formal advertising.

(3) Invitations for bids shall describe requirements clearly, accurately and completely. Unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders shall be avoided, but such specifications and requirements shall take into account the extra durability required for safety and security and economical maintenance of low income public housing. The invitation shall also require compliance with the provisions of 41 CFR Part 1–1.13 of the Federal Procurement Regulations relating to the utilization of minority business enterprise as subcontractors.

(4) Preparation of invitations, solicitations and submission of bids shall conform to the requirements of, and shall be accomplished using forms prescribed in, HUD Procurement Regulations at 41 CFR, Subpart 24–2.2 and 24–2.3 and related Federal Procurement Regulations.

(5) CSCs shall be awarded to the responsible bidder(s) whose bid(s) are responsive to the solicitation and are at or below the average price quoted for the Supply Item in the bids received. In determining the average price for this purpose, the CSC Contracting Officer may disregard one or more of the higher

prices quoted if it is determined that their inclusion would not be advantageous to HUD and affected PHAs because of distortion of the average price. In making this determination the Contracting Officer shall also consider prices for the Supply Item in CSCs for prior years and any applicable published indices of price changes. The Contracting Officer shall document the file to set forth the basis for this determination. In the event that less than three bids are received, the average or below method of award will not be used. Instead, award will be made to the responsive, responsible bidder(s) whose price(s) is reasonable. In determining the reasonableness of the price(s) quoted, the Contracting Officer shall consider: (i) How the prices submitted compare with prices quoted in previous years on similar items; and (ii) pricing indices for those products under consideration. Should the prices quoted appear to the Contracting Officer to be unreasonably low or high, the Contracting Officer shall negotiate with the bidder(s) in an effort to arrive at a reasonable price. If these negotiations are unsuccessful, the bid(s) will be rejected. HUD may approve alternative, or additional, award criteria different from those set forth in this regulation upon a documented finding that such action is necessary to assure the availability of Supply Items having the extra durability required for safety and security and economical maintenance of low income public housing. Any such alternative or additional criteria shall be included in the solicitation. Procedures for opening of bids and award of contracts shall otherwise be in accordance with HUD Procurement Regulations at 41 CFR, Subpart 24–2.4.

(b) *Contract Provisions.* CSCs shall be signed by the Contractor and by the CSC Contracting Officer and shall clearly specify the Supply Item(s) which are covered by contract, the terms under which the Supply Items are to be made available and the geographic area to be served by the Contractor. Other provisions of CSCs shall be as determined by HUD and shall include the following:

(1) The CSC shall not obligate HUD or any PHA to purchase any number or amount of the Supply Item(s) which are covered by the contract. The CSC shall not obligate the Contractor to sell Supply Items to any parties other than PHAs.

(2) The CSC shall be effective for one year from the date of signing.

(3) The Contractor shall warrant that the Supply Item(s) are free from defects in materials and workmanship and that the Contractor shall replace or repair any such defective items, if the defect arose in the course of normal use, during the period of one year following the delivery or installation of the Supply Item. Any such replacements or repairs shall be performed by the Contractor free of charge.

(4) If, at any time after the date of an offer which is subsequently accepted by HUD, the Contractor changes a catalog, price list, price schedule, or other pricing document so as to reduce (by granting a greater discount or otherwise) the price therein to any customers (e.g., wholesalers, jobbers, retailers, etc.) for any article or service covered by the CSC, an equivalent price reduction shall apply to the CSC to the same extent and in the same manner as the commerical reduction and shall apply for the duration of the contract period or until the price is further reduced. Also, if, at any time after the date of an offer which is subsequently accepted by HUD, the Contractor reduces the price of any article or service covered by the CSC to any governmental entity and the quantity involved or dollar amount of the purchase falls within the applicable maximum order limitation, an equivalent price reduction shall apply to the CSC to the same extent and in the same manner, and shall apply for the duration of the contract period or until the price is further reduced. (For purposes of this paragraph, bonus goods or any other method by which the price is effectively reduced may constitute a price reduction.) Any such price reduction shall be effective at the same time as the reduction in the price to other customers and the Contractor shall thereafter for the duration of the contract period, or until the price is further reduced, bill the ordering PHAs at such reduced price. The Contractor shall, within 10 days after the effective date of any price reduction, notify the CSC Contracting Officer of such reduction by letter.

(5) Any Contractor shall comply with the provisions of 41 CFR Part 60 concerning equal opportunity and affirmative action.

(6) The CSC shall include a Minority Business Enterprise Clause as set forth in 41 CFR 1.1310–2(a) of the Federal Procurement Regulations and a Minority Business Enterprise Subcontracting Program Clause as provided in 41 CFR 1.1310–2(b).

(c) *Disputes.* Any dispute concerning a question of fact arising under a CSC which is not disposed of by agreement shall be decided by the CSC Contracting Officer, who shall reduce his decision to writing and mail, or otherwise furnish a copy, thereof to the Contractor. The decision of the CSC Contracting Officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the CSC Contracting Officer a written appeal addressed to the Director, Office of Public Housing. The decision of the Director, Office of Public Housing or his/her duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. The Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the CSC Contracting Officer's decision.

(d) *Catalogs.* HUD shall prepare and distribute to all PHAs annually Consolidated Supply Contract Catalogs for each category of Supply Items available through CSCs. The Catalogs shall include all pertinent information concerning Contractors, specifications of Supply Items covered, placement of orders, prices (along with quantities and geographical areas to which they pertain), discounts, warranties and current purchase limitations. Other descriptive information helpful to PHAs in placing orders, except advertising material provided by Contractors, may also be included.

(e) *PHA Purchasers.* (1) PHAs may make purchases of Supply Items for use in the development, operation, or maintenance of low-income housing through CSCs, in maximum dollar amounts as determined by HUD, without prior HUD approval. Purchases through CSCs exceeding such established amount may also be made on the same basis with the approval of the appropirate HUD field Office, which approval shall be granted unless that Office determines that the Supply Items being ordered could be obtained at a lower price from another Contractor or through PHA advertising. PHA requests for approval of CSC purchases exceeding the amount as determined by HUD shall be submitted to the HUD Field Office either by letter or through an advance copy of the PHA purchase order. In the event that there are two or more CSCs covering items supplied under the same specification and the CSCs provide for a price differential, the PHA shall provide a justification if it proposes to make its purchase from any Contractor other than the one offering

the lowest price. HUD Field Offices shall act on such requests within 10 days and shall indicate the nature of the action taken by imprinting stamped evidence thereof on the letter or document submitted. In the event of disapproval, an explanation shall be provided.

(2) Purchases under CSCs by PHAs shall be made through PHA issuance of its purchase order directly to the Contractor. Purchase orders shall indicate the quantity of the Supply Item to be purchased, the number of the CSC under which the purchase is to be made, the delivery point(s), the location of the PHA office to which the invoice is to be sent, and shall provide such other information as may be needed under the ordering instruction included in the CSC Catoalog. In the event that the amount involved exceeds the amount established pursuant to subparagraph (1), above, a copy of the document indicating prior HUD approval of the purchase shall be provided to the Contractor. Contractors shall not accept such purchase orders unless evidence of HUD approval of the order is provided.

(f) *Deliveries and Invoices.* (1) Where a PHA purchase order specifies multiple deliveries to meet the PHA's needs, the Contractor may, at its discretion, invoice at the price indicated in the CSC as applicable to the quantity provided in each delivery; however, when mulitple deliveries are necessary for the convenience of the Contractor on orders specifying a single delivery, the Supply Items delivered must be provided by the Contractor at the price indicated in the CSC to be applicable to the total order.

(2) The invoice shall show taxes, if any, as a separate item. PHAs must furnish evidence of exemption to the Contractor to avoid payments of taxes.

§ 865.505 Purchase agreements.

(a) *Award Criteria.* (1) The CSC Contracting Officer may negotiate and enter into PAs with Contractors covering specified Supply Items or a specified Line of Items such as plumbing supplies, building materials, electrical supplies, etc., in order to obtain discounts on these Items or Line of Items. These PAs are to be negotiated to provide discounts for small purchases by PHAs where such discounts would not otherwise be available to PHAs.

(2) At least 60 days prior to undertaking negotiations for PAs, HUD shall publish a notice in the Commerce Business Daily announcing that it will commence negotiating for PAs for the current year and that offers from vendors will be received covering specified Supply Items or a Specified Line of Supply Items by a closing date.

(3) The Contractor shall certify that the Supply Item or Line of Items are being made available to PHAs through the PA at discounted prices that are lower than those at which the PHAs could purchase comparable quantities of those items from the contractor through other purchasing channels.

(4) The Contractor shall certify that the specified Supply Items or Line of Items, under terms as set forth in the PA, will be available to all PHAs nationally and that the Contractor's organization is prepared to undertake nationwide distribution of the Items and to provide services as required under the PA on a nationwide basis.

(b) *Contract Provisions.* Provisions of PAs shall be the same as those of a CSC as set forth in § 865.504(c) except § 865.504(c)(2) shall not apply. PAs, unless otherwise specified, shall have a duration of one year and be renewable for one year; however, all such contracts shall be subject to termination by either HUD or the Contractor upon 30 days notice and a provision to that effect shall be incorporated in the PA.

(c) *PHA Purchases.* (1) PHA purchases through PAs shall be for use in the development, operation, or maintenance of low-income housing and shall not exceed, in amount, the Open Market Purchase Limitation in effect at the time the purchase is made. In no event shall purchases be artifically subdivided by PHAs in order to appear to be within the open market limitations and to permit use of PAs. In making such purchases, a PHA shall also comply with all of its own regulations and requirements, including all requirements of state or local law, covering purchases which do not exceed the Open Market Purchase Limitation.

(2) Purchases under PAs by PHAs shall be made by PHA issuance of its purchase order directly to the Contractor. Purchase orders shall indicate the quantity of the Supply Item to be purchased, the number of the PA under which the purchase is to be made, the delivery point(s), the location of the PHA office to which the invoice is to be sent, and shall provide such other information as may be needed pursuant to the ordering instructions included in the Catalog. Contractors shall not accept purchase orders in amounts exceeding the Open market Purchase Limitation.

(3) Disputes arising under PAs concerning a question of fact shall be subject to § 865.504(c).

(d) Other CSC Requirements Applicable. CSC requirements with respect to Catalogs, § 865.504(d), and Deliveries and Invoices, § 865.504(f), shall apply to PAs.

§ 865.506 Reports.

(a) *Report on Purchases.* Within 60 days after the expiration of a CSC, or, in the case of a PA, within 60 days after each anniversary date of the PA, the Contractor shall submit a report to the CSC Contracting Officer including the contract number, the total dollar volume of PHA purchases under that contract during the preceding year, a listing of PHA purchases exceeding the amount established by HUD under § 865.504(e)(1), a listing of complaints received from PHAs regarding Supply Items or services provided and a statement regarding the disposition of each complaint. Negative reports shall also be submitted.

(b) *Compliance with Price Reduction Requirement.* Along with the annual report on purchases, the Contractor shall furnish a statement certifying either (1) that there was no price reduction of the type described in § 865.504(c)(4) or, (2) that if any such price reduction was made, it was reported to the CSC Contracting Officer and ordering PHAs were billed at the reduced price.

(Sec. 6(a) United States Housing Act of 1937 (42 U.S.C. 1437d); sec. 7(d), Department of HUD Act (42 U.S.C.3535(d)))

Issued at Washington, D.C., March 17, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-8826 Filed 3-21-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Parts 570 and 600

[Docket No. R-80-785]

Community Development Block Grants and Comprehensive Planning Assistance; Consolidation of Grants for Certain Insular Areas

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: The Department proposes to revise Part 570, Subpart E of the regulations governing the Community Development Block Grant program under Title I of the Housing and Community Development Act of 1974 and Part 600, the regulations governing the Comprehensive Planning Assistance program under Section 701 of the Housing Act of 1954 as amended, to permit certain Insular Areas to: (1) apply for and receive a consolidated grant covering both their community development and comprehensive

planning activities, (2) use a simplified application and reporting process for grants, and (3) be excused from the necessity of providing a non-Federal share in order to receive the comprehensive planning assistance portions of the consolidated grants.

DATE: Comments due date: May 23, 1980.

ADDRESS: Interested persons are invited to participate in the making of the Final Rule by providing written comments. All comments received by the comment due date will be cosidered in the preparation of the final rule. Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Bernard Manheimer, Program Coordination Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202–755–6201.

SUPPLEMENTARY INFORMATION: Title V of the Omnibus Territories Act of 1977 (Public Law 95–134) as amended by the Omnibus Territories Act of 1978 (Public Law 95–348) permits any Federal agency making grants to the Insular Areas, including the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands to consolidate any or all of its grants to an Insular Area. Each agency may also, notwithstanding any other statutory provisions, waive any requirements for matching funds from the Insular Area recipients.

The Department has ascertained that consolidating its grants to the Insular Areas under the Community Development Block Grant and the Comprehensive Planning Assistance Programs will serve the purpose of the Act which is "to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs", and will permit the Insular Areas to better coordinate their community planning and community development activities.

Accordingly, the Department is herein proposing to amend regulations governing grants to the Insular Areas of (1) community development funds from the Secretary's Discretionary Fund by amending § 570.405, and (2) Comprehensive Planning Assistance funds by creating a new § 600.38, to permit the Insular Areas to make single applications for both grants, and to permit single reports on the grants.

The Department has also ascertained that waiving local matching requirements for the Insular Areas will alleviate a hardship for them because of the paucity of local revenues and the great need to use those revenues for various crucial governmental purposes.

Accordingly, the Department is herein proposing to include in § 600.38 an exception for the Insular Areas from the necessity of providing a non-Federal share as a condition for receiving a Comprehensive Planning Assistance grant.

The Department proposes to modify the application and reporting requirement for the Insular Areas by simplifying application requirements for community development funds, and permitting joint reporting for community development and comprehensive planning activities. Applications for the community development funds will be simplified by permitting the Insular Areas to file applications similar to those required for small city single purpose funds rather entitlement funds.

Title V of the Act provides that the Insular Areas shall expend funds received under a consolidated grant "in furtherance of the programs and pruposes authorized for any of the grants which are being consolidated, * * * but the Insular Areas shall determine the proportion of the funds grantes which shall be allocated to such programs and purposes."

The Department proposes to retain the authority to assure that the consolidated applications from the Insular Areas contain an adequate balance of planning and community development activities, by requiring that such a balance be present in the application before a consolidated grant application is funded.

The Department has determined that an environmental impact statement is not required with this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

In order to make the above changes operative, the Department proposes to make the following revisions to Title 24 CFR, Part 570, Subpart E, the Secretary's Fund portion of its community development regulations and to its Title 24 CFR, Part 600 Comprehensive Planning Assistance Program regulations.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart E—Secretary's Fund

In Subpart E, § 570.405 is revised to read as follows:

§ 570.405 The insular areas—Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(a) *Eligible applicants.* Eligible applicants are the Insular Areas—Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) *Criteria for funding.* Applicants may submit applications not later than 75 days prior to the end of the current program year for discretionary community development grants for the full range of eligible activities described in Subpart C. The application may be consolidated with one for Comprehensive Planning Assistance funds under Section 701 of the Housing Act of 1954, as amended. The Secretary will establish for each fiscal year an amount for community development for which each eligible applicant may apply, taking into account the applicant's community development needs and administrative capacity.

(c) *Application, performance and reporting requirements.* Application, performance and reporting requirements are as follows:

(1) Each Insular Area may file separate applications for community development funds under this Subpart, and Comprehensive Planning Assistance Program funds under Part 600, § 600.38, or it may file, if it will be receiving both types of funding, a single application for a consolidated grant that includes both programs.

(2) An applicant need not file a preapplication for a Community Development grant or for a consolidated grant.

(3) For the community development grant or the community development portion of a consolidated grant, applicants shall meet the application requirements in Subpart F, § 570.430 relating to small city single purpose grants for applicants with a population of 25,000 or more.

(4) For the comprehensive planning portion of a consolidated grant application, applicants shall meet the requirements of § 600.100 but need not repeat assurances or other material provided under paragraph (c)(3) of this section.

(5) Area Offices having jurisdiction will assist Insular Areas preparing

consolidated applications with a format appropriate to the needs of each Area and consistent with Federal statutory requirements.

(6) Consolidated grant applications must provide for an adequate balance of Section 701 comprehensive planning activities and community development activities. Therefore, within the discretion of each Insular Area, no less than half, nor more than one-and-a-half times the amount of funds provided from Section 701 Comprehensive Planning funds shall be used for planning activities authorized by Section 701. In no event shall more than 20% of the Community Development Block Grant funds provided be spent in total for planning, including comprehensive planning, as defined in Subpart C, § 570.205, and administration, as defined in § 570.206.

(7) Activities supported by a consolidated grant shall be carried out in accordance with instructions in this Part for community development and in Part 600 for comprehensive planning. The Department strongly encourages that a substantive relationship be demonstrated between the planning and community development activities to be supported.

(8) A consolidated final report shall be provided for a consolidated grant. Area Offices having jurisdiction will specify required contents of the report consistent with Federal statutory requirements.

(d) *Grant and audit procedures.* Where a consolidated grant application is approved for an Insular Area, the following shall occur:

(1) A single grant shall be awarded encompassing community development and comprehensive planning funds. The grant will specify separate amounts with separate identification numbers for the Community Development Block Grant and the comprehensive planning fund portions.

(2) Insular Areas receiving consolidated grants are responsible for carrying out the work program in accordance with the funding as specified in the grant, except as noted in paragraph (c)(6) of this section. Each Area shall establish accounting procedures which will permit the identification of all charges both direct and indirect to the individual programs, and in all requests for funding shall specify the proper identification number for the program from which payment is being sought.

(3) When an Insular Area receiving a consolidated grant chooses, per paragraph (c)(6) of this section, to use a portion of its comprehensive planning funding for community development activity, the comprehensive planning identification number shall be used for draw down of funds and the community development activities recorded against it. Community Development Block Grant funds used for comprehensive planning purposes will similarly be identified.

(4) Combined audits shall be performed.

(Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301, et seq.); sec. 7(d), Department of the Housing and Urban Development Act (42 U.S.C. 3535(d)).)

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

Part 600 is amended by the addition of § 600.38, as follows:

§ 600.38 Grants for the insular areas—the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

In all respects, the Insular Areas, including the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, shall file applications pursuant to § 600.100 except as follows:

(a) An Insular Area applicant may file an application for a consolidated grant that includes comprehensive planning funds under this Part, and community development funds under Part 570, Subpart E, § 570.405—Secretary's Fund, The Insular Areas. Applications shall be in accordance with the Parts cited, but assurances and other material called for in both programs need not be duplicated.

(b) Notwithstanding any other provisions of this Part, the Insular Areas need not provide a local match in order to receive the comprehensive planning assistance portion of a consolidated grant.

(c) Consolidated grant applications must provide for an adequate balance of comprehensive planning and community development activities. Therefore, at the discretion of each Insular Area, no less than half, nor more than one-and-a-half times the amount of funds provided for comprehensive planning shall be used for that purpose. In no event shall more than 20 percent of the community development funds provided be spent for planning, management development, and administrative purposes.

(d) Activities supported by a consolidated grant shall be carried out in accordance with instructions in this Part for comprehensive planning and in part 570 for community development. The Department strongly encourages that a substantive relationship be demonstrated between the planning and community development activities to be supported.

(e) A consolidated final report shall be provided for a consolidated grant.

(f) Where a consolidated grant application is approved for an Insular Area, the following grant and audit procedures will occur:

(1) A single grant will be awarded encompassing community development and comprehensive planning funds.

(2) The Insular Area recipient shall maintain records that will permit discrimination between expenditures for community development and comprehensive planning funded activities.

(3) Combined audits will performed.

(Sec. 701, Housing Act of 1954, 68 Stat. 640 (40 U.S.C. 461); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., March 14, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-9028 Filed 3-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-1661]

Income Tax; Treatment of Certain Interests in Corporations as Stock or Indebtedness

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of certain interests in corporations as stock or indebtedness. The Tax Reform Act of 1969 authorized the Secretary of the Treasury to prescribe such regulations. This document also contains proposed conforming regulations relating to the allocation of income and deductions among taxpayers and certain other matters. The regulations would affect corporations and their shareholders and creditors.

DATES: Written comments must be delivered or mailed by June 23, 1980. The regulations are proposed to apply to interests in corporations created after December 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-1661), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jack A. Levine 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 (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 166, 385, 482, and 1371 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 415(a) of the Tax Reform Act of 1969 (83 Stat. 613) and are to be issued under the authority contained in sections 385 and 7805 of the Internal Revenue Code of 1954 (83 Stat. 613 and 68A Stat. 917; 26 U.S.C. 385 and 7805).

The question of whether an interest in a corporation is stock or indebtedness has created considerable difficulties and led to much litigation. A large body of case law has failed to produce any fully satisfactory method for resolving the problem. Because of the significant difference in the Federal tax treatment of stock and indebtedness, Congress has enacted legislation designed to clarify the law. The legislation (section 385 of the Code) authorizes the Secretary of the Treasury to prescribe regulations for distinguishing stock from indebtedness for all purposes of the Internal Revenue Code. Specifically, the legislation requires the Secretary to set forth factors in the regulations which are to be taken into account in determining whether a particular interest is stock or indebtedness. This requirement leaves open several potential avenues which could be taken in the development of the regulations. One avenue is to simply list the relevant factors which are to be given consideration in the analysis of whether an interest is stock or indebtedness. Another avenue is to have a specific set of rules (based on the relevant factors) under which each interest can be classified as stock or indebtedness. These two possibilities lie at opposite extremes. At one extreme, there is great flexibility but little certainty. At the other extreme, there is greater certainty but less flexibility.

The proposed regulations provide adaptable rules under which certain interests in corporations are treated as either indebtedness, equity, or a combination of the two. Additionally, the regulations provide safe harbors within which interests in the corporation are certain to be treated as indebtedness. Thus, the regulations are designed to provide both flexibility and certainty.

Section 1.385–1 Effective Date and Scope

The proposed regulations apply prospectively only. This prospective application conforms with a statement made by the Treasury to the House Ways and Means Committee, *Hearings on Subject of Tax Reform Before the House Committee on Ways and Means*, 91st Cong., 1st Sess. 5512 (1969). Moreover, no inference is to be drawn from the proposed regulations as to the law in effect before they are adopted.

The proposed regulations have a limited scope. In general, they apply only to instruments, *i.e.*, bonds, notes, debentures, etc. (see §§ 1.385–4 through 1.385–8), certain cash advances (see § 1.385–9), and certain preferred stock (see § 1.385–12). These are the major problem areas. Existing law will continue to apply to other interests in a corporation. Thus, all other interests (such as trade accounts payable) which are not dealt with in these regulations are outside their scope.

Section 1.385–2 Summary of Rules

Section 1.385–2 contains a summary of the regulations under section 385. The summary is intended to provide guidance in the use of the regulations and is subject in all respects to the more complete rules contained in §§ 1.385–3 through 1.385–12.

Section 1.385–3 Preliminary Rules

Section 1.385–3 provides for a number of preliminary determinations. These preliminary determinations are integral to the application of the rules in §§ 1.385–4 through 1.385–12 of the regulations, and they are designed to facilitate the operation of those subsequent rules.

Section 1.385–3(a) Excessive or Inadequate Consideration

When a corporation borrows from a shareholder, the allocation of the total repayments between principal and interest can have important tax consequences. For example, assume that individual A owns all the stock in corporation X, and that X has net income (after all other transactions) of $10,000 for the taxable year 1985. Also assume that at the end of the year X makes a $10,000 repayment on a loan from A. To the extent that the repayment is treated as principal, X is taxed currently but A is not. However, to the extent that the repayment is treated as interest, A is taxed currently but X pays no tax.

In some circumstances, A and X may be able to gain a tax advantage by treating more of the total repayments as interest, and in other circumstances they may gain a tax advantage by treating more of the repayments as principal. The regulations under section 385 are designed to ensure that the treatment is in accordance with objective economic criteria, and not according to any other standard.

Section 1.385–3(a)(1) provides that if a corporation sells an instrument to its shareholder for more than fair market value, the difference is treated as a contribution to capital. Section 1.385–3(a)(2) provides that if a corporation sells an instrument to a shareholder for less than fair market value, the difference is treated as a distribution under either section 301 or 305. These rules are based on existing legal principles. (See § 1.301–1(j).)

When instruments are issued for money, these rules generally assure a proper allocation between principal and interest. For instance, in example (1) of § 1.385–3(a)(3), 15 shareholders advance $400 each for $400 face amount 7-percent debentures. However, the debentures are worth only $328 each. Section 1.385(a)(1) provides that $72 of each $400 advance is treated as a contribution to capital. Therefore, there is original issue discount of $72 on each debenture under section 1232(a)(3). As a result, the holders will receive the same proportions of principal and interest (including original issue discount) that would have been paid to independent creditors dealing with the corporation at arm's length.

Similarly, if the interest rate on the debentures in example (1) of § 1.385–3(a)(3) were higher than the going market rate and the debentures were therefore worth more than $400 each, bond premium would be created under § 1.62–12(c)(2). Again the portions of principal and interest (adjusting for bond premium) received by the holders would be the same as if the debentures had been sold to independent creditors at arm's length.

The example described above is based on *Tomlinson* v. *1661 Corp.*, 377 F. 2d 291 (5th Cir. 1967). The facts in this case are typical. Several doctors organize a corporation to construct and operate a professional office building. The doctors subscribe for stock in the corporation at $100 a share. The doctors also advance an additional $400 to the corporation for each share of stock subscribed, and these additional advances are represented by debentures. The debentures are completely regular in form and are secured by the general credit of the

corporation. Although this factual pattern is commonplace, the court is unable to resolve the status of the debentures as stock or indebtedness in a way that is completely satisfactory. Instead, the court begins with an enumeration of eleven factors. Some of these factors tend to show that the debentures are really stock, and others indicate that the debentures are valid indebtedness. The method by which the court weighs the competing evidence is not entirely clear. At the end, the court concludes that the debentures are valid indebtedness, but the conclusion provides little guidance for the future, even in similar factual situations.

Under § 1.385–3(a) the analysis is somewhat different. Section 1.385–3(a) does not inquire into the nature of the debenture—is it stock or indebtedness? Instead, it inquires into the nature of the $400 advance—is it payment for the debenture or part payment for the debenture and part contribution to capital? See Chirelstein, "Learned Hand's Contribution to the Law of Tax Avoidance," *Yale Law Journal*, 440 460 to 464 (1968). By posing the question in this way, § 1.385–3(a) attains three goals. First, it replaces the subjective analysis of the case law with a definite question—what is the fair market value of the debenture? Second, it remains responsive to the relevant factors identified by the case law. Many of these factors—*e.g.*, maturity date, right to enforce payment, capitalization, ability of the corporation to obtain loans elsewhere—have a direct bearing on fair market value. Section 1.385–3(a) weighs these factors according to their effect on the fair market value of the debentures. Third, § 1.385–3(a) makes it easier for the Government and the taxpayer to reach a compromise. Under the case law, the debenture is one or the other—stock or indebtedness. There is not much room for compromise. On the other hand, if the taxpayer believes that a debenture is worth $400 and the Government believes that it is worth $300, there may well be a possibility of compromise. The Government does not have to choose between abandoning its position and driving the taxpayer to litigation.

Under present law, a bargain sale to a nonshareholder (*e.g.*, a trust created by a shareholder) may be treated as a dividend., See *Harry L. Epstein*, 53 T.C. 459 (1969). Although § 1.385–3(a)(2) explicitly addresses only bargain sales to shareholders, it is not the intention of the regulations to deviate from present law. Compare § 1.301–1(j), which also explicitly addresses only bargain sales to shareholders. Similarly, § 1.385–3(a)(1) is not intended to change existing law on purchases by nonshareholders at prices in excess of fair market value.

Section 1.385–3(b) Fair Market Value

The fair market value of an instrument is determined under § 1.385–3(b). In general, the fair market value of an instrument is the price at which it would change hands between a willing buyer and a willing seller. The buyer and the seller would be expected to consider the relevent factors affecting the risks of the investment. Many of these factors are the same as the factors mentioned in the case law in distinguishing stock from indebtedness. For an extensive discussion of these factors and the case law, see Plumb, "The Federal Income Tax Significance of Corporate Debt: A Critical Analysis and a Proposal," 26 *Tax L. Rev.* 369 (1971).

Under § 1.385–3(b)(2), the fair market value of a straight debt instrument will be considered equal to its face amount if two requirements are satisified. First, the instrument must bear interest at a reasonable annual rate. Second, the consideration paid for the instrument must be equal to the face amount.

The proposed regulations put considerable emphasis on fair market value. For example, debt/equity problems that arise in two significant contexts—*i.e.*, straight debt instruments issued proportionately and hybrid instruments issued disproportionately—are resoloved largely through determinations of fair market value. See §§ 1.385–3(a) and 1.385–5. For several reasons, however, the regulations largely avoid difficulties normally associated with valuation.

First, appraisal is limited almost exclusively to straight debt instruments. Where valuation of hybrid instruments is required, the instruments are normally issued at arm's length. Thus, the price actually paid will generally be determinative of the fair market value of hybrid instruments.

Second, appraisal of straight debt instruments is comparatively simple. It is chiefly a matter of determining the proper discount rate and then consulting standard bond tables.

Third, a broad safe harbor has been created for straight debt instruments. See § 1.385–3(b)(2). In most circumstances, this safe harbor will make it possible to avoid the need for valuation altogether.

And fourth, no great accuracy of appraisal is required. Minor discrepancies in valuation will seldom lead to major differences in tax treatment. See, *e.g.*, § 1.385–5(c).

In addition, the fair market value of an instrument is a highly relevant consideration. It brings the pertinent factors into focus more effectively than the relatively unstructured analysis of the case law.

Section 1.385–3(c) Debt-to-Equity Ratio

Under § 1.385–3(c)(1), the debt-to-equity ratio of a corporation is the ratio of the corporation's liabilities (excluding trade accounts payable) to its stockholders' equity. As a result of excluding trade accounts payable from the liability side of the ratio, the creation of trade accounts payable in the ordinary course of business generally does not increase the corporation's debt-to-equity ratio. For example, assume that a new corporation is formed and that $2,000 is transferred to it in exchange for $1,000 of stock and $1,000 of notes. The corporation's debt-to-equity ratio is 1:1. Assume further that $500 each of trade accounts payable and trade accounts receivable are created in the ordinary course of the corporation's business. If trade accounts payable were not excluded from the liability side of the debt-to-equity ratio, the ratio would become 3:2 (*i.e.*, $1,500:$1,000). This would tend to defeat one of the principal purposes of the regulations, which is to provide a high degree of certainty for corporations organized with a debt-to-equity ratio of 1:1 or less. Therefore, trade accounts payable are excluded from the liability side of the ratio under § 1.385–5(c)(1), and the ratio remains at 1:1 (*i.e.*, $1,000:$1,000).

Under § 1.385–3(c)(2), the stockholders' equity in a corporation is the excess of the adjusted basis of the corporation's assets over its liabilities. The fair market value of the corporation's assets, although theoretically a more correct measure than adjusted basis, is not used in determining stockholders' equity because of the greater difficulty inherent in valuing operating assets. However, in the areas in the regulations where debt-to-equity ratio is a primary factor in determining the treatment of instruments issued by a corporation (*i.e.*, §§ 1.385–3(a) and 1.385–8), the corporation can avoid the negative implications of a high debt-to-equity ratio by establishing that it is, in fact, adequately capitalized.

For purposes of computing the debt-to-equity ratio, § 1.385–3(c)(3)(ii) provides that a corporation's liabilities are determined without regard to whether any interest is treated as stock or indebtedness under these regulations. This rule reflects the fact that a liability's effect on the corporation's financial stability is largely independent of its treatment for tax purposes.

As a rule of convenience, the regulations provide that a corporation's debt-to-equity ratio is determined at the end of its taxable year. This rule could have the unintended effect of causing an increase in a corporation's debt-to-equity ratio as a result of losses sustained during the year. Accordingly, to preclude this possibility, § 1.385–3(c)(5)(ii) provides that the stockholders' equity is increased by the amount of any net operating loss sustained during the taxable year.

Under § 1.385–3(c)(5)(v), a corporation's debt-to-equity ratio is determined without regard to distortions created by temporary contributions to equity. Similarly, in order to prevent abuses such as the ones described in the examples in § 1.385–3(c)(5)(vi)(B), a corporation's debt-to-equity ratio is computed without regard to distortions created because it is a member of a chain of corporations connected by stock ownership. The specific rules in § 1.385–3(c)((5) (v) and (vi) are not intended to preclude the application of general tax law principles to prevent other distortions of the debt-to-equity ratio. More broadly, nothing in the regulations under section 385 is intended to preclude the application of general tax law principles such as substance over form, step transaction, and so on.

Section 1.385–4 Instruments Generally

Section 1.385–4(a) states the general rule that instruments are treated as indebtedness. Sections 1.385–5 (hybrid instruments), 1.385–6 (proportionality), 1.385–7 (principal shareholders), and 1.385–8 (nominal capital) provide exceptions to the general rule. An instrument is classified as stock or indebtedness at the time it is issued. In addition, it may be reclassified under § 1.385–7 on appropriate occasions under a version of the Tax Court's "second look" theory in *Gooding Amusement Co.*, 23 T.C. 408 (1954), aff'd, 236 F.2d 159 (6th Cir., 1956), cert. denied 352 U.S. 1031 (1957). When an instrument is reclassified as stock, there is deemed to be a recapitalization (see § 1.385–4(c)(1)(ii)), and the holder does not recognize gain or loss.

On the other hand, an instrument will not be reclassified as stock merely because of a change in ownership. See *Edwards* v. *Commissioner*, 415 F.2d 578 (10th Cir. 1969), rev'g 50 T.C. 220 (1968). Further, the regulations do not permit an instrument that is classified as stock to be reclassified as indebtedness. This rule is designed partly for simplicity and partly to avoid the need to recognize gain or loss. See *Fin Hay Realty Co.* v. *United States*, 398 F.2d 694 at 698 and 699 (3rd Cir. 1968).

If an instrument is treated as stock under §§ 1.385–5 through 1.385–8, then it is treated as preferred stock for all purposes of the Code. This is because there are substantial similarities between preferred stock and an instrument that is treated as stock under these regulations.

Section 1.385–5 Hybrid Instruments

Section 1.385–5 applies primarily to hybrid instruments (*e.g.*, convertible debentures or income bonds) issued by public corporations. Hybrid instruments issued by closely held corporations are generally treated as stock under § 1.385–6(b). Under § 1.385–5, a hybrid instrument is classified according to its predominant characteristic. If at least half of the fair market value of the instrument is attributable to rights characteristic of indebtedness, the instrument is treated as indebtedness. On the other hand, if less than half of the fair market value of the instrument is attributable to rights characteristic of indebtedness, the instrument is ordinarily treated as stock.

The determinations of fair market value required by § 1.385–5 will be relatively straightforward. If hybrid instruments are issued to the public, their fair market value will be equal to the issue price. Further, the issuing corporation is likely to have an established credit rating and may also have other straight debt instruments outstanding. Therefore, the appraisal required by §1.385–5(a)(1) of a (hypothetical) straight debt instrument can be accomplished by use of present value methods. To determine the proper discount rate, it will be necessary only to ascertain the rate of return available on similar straight debt instruments issued by the same corporation (or by corporations that have similar credit ratings). Fair market value can then be determined by consulting standard bond tables.

Even if hybrid instruments are privately placed, there will be no particular difficulty. Because § 1.385–5 seldom applies to hybrid instruments not issued at arm's length (see § 1.385–6(b)), the actual issue price will be largely determinative of fair market value. In addition, the issuing corporation will ordinarily have some record of prior borrowing from outside sources. The terms of this prior borrowing (including particularly the rate of interest) will be indicative of the corporation's credit standing. This will facilitate the determination of a proper discount rate, and, again, make it possible to carry out the appraisal required under § 1.385–5(a)(1) by means of standard bond tables.

Voting rights are not given independent weight under § 1.385–5. This treatment is not inconsistent with the case law. It is difficult to find a case in which voting rights are the decisive factor. See Plumb, "The Federal Income Tax Significance of Corporate Debt: A Critical Analysis and a Proposal," 26 *Tax L. Rev.* 369, 447 (1971).

Subordination, by itself, is not given any direct weight under § 1.385–5. However, subordination tends to decrease the value of rights characteristic of indebtedness, thus increasing the significance of other factors that are characteristic of stock. This treatment of subordination is consistent with the view taken in *Commissioner* v. *O.P.P. Holding Co.*, 76 F.2d 11, 12 (2d Cir. 1935); *Commissioner* v. *H.P. Hood & Sons*, 141 F.2d 467, 470 (1st Cir. 1944); and *Kraft Foods Co.* v. *Commissioner*, 232 F.2d 118, 125 and 126 (2d Cir. 1956).

Like other parts of the regulations, § 1.385–5 replaces a subjective standard with an objective one, while it remains responsive to the many relevant factors identified by the case law. For example, the bonds in example (1) of § 1.385–5(f) are pure indebtedness. The long-term income bonds in example (2) resemble preferred stock closely; the fixed right to principal accounts for only 18.4 percent of their value. The shorter-term income bonds in example (3) are more like pure indebtedness; the fixed right to principal accounts for 50.8 percent of their value. However, subordination of the income bonds tips the scale in example (4). In example (5), the subordinated income bonds are also cumulative. Thus, the bondholder has a fixed right to receive interest as well as principal on January 1, 2015. These two fixed rights account for 55.3 percent of the fair market value of the income bonds. Accordingly, the income bonds are classified as indebtedness.

Most of the examples in § 1.385–5(e) are variations on facts taken from the case law: example (1) is *John Kelley Co.*, 1 T.C. 457 (1943) rev'd, 146 F.2d 466 (7th Cir. 1944), rev'd 326 U.S. 521 (1946); example (2) is *Monon R. R.*, 55 T.C. 345 (1970); example (3) is *Pottstown Finance Co.* v. *United States*, 73 F. Supp. 1011 (E.D Pa. 1947); example (4) is *Farley Realty Corp.* v. *Commissioner*, 279 F.2d 701 (2d Cir. 1960); example (5) is *Talbot Mills*, 3 T.C. 95 (1941), aff'd, 146 F.2d 809 (1st Cir. 1944), aff'd *sub nom, John Kelley Co.* v. *Commissioner*, 326 U.S. 521 (1946); example (6) is *Utility Trailer Mfg. Co.* v. *United States*, 212 F. Supp. 773 (S.D. Ca. 1962); example (7) is *Wynnefield Heights, Inc.*, 25 CCH Tax Ct. Memo 953 (1966); example (8) is Rev.

Rul. 68–54, 1968–1 C.B. 69 (for a discussion of split-coupon bonds, see B. Graham, D. Dodd, and S. Cottle, *Security Analysis* 396–397 (4th ed. 1962)); and example (9) is *In Re Indian Lake Estates, Inc.*, 449 F.2d 574 (5th Cir. 1971).

Section 1.385–6 Proportionality

Section 1.385–6 applies where there may be an opportunity to fix the terms of an instrument at other than arm's length. In general, the scope of this section is limited to instruments issued proportionately to shareholders of the issuing corporation. This type of issuance often indicates an absence of arm's length negotiations in fixing the terms of an instrument.

Section 1.385–6(b) applies to hybrid instruments. Generally, hybrid instruments are treated as stock if they are issued proportionately by a corporation to its shareholders. There are three reasons for this rule. First, it often would be impractical to apply § 1.385–5 (relating to certain hybrid instruments) to hybrid instruments issued by a closely held corporation to its shareholders. Such instruments are unusually difficult to value. Second, the flat rule in § 1.385–6(b) does not interfere with legitimate business practices. This is because the position taken in § 1.385–10 (relating to locked interests) permits division of debt and equity features into separate interests. Third, if a closely held corporation makes discretionary payments or pays a share of its profits to its shareholders, these payments closely resemble dividends.

Section 1.385–6(c) applies primarily to straight debt instruments issued proportionately by a corporation to its shareholders in exchange for property. If a straight debt instrument is issued to a shareholder for money, there is generally no need for this rule. In this case, § 1.385–3(a) ensures, through the creation of original issue discount under section 1232(a)(3) and amortizable bond premium under § 1.61–12(c)(2), that the holders will be paid principal and interest in the proper proportions. (See the discussion above under the heading EXCESSIVE OR INADEQUATE CONSIDERATION.) However, if instruments are issued for property, section 1232(a)(3) and § 1.61–12(c)(2) generally do not apply. Consequently, a special rule is needed to ensure that the holders will be paid principal and interest in the proper proportions (*i.e.*, in the same proportions as would be paid to outside creditors). Thus, § 1.385–6(c) imposes the requirement that interest be paid at a reasonable rate on instruments issued for property.

More generally, if a corporation issues instruments to its shareholders in exchange for property, then §§ 1.385–3(a) and 1.385–6(c) ensure that the transaction conforms to arm's length standards in two respects. First, the fair market value of the instruments must equal the consideration paid for them. And, second, principal and interest must be paid on the instruments in the same proportions as would be paid to outside creditors.

The determination of whether the stated annual rate of interest on an instrument issued by a corporation is reasonable is made under § 1.385–6(d). Under § 1.385–6(d)(2), if a corporation's debt-to-equity ratio is not greater than 1:1, then the rate of interest in effect under section 6621, the prime rate in effect at any local commercial bank, or any intermediate rate, is considered reasonable. However, the corporation also may establish that some other rate of interest is reasonable.

The ratio of 1:1 in § 1.385–6(d) was chosen for two reasons. First, it covers a majority of all corporations. Extensive statistical analysis indicates that more than 55 percent of all corporations filing tax returns in a recent year and more than 60 percent of all new corporations had debt-to-equity ratios of less than 1:1. Second, a debt-to-equity ratio of 1:1 is exceptionally high by the standards of public corporations.

Example (1) of § 1.385–6(c)(3) is based on *John W. Walter, Inc.*, 23 T.C. 550 (1954). Example (2) is based on *Elliott-Lewis Co.*, 4 CCH Tax Ct. Memo. 136 (1945), aff'd *per curiam*, 154 F.2d 292 (3rd Cir. 1946). Example (3) is based on *Burr Oaks Corp.*, 43 T.C. 635 (1965), aff'd 365 F.2d 24 (7th Cir. 1966), cert. denied 385 U.S. 1007 (1967). In this case, 3 individuals conveyed a tract of undeveloped land to a newly formed corporation, and each received a two-year 6-percent promissory note for $110,000. The individuals had a basis in the land of $100,000. The question before the court was the corporation's basis in the land. The court held that the promissory notes were to be treated as stock for tax purposes. In particular, the notes were not "other property" within the meaning of section 351(b), and gain was not recognized on the transfer of the land to the newly formed corporation. Thus, the corporation's basis in the land was equal to the shareholders' basis of $100,000, and was not $330,000 as claimed by the corporation. Cases that have similar fact patterns and present similar issues include *Charles E. Curry*, 43 T.C. 667 (1965), and *George A. Nye*, 50 T.C. 203 (1968).

Section 1.385–7 Principal Shareholders

Section 1.385–7, like § 1.385–6, applies to situations where the holder of an instrument and the issuing corporation may not be dealing at arm's length. However, whereas § 1.385–6 deals with the possibility of the terms of an instrument being fixed at other than arm's length, § 1.385–7 is concerned with the possibility of the terms of an instrument not being enforced at arm's length.

In general, § 1.385–7 applies to straight debt instruments issued by a closely held corporation to its principal shareholders. Such instruments are examined carefully because of the possibility that a principal shareholder may not enforce its creditor rights to the detriment of its shareholder rights.

Under § 1.385–7(b), a change in terms is treated in the same manner as the issuance of a new instrument in exchange for an old one. For example, assume that individual A owns all the stock of corporation X. In addition, A owns $10,000 of 12-percent debentures issued by X. On January 1, 1990, A and X renegotiate the terms of the debentures, and agree to reduce the interest rate to 3 percent. The tax consequences are the same as if X had issued $10,000 of new 3-percent debentures in exchange for the old 12-percent debentures. Thus, for example, if 3 percent is not a reasonable rate of interest on January 1, 1990, the debentures are treated as stock beginning on that date.

Under § 1.385–7(c) and (d)(3), an instrument may be reclassified as stock if the holder acquiesces in nonpayment of interest or principal. Thus, the holder's behavior must conform to that of an ordinary outside creditor.

If a principal shareholder owns a demand note issued by a corporation, § 1.385–7(d) requires that interest be paid on the note at a reasonable rate. This rule does not reflect any necessary substantive difference between demand notes and notes that are due on a fixed date. Indeed, many notes issued to principal shareholders are, in effect, payable on demand regardless of their terms, and prepayment does not affect the tax status of a note (see § 1.385–7(b)(2)). However, if a note is due on a fixed date, then original issue discount or bond premium created under § 1.385–3(a) will generally assure that interest is paid on the note at a reasonable rate. On the other hand, if a note is payable on demand, neither original issue discount nor bond premium will ordinarily be created under § 1.385–3(a). Consequently, § 1.385–7(d) is necessary to assure that interest is paid at a

reasonable rate. As a practical matter, § 1.385–7(d) requires periodic adjustments of the interest rate on demand notes held by principal shareholders. This is consistent with ordinary commercial practice where demand notes are held by independent creditors.

Section 1.385–8 Nominal Capital

There is authority in the case law for the proposition that in extreme cases a high debt-to-equity ratio (*i.e.*, nominal capital), by itself, is sufficient reason to treat instruments as stock. See *Isidor Dobkin*, 15 T.C. 31 (1950), aff'd *per curium*, 192 F. 2d 392 (2d Cir. 1951) (debt-to-equity ratio of 35:1); and *George L. Sogg*, 9 CCH Tax Ct. Memo. 927 (1950), aff'd, 194 F. 2d 540 (6th Cir. 1952) (debt-to-equity ratio of 50:1). Generally, § 1.385–8 takes the view that a ratio in excess of 10:1 is extreme and provides that, where the debt-to-equity ratio exceeds 10:1, an instrument issued by a corporation is treated as stock.

Under § 1.385–8, a corporation's debt-to-equity ratio is computed in two different ways. One is to use the adjusted basis of the corporation's assets in determining stockholders' equity. The second is to use the fair market value of the corporation's outstanding stock in determining stockholders' equity. This dual method of computing the debt-to-equity ratio is designed to insure that the corporation is truly inadequately capitalized. (See examples (1) and (2) of § 1.385–8(d).)

Extensive statistical analysis tends to confirm that a ratio in excess of 10:1 is extreme. Nearly 85 percent of all corporations filing tax returns in a recent year and more than 90 percent of all new corporations had debt-to-equity ratios (determined in accordance with § 1.385–3(c)) of less than 10:1.

Section 1.385–9 Certain Unwritten Obligations

The failure of a corporation to reduce to writing the terms of large cash advances creates doubt as to the tax status of the advances. See section 385(b)(1). Therefore, § 1.385–9 ordinarily treats a cash advance made to a corporation by one of its shareholders as a contribution to capital unless two requirements are satisfied. First, the debt-to-equity ratio of the corporation must not be greater than 1:1. Second, the corporation must pay interest on the money advanced at a rate within the safe harbor provided by § 1.385–6(d)(2). Short-term advances of less than $25,000 are generally exempt from these rules. (See § 1.385–9(a)(2).)

Section 1.385–10 Locked Interests

Section 1.385–10 applies to "locked interests." In *Universal Castings Corp.*, 37 T.C. 107, 115 (1961), aff'd, 303 F.2d 620 (7th Cir. 1962), the Tax Court took the view that, where notes are locked into stock, there is an indication that the notes are really stock. However, the proposed regulations reject this view and treat two interests locked together as separate and distinct. The proposed regulations take this approach for two reasons. First, corporations should not be discouraged from creating two separate interests locked together rather than one hybrid interest. The creation of two separate interests makes possible a natural classification of one interest as stock and the other as indebtedness.

Second, § 1.385–6(b) treats most hybrid instruments issued by closely held corporations as stock. Consequently, if a closely held corporation has valid business reasons for issuing interests containing both equity and indebtedness features to its shareholders, § 1.385–10 makes this possible. The corporation may simply create two separate interests locked together.

Section 1.385–11 Guaranteed Loans

Section 1.385–11 applies to guaranteed loans. If a third party lends money to a corporation, the shareholders may be required to guarantee the loan for two reasons. First, the corporation's credit may be too weak to secure the loan (or to secure the loan on as favorable terms). When shareholders guarantee a loan for this first reason, their credit serves as a substitute or reinforcement for the credit of the corporation. Second, the creditor may want to provide against the possibility that the corporation will transfer assets to its shareholders (by paying them dividends, salaries, etc.). When shareholders guarantee a loan for this second reason, the guarantee is a substitute for detailed protective covenants. Of course, a guarantee may be required for both reasons.

In some cases, it may be proper to recast a guaranteed loan. It may be appropriate to treat the guaranteed loan as a loan from the creditor to the shareholder followed by a contribution from the shareholder to the capital of the corporation. Section 1.385–11 provides that a guaranteed loan is recast in this way if, at the time of the guarantee, it is not reasonable to expect that the loan can be enforced according to its terms. The reason is that under these circumstances the creditor must look solely to the shareholder for the repayment of the loan. This standard is taken from *E. J. Ellisberg*, 9 T.C. 463 (1947). In that case, a bank lent $8,000 to a son on the strength of his father's guarantee. Largely because there was "no reasonable expectation" when the father guaranteed the loan that the son would pay the bank or reimburse the father, the court held that "the transaction in question is equivalent to one in which a father borrowed money from a bank and, in effect, made a gift of the proceeds to his son." (See also Rev. Rul. 79–4, 1979–1 C.B. 150, and *Plantation Patterns, Inc. v. Commissioner*, 462 F. 2d 712 (5th Cir. 1972), cert. denied 409 U.S. 1076 (1972).)

Under present law, a guarantee by a nonshareholder (*e.g.*, a shareholder's spouse) may also be treated as a loan to the guarantor followed by a contribution to capital. See *Plantation Patterns, Inc. v. Commissioner*. While the regulations do not address guarantees by nonshareholders, they are not intended to preclude the application of established principles to such guarantees. Also, the examples in § 1.385–11(b) are based on *Plantation Patterns, Inc. v. Commissioner*.

Section 1.385–12 Certain Preferred Stock

If preferred stock provides for legally enforceable fixed payments in the nature of principal or interest, then § 1.385–12 treats the preferred stock as an instrument. Thus, the preferred stock may be treated as indebtedness under § 1.385–4(a) or as stock under §§ 1.385–5 through 1.385–8. Example (1) of § 1.385–12(b) is taken from *Crawford Drug Stores v. U.S.*, 220 F. 2d 202 (10th Cir. 1955). It describes an extreme case in which preferred stock begins to take on the characteristics of indebtedness. Example (2), which describes a garden variety preferred stock, easily reaches the opposite result.

Section 1.482–2(a)(4) Relation to Section 482

Under section 482, interest may be imputed on certain loans or advances between related persons. The regulations under section 482 are amended to make it clear that interest ordinarily is not imputed under section 482 where original issue discount is created as a result of § 1.385–3(a)(1). No corresponding change is made to the regulations under section 483 because original issue discount normally is not created where an instrument is issued in exchange for property.

Section 1.1371–1(h) Relation to Subchapter S

A determination of the relationship between subchapter S and section 385 has been reserved.

Comments and Requests 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 authors of these proposed regulations are Mr. Jack A. Levine of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service and Mr. Benjamin J. Cohen of the Office of Tax Legislative Counsel, Department of the Treasury. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.166–9(c) is amended to read as follows:

§ 1.166–9 Losses of guarantors, endorsers, and indemnitors incurred on agreements made after December 31, 1975, in taxable years beginning after such date.

* * * * *

(c) *Obligations issued by corporations.* No treatment as a worthless debt is allowed with respect to a payment made by the taxpayer in discharge of part or all of the taxpayer's obligation as guarantor, endorser, or indemnitor of an obligation issued by a corporation if—

(1) The taxpayer is considered the primary obligor (see § 1.385–11), or

(2) The payment constitutes a contribution to capital by a shareholder.

The rules of this paragraph (c) apply to payments whenever made (see paragraph (f) of this section).

Par. 2. New §§ 1.385–1 through 1.385–12 are added to read as follows:

Sec.
1.385–1 Stock or indebtedness.
1.385–2 Summary.
1.385–3 Preliminary rules.
1.385–4 Instruments generally.
1.385–5 Certain hybrid instruments.
1.385–6 Proportionality.
1.385–7 Principal shareholders.
1.385–8 Nominal capital.
1.385–9 Certain unwritten obligations.
1.385–10 Locked interests.
1.385–11 Guaranteed loans.
1.385–12 Certain preferred stock.

§ 1.385–1 Stock or indebtedness.

(a) *Effective date.* The regulations under section 385 apply to instruments (as defined in § 1.385–3(d)) issued after December 31, 1980 and to certain other interests created after December 31, 1980.

(b) *In general.* The regulations under section 385 contain rules under which certain interests in corporations are treated as stock or indebtedness. All other interests (such as trade accounts payable) are outside the scope of the regulations.

§ 1.385–2 Summary.

(a) *Instruments issued to principal shareholders*—(1) *Straight debt instruments.* (i) Straight debt instruments (as defined in § 1.385–3(g)) issued to principal shareholders (as defined in § 1.385–7(e)(4)) are ordinarily treated as indebtedness. Exceptions may apply where there is a failure to pay interest or principal when due (see § 1.385–7(c) and (d)(3)), where there is a change in terms (see § 1.385–7(b)), where the issuing corporation has only nominal capital (see § 1.385–8), or where the instruments are issued for property (see § 1.385–6(c)) or are payable on demand (see § 1.385–7(d)).

(ii) If the instruments do not carry a reasonable rate of interest, then original issue discount or amortizable bond premium is ordinarily imputed under § 1.385–3(a). This is to ensure that the holders take a reasonable amount into income as interest received, and that the issuing corporation takes a reasonable deduction for interest paid on the instruments each year.

(2) *Hybrid instruments.* Hybrid instruments (*e.g.*, income bonds or convertible debentures) issued to principal shareholders are treated as stock if they are issued proportionately (see § 1.385–6(b)) or if their equity features are predominant (see § 1.385–5). Otherwise, they are generally treated in the same manner as straight debt instruments.

(b) *Instruments not issued to principal shareholders*—(1) *Straight debt instruments.* Straight debt instruments not issued to principal shareholders are ordinarily treated as indebtedness. An exception may apply, however, when the issuing corporation has only nominal capital (see § 1.385–8).

(2) *Hybrid instruments.* Hybrid instruments (as defined in § 1.385–3(f)) not issued to principal shareholders are treated as stock if their equity features are predominant (see § 1.385–5). Otherwise, they are generally treated in the same manner as straight debt instruments.

(c) *Ancillary rules*—(1) *In general.* In addition to the primary rules described in paragraphs (a) and (b) of this section, the regulations under section 385 also contain a variety of significant ancillary rules. These rules are subordinate in the sense that they do not apply directly to treat any interest as stock or indebtedness. However, they are essential to the working of the regulations.

(2) *Reasonable rate of interest.* Section 1.385–6(d) contains rules for determining whether a rate of interest is reasonable. These rules are significant where—

(i) Instruments are issued proportionately to shareholders in exchange for property (see § 1.385–6(c));

(ii) Instruments are held by a principal shareholder and there is a change in terms (see § 1.385–7(b)), or nonpayment of principal (see § 1.385–7(d)(3)); and

(iii) Instruments held by a principal shareholder are payable on demand (see § 1.385–7(d)).

(3) *Debt-to-equity ratio.* Section § 1.385–3(c) contains rules for determining a corporation's debt-to-equity ratio. These rules are significant in determining—

(i) Whether a rate of interest is presumptively reasonable (see § 1.385–6(d)(2)); and

(ii) Whether a corporation has only nominal capital (see § 1.385–8(a)(2)).

(4) *Fair market value.* Section 1.385–3(b) contains rules for determining the fair market value of an instrument. These rules are significant in determining—

(i) The amount of original issue discount or amortizable bond premium imputed under § 1.385–3(a); and

(ii) Whether the equity features of a hybrid instrument are predominant (see § 1.385–5).

(d) *Safe harbor.* In general, the regulations provide a safe harbor for a straight debt instrument issued by a corporation whenever all of the following conditions are satisfied:

(1) *Principal and interest.* The instrument has a fixed maturity date and provides for annual payments of interest at (i) the rate in effect under section 6621, (ii) the prime rate in effect at any local commercial bank, or (iii) any rate in between.

(2) *Debt-to-equity ratio.* The debt-to-equity ratio of the corporation does not exceed 1:1.

(3) *Paid when due.* All principal and interest on the instrument are paid when due.

(e) *Other provisions*—(1) *Certain unwritten loans.* Section 1.385–9 contains rules that apply to certain unwritten loans made to a corporation by a shareholder.

(2) *Locked interests.* Section 1.385–10 contains rules that treat locked interests (such as a bond with a nondetachable warrant) as separate and distinct.

(3) *Guaranteed loans.* Section 1.385–11 contains rules that apply to loans made to a corporation and guaranteed by a shareholder. Under these rules, the loan may be treated as made to the shareholder, and the shareholder may be treated as making a contribution to the capital of the corporation.

(4) *Preferred stock.* Section 1.385–12 contains rules that could result in certain preferred stock being treated as indebtedness.

(f) *Cautionary note.* This section is merely a summary of the regulations under section 385, and is subject in all respects to the more complete rules contained in §§ 1.385–3 through 1.385–12.

§ 1.385–3 Preliminary rules.

(a) *Excessive or inadequate consideration*—(1) *Excessive consideration.* If a corporation issues an instrument to a shareholder, then (whether the instrument is treated as stock or indebtedness) the excess of—

(i) The consideration paid, over

(ii) The fair market value of the instrument,

is a contribution to capital.

(2) *Inadequate consideration.* (i) If a corporation issues an instrument to a shareholder and the instrument is treated as indebtedness, then the excess of—

(A) The fair market value of the instrument, over

(B) The consideration paid,

is a distribution to which section 301 applies. See § 1.301–1(j) and (k).

(ii) If a corporation issues an instrument to a shareholder and the instrument is treated as stock, then the amount determined under paragraph (a)(2)(i) of this section is treated as a distribution of stock to which section 305 applies.

(3) *Illustrations.* The following examples illustrate the application of this paragraph (a) and related provisions:

Example (1). Corporation S is organized in 1985 for the purpose of constructing, owning, and operating a professional office building. Fifteen persons, all medical doctors, subscribe for the capital stock of corporation S at $100 a share. On January 1, 1988, the doctors agree to advance $400 to corporation S for each share of stock subscribed. These advances are represented by 19-year 7-percent debentures in the principal amount of $400 each. Assume that the debentures are treated as indebtedness under § 1.385–4(a) (relating to instruments generally), and that the fair market value of each debenture is $328. Based on these facts, $72 of each $400 advance is treated as a contribution to capital. Therefore, the doctors' basis in each debenture is $328, and there is an original issue discount of $72 on each debenture. See section 1232.

Example (2). The facts are the same as in example (1), except that the doctors pay $300 for each debenture. Based on these facts, the doctors are treated as receiving a $28 distribution to which section 301 applies on each share of stock. Therefore, the doctors' basis in each debenture is $328 (see § 1.301–1(j)(2)), and there is an original issue discount of $72 on each debenture.

Example (3). The facts are the same as in example (1), except that the debentures bear interest at 9 percent a year. Assume that the fair market value of each 9-percent debenture is $400. Based on these facts, the doctors are not treated as making a contribution to capital or as receiving a distribution to which section 301 applies. Therefore, the doctors' basis in each debenture is $400, and there is no original issue discount on the debentures.

Example (4). The facts are the same as in example (1), except that corporation S issues the debentures together with the capital stock in 1985, and the doctors pay $500 for each unit consisting of one debenture and one share of stock. Based on these facts, the doctors' basis in each debenture is $328 (see § 1.1012–1(d)), their basis in each share of stock is $172, and the original issue discount on each debenture is $72 (see § 1.1232–3(b)(2)(ii)).

Example (5). Individuals A and B each own ½ the common stock of corporation M, which is the only class of stock outstanding. On January 1, 1982, M issues two 12-percent $1,000 notes, one to A and one to B, each for $1,000 in cash. Assume that the fair market value of each note is $1,250 and that the notes are treated as indebtedness under § 1.385–4(a) (relating to instruments generally). Based on these facts, on January 1, 1982, A and B each receive a $250 distribution to which section 301 applies.

Example (6). The facts are the same as in example (5), except that interest on the notes is payable only at the discretion of M's board of directors, and the notes are treated as preferred stock under § 1.385–6(b) (relating to hybrid instruments held proportionately). Based on these facts, on January 1, 1982, A and B each receive a $250 distribution of preferred stock on common stock.

(b) *Fair market value.* The following rules apply for purposes of the regulations under section 385.

(1) *In general.* (i) The fair market value of an instrument is the price at which it would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts.

(ii) *The fair market value of an instrument may be determined by using present value and standard bond tables. See § 1.1232–3(b)(2)(ii)(d).*

(2) *Rules of convenience.* (i) On the day of issue, the fair market value of a straight debt instrument is considered to be equal to the fact amount if—

(A) The stated annual rate of interest on the instrument is reasonable (within the meaning of § 1.385–6(d)), and

(B) The consideration paid for the instrument is equal to the fact amount.

(ii) Notwithstanding any other provision of this paragraph (b), if an instrument is registered with the Securities and Exchange Commission and sold to the public for money, then the fair market value of the instrument on the day of issue is the issue price (as defined in section 1232(b)(2)).

(3) *Examples.* The following examples illustrate the application of paragraph (b) (2) of this section:

Example (1). On March 1, 1985, corporation M issues a $1,000, 8-percent note at par. Assume that on that date, 10 to 12 percent is the range of rates of interest paid to independent creditors on similar instruments issued by corporations in the same general industry, geographic location and financial condition; that the rate of interest in effect under section 6621 is 6 percent; and that the lowest prime rate at any local commercial bank is 9 percent. Also assume that M's debt-to-equity ratio at the end of the taxable year is 1:2. Based on these facts, 8 percent is a reasonable rate of interest within the meaning of § 1.385–6(d), and the fair market value of the note is therefore considered to be $1,000.

Example (2). The facts are the same as in example (1) except that M's debt-to-equity ratio at the end of the taxable year is 2:1. Based on these facts, paragraph (b) (2) (i) of this section does not apply.

Example (3). The facts are the same as in example (2) except that the note provides for annual payments of interest at a rate of 11 percent. Based on these facts, the fair market value of the note is considered to be $1,000.

(c) *Debt-to-equity ratio.* The following rules apply for purposes of the regulations under section 385.

(1) *In general.* The debt-to-equity ratio of a corporation is the ratio that—

(i) The corporation's liabilities (excluding trade accounts payable), bears to

(ii) The stockholders' equity.

(2) *Stockholders' equity.* The stockholders' equity in a corporation is the excess of—

(i) The adjusted basis of its assets, over

(ii) Its liabilities (including trade accounts payable).

(3) *Operating rules.* Except as provided in paragraph (c)(5) of this section, the adjusted basis of a

corporation's assets and the amount of its liabilities shall be determined—

(i) In accordance with the tax accounting principles properly used by the corporation in determining taxable income, and

(ii) Without regard to the treatment of any interest as stock or indebtedness by reason of section 385.

(4) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). On December 31, 1990, corporation M has assets with an adjusted basis of $150,000 and liabilities of $100,000. The stockholders' equity in corporation M is $50,000 (*i.e.*, $150,000−$100,000). Assume that M has no trade accounts payable and that the special rules in paragraph (c)(5) of this section do not apply. Based on these facts, the debt-to-equity ratio of corporation M on December 31, 1990 is 2:1 (*i.e.*, 100,000:$50,000).

Example (2). On December 31, 1990, corporation N has assets with an adjusted basis of $150,000. In addition, N has liabilities of $100,000, including $30,000 of trade accounts payable. The stockholders' equity in N is $50,000 (*i.e.*, $150,000−$100,000). Assume that the special rules in paragraph (c)(5) of this section do not apply. Based on these facts, N has a debt-to-equity ratio on December 31, 1990 of 7:5 (*i.e.*, $70,000:$50,000).

Example (3). On December 31, 1981, foreign corporation F organizes domestic corporation D to acquire and operate a coal mine. Corporation D uses the calendar year as the taxable year. Assume that F transfers $10 million to D on December 31, 1981 in exchange for $5 million of 28-percent 25-year debentures and 100 shares of common stock. Also assume that the interest rate generally paid on similar debentures issued to independent creditors by corporations in the same general industry, geographical location, and financial condition is approximately 14 percent. Based on these facts, the fair market value of the debentures is approximately $9.8 million. Therefore, the balance sheet of corporation D on December 31, 1981 is approximately as follows:

Assets: $10 million cash.

Liabilities and stockholder's equity: Debentures $5.0 million; bond premium $4.8 million; total $9.8 million; liabilities stockholder's equity $0.2 million.

Accordingly, corporation D has a debt-to-equity ratio of approximately 49:1 (*i.e.*, $9.8 million:$0.2 million). For the effect of this ratio under § 1.385–8 (relating to nominal capital) see example (3) of § 1.385–8(d).

(5) *Special rules.* (i) In the case of a corporation that uses the cash method of accounting, the adjusted basis of trade accounts receivable shall be deemed to be equal to the face amount of the receivables (less an appropriate reserve for uncollectibles).

(ii)(A) In determining the debt-to-equity ratio of a corporation at the end of a taxable year, the stockholders' equity shall be increased by the amount of any net operating loss (determined without regard to section 1211(a)) sustained by the corporation during the taxable year.

(B) The following example illustrates the application of this paragraph (c)(5)(ii):

Example. On January 1, 1985, individual A organizes corporation T and transfers $100,000 to it in exchange for $50,000 of stock and a $50,000 note. At the end of T's first taxable year, T has assets with an adjusted basis of $120,000 and liabilities of $80,000 including $30,000 of trade accounts payable. T also has a net operating loss (determined without regard to section 1211(a)) for the taxable year of $10,000. Based on these facts, T's stockholders' equity at the end of the taxable year is $50,000 (*i.e.*, ($120,000–$80,000) + $10,000). Consequently, T's debt-to-equity ratio is 1:1 (*i.e.*, $50,000:$50,000).

(iii) In determining the debt-to-equity ratio of a corporation that is a bank (as defined in section 581) or is primarily engaged in a lending or finance business (as defined in section 279(c)(5)), adjustments shall be made in accordance with the principles of section 279(c)(5)(A).

(iv) In determining the debt-to-equity ratio of an insurance company (as defined in § 1.801–1(b)), insurance reserves shall be treated in the same manner as trade accounts payable.

(v)(A) The debt-to-equity ratio shall be computed without regard to distortions created by temporary contributions to equity.

(B) The following example illustrates the application of this subdivision (v):

Example. Individual A organizes corporation X on December 31, 1985. X uses the calendar year as the taxable year. A contributes $100,000 in cash and property with a basis of $20,000 to X in exchange for 100 shares of common stock and a 10-percent note for $20,000. On January 4, 1986, X redeems 900 shares of stock for $90,000 in cash. Based on these facts, X's debt-to-equity ratio on December 31, 1985 is determined by disregarding the $90,000 paid in redemption of stock on January 4, 1986. Therefore, the debt-to-equity ratio is 2:1 (*i.e.*, $20,000:$10,000).

(vi)(A) If the debt-to-equity ratio of a corporation is distorted because it is a member of a chain of corporations connected by stock ownership, then the debt-to-equity ratio shall be computed in accordance with the principles of section 279(g).

(B) The following examples illustrate the application of this subdivision (vi):

Example (1). On December 31, 1990, individual A organizes corporation X and transfers $10,000 to X in exchange for all of X's stock. In addition, X issues a $10,000 note to A for $10,000 in cash. X then organizes corporation Y and transfers $20,000 to Y in exchange for all of Y's stock. In addition, Y issues a $20,000 note to A for $20,000 in cash. Y in turn organizes corporation Z and transfers $40,000 to Z in exchange for all of Z's stock. In addition, Z issues a $40,000 note to A for $40,000 in cash. Based on these facts, X, Y, and Z each have a debt-to-equity ratio computed under paragraph (c)(1) of this section of 1:1. However, X, Y, and Z are members of a chain of corporations connected by stock ownership, and each corporation's debt-to-equity ratio is distorted because of shareholder loans to the other corporations. The combined debt-to-equity ratio of the chain as a whole (computed in accordance with the principles of section 279(g) by eliminating intercompany investments and liabilities) is 7:1. Therefore, X, Y, and Z are each treated as having a debt-to-equity ratio of 7:1.

Example (2). The facts are the same as in example (1), except that Z issues an $80,000 note to A for $80,000 in cash. Based of these facts, the debt-to-equity ratio of the chain as a whole is 11:1, and the notes issued to A may be treated as stock under § 1.385–8 (relating to nominal capital).

(d) *Instrument*—(1) *In general.* The term "instrument" means any bond, note, debenture or similar written evidence of an obligation. However, it does not include any evidence of an obligation to make a contingent payment of principal arising from the sale of property to the corporation by an independent creditor (as defined in § 1.385–6(a)(2)).

(2) *Illustrations.* The following examples illustrate the application of this paragraph (d):

Example (1). On January 1, 1981, corporation X buys a factory from Y, an independent creditor. In exchange for the factory, Y receives $200,000 in cash on January 1, 1981. In addition, on January 1, 1983, Y will receive a payment in the range of $100,000 to $300,000, depending on the factory's output. Based on these facts, X's obligation to Y is not an instrument, and it is outside the scope of these regulations.

Example (2). The facts are the same as in the example (1), except that the contigent payment due on January 1, 1983 will be in the range of $50,000 to $250,000. In addition, on January 1, 1981, Y receives a $50,000 noninterest-bearing note due absolutely and unconditionally on January 1, 1983. Based on these facts, the $50,000 note is an instrument, and it is treated as stock or indebtedness under these regulations.

(e) *Obligation.* The term "obligation" means an interest in a corporation that is treated as indebtedness under applicable nontax law.

(f) *Hybrid instrument.* The term "hybrid instrument" means an instrument that is convertible into stock or one (such as an income bond or a participating bond) that provides for any contingent payment to the holder (other than a call premium).

(g) *Straight debt instrument.* The term "straight debt instrument" means any instrument other than a hybrid instrument.

§ 1.385–4 Instruments generally.

(a) *General rule.* Except as otherwise provided in the regulations under section 385, all instruments (as defined in § 1.385–3(d)) are treated as indebtedness for all purposes of the Internal Revenue Code. For exceptions, see §§ 1.385–5 (relating to certain hybrid instruments), 1.385–6 (relating to proportionality), 1.385–7 (relating to principal shareholders), and 1.385–8 (relating to nominal capital).

(b) *Operating rules*—(1) *In general.* The regulations under section 385 determine the status of each instrument (*i.e.*, as stock or indebtedness) at the time the instrument is issued. Except as provided in § 1.385–7 (relating to principal shareholders), the status of an instrument can never change. Thus, for example, the status of an instrument is not affected by a mere change in ownership.

(2) *Special rule.* Under § 1.385–7, the status of an instrument can change from indebtedness to stock (*e.g.*, in the event of a failure to pay interest when due).

(c) *Effect of classification*—(1) *In general.* (i) If an instrument is treated as stock under the regulations under section 385, then the instrument is treated as preferred stock for all purposes of the Internal Revenue Code. In particular, all payments of "interest" on the instrument are treated as distributions to which section 301 applies, and all payments of "principal" are treated as distributions in redemption of stock.

(ii) If an instrument becomes stock under § 1.385–7, then the instrument is treated as having been exchanged (without recognition of gain or loss) for preferred stock in a recapitalization to which section 368(a)(1)(E) applies.

(2) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). On January 1, 1982, corporation X issues a $100,000 note to A. The note is due on January 1, 1992, and pays interest at a rate of 10 percent a year. Assume that at first the note is treated as indebtedness under paragraph (a) of this section. However, on January 1, 1987, the note becomes stock under § 1.385–7(c) (relating to nonpayment of interest). A is treated as having exchanged the note for preferred stock on January 1, 1987, in a recapitalization to which section 368(a)(1)(E) applies. Moreover, A does not recognize gain or loss merely because the note is reclassified.

Example (2). The facts are the same as in example (1). In addition, on July 1, 1988, A receives $15,000 in interest on the note. The entire $15,000 payment is treated as a distribution to which section 301 applies.

Example (3). Individuals B and C each own 50 percent of the stock of corporation Y. On January 1, 1990, Y distributes one convertible debenture each to B and C as a dividend. Assume that the convertible debentures are treated as stock under § 1.385–6 (relating to proportionality). Also assume that Y has accumulated earnings and profits of $5 million at the time of the distribution. Based on these facts, the debentures are treated as section 306 stock unless their distribution is taxable under section 305(b)(5).

Example (4). Individual D is a shareholder in corporation Z. On January 1, 1990, D buys a 20-year $10,000 subordinated income bond from Z. D transfers $10,000 to Z for the bond, and the bond is treated as stock under § 1.385–5 (relating to hybrid instruments). On January 1, 1990, the fair market value of the bond is $8,000. Based on these facts, D makes a contribution of $2,000 to the capital of Z on January 1, 1990, and pays $8,000 for the bond. See § 1.385–3(a)(1). In addition, because the bond is treated as preferred stock, section 305(c) and § 1.305–5(b) may apply to the $2,000 difference between the purchase price and the redemption price.

§ 1.385–5 Certain hybrid instruments.

(a) *In general.* A hybrid instrument is treated as stock if, on the day of issue—

(1) The fair market value of the instrument without its equity features, is less than

(2) Fifty percent of the actual fair market value of the instrument (with those features.

(b) *Equity features.* The equity features of an instrument are the right to convert it into stock and the right to contingent payments (other than a call premium).

(c) *Special rule.* Paragraph (a) of this section shall be applied by substituting "Forty-five percent" for "Fifty percent" if clear and convincing evidence shows that, on the day of issue, both the issuer and holder reasonably believe that—

(1) The fair market value of the instrument without its equity features, is not less than

(2) Fifty percent of the actual fair market value of the instrument (with those features).

(d) *Meaning of terms.* The following rules apply for purposes of the regulations under section 385:

(1) *Contingent payment.* The term "contingent payment" means any payment other than a fixed payment of principal or interest.

(2) *Fixed payments; interest.* An instrument provides for fixed payments of interest if both of the following conditions are satisfied:

(i) Interest at a definitely ascertainable rate is due on definitely ascertainable dates.

(ii) Except as provided in paragraph (d)(4) of this section, the holder's right to receive interest when due (or within 90 days thereafter) cannot be impaired without the holder's consent.

(3) *Fixed payments; principal.* An instrument provides for the fixed payment of principal if both of the following conditions are satisfied:

(i) A definitely ascertainable principal sum is payable on demand or due on definitely ascertainable dates.

(ii) Except as provided in paragraph (d)(4) of this section, the holder's right to receive principal when due cannot be impaired without the holder's consent.

(4) *Exceptions.* (i) An instrument may be issued under an indenture that satisfies the requirements of section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp), and

(ii) A holder's right to receive interest or principal may be impaired by the operation of the Federal bankruptcy laws (Title 11, U.S.C.), the Railroad Modification Act (47 U.S.C. 20b), or a similar provision of law.

(5) *Illusory contingencies.* For purposes of paragraph (d)(2) and (3) of this section, the Commissioner may disregard a contingency where there is no reasonably foreseeable circumstance in which it could affect the likelihood of a right to payment.

(6) *Examples.* For examples that illustrate the application of this paragraph (d), see paragraph (a) of each of the examples in paragraph (e) of this section.

(7) *Other items.* (i) For the definition of the term "fair market value", see § 1.385–3(b).

(ii) For the definition of the term "hybrid instrument", see § 1.385–3(f).

(iii) For the definition of the term "instrument", see § 1.385–3(d).

(e) *Illustrations.* The following examples illustrate the application of this section. It is assumed that §§ 1.385–6 through 1.385–8 do not apply to the instruments described in these examples.

Example (1). (a) On July 1, 1987, corporation J issues subordinated income debenture bonds in the principal amount of $1,000 each. The bonds pay interest at the rate of 8 percent a year. However, interest is payable only if earned. The bonds are due on December 31, 2006. Based on these facts, each bond provides for a fixed payment of $1,000 in principal on December 31, 2006, but for contingent payments of interest.

(b) Assume that the fair market value of the 8-percent subordinated income debenture bonds is $1,000 each. The bonds without their equity features would be $1,000 noninterest-bearing subordinated debenture bonds due on December 31, 2006. Assume that the fair market value of such instruments would be $261 each. Based on these facts, the subordinated income debenture bonds are treated as stock because the fair maket value of each debenturre bond without its equity features (*i.e.*, $261) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2 = $500).

Example (2). (a) On March 1, 1988, corporation M issues 6-percent subordinated income debentures in the principal amount of $1,000 each due on March 1, 2038. Annual payment of interest is mandatory if net income is available and optional otherwise. Accumulated interest must be paid in all events at maturity. Based on these facts, each debenture provides for fixed payments of $1,000 in principal and $3,000 in simple interest on March 1, 2038.

(b) Assume that the fair market value of the 6-percent subordinated income debentures is $1,000 each. The debentures without their equity features would provide for the payment of $4,000 (total principal and interest) on March 1, 2038, and would be subordinated to the general creditors of corporation M. Assume that the fair market value of such instruments would be $265 each. Based on these facts, the income debentures are treated as stock because the fair market value of each income debenture without its equity features (i.e., $265) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2 = $500).

Example (3). (a) On February 7, 1987, corporation P issues written obligations called "debenture preference stock" in the principal amount of $50 each. The debenture preference stock bears interest at 6 percent a year. In addition, at the discretion of the board of directors of corporation P, the holders of the debenture preference stock may share in the profits of corporation P after a dividend of $6 has been paid on each share of the corporation's common stock. The debenture preference stock matures on December 31, 2017, except that the maturity may be extended from time to time (but in no event beyond December 31, 2037) at the discretion of P's board of directors. Based on these facts, the debenture preference stock provides for fixed payments of interest at a rate of 6 percent and a fixed payment of $50 in principal on December 31, 2037.

(b) Assume that the fair market value of the debenture preference stock is $50 each. The debenture preference stock without its equity features would be 6-percent non-participating debentures due on December 31, 2037. Assume that the fair market value of such instruments would be $20.12 each. Based on these facts, the debenture preference stock is treated as stock because its fair market value without equity features (*i.e.*, $20.12) is less than 50 percent of its actual fair market value (*i.e.*, $50/2 = $25).

Example (4). (a) On March 18, 1981, S lends $70,000 to corporation F pursuant to a written agreement. The loan is secured by a second mortgage on real property owned by corporation F and is due in 10 years. Under the written agreement, S is entitled to interest at the rate of 13 percent a year. In addition, S is entitled to 50 percent of any appreciation in the value of the real property. Based on these facts, S has a right to fixed payments of interest at a rate of 13 percent a year and a fixed payment of $70,000 in principal on March 18, 1991.

(b) Assume that the fair market value of the obligation to S is $70,000. This obligation without its equity features would be a simple 10-year, 13-percent second mortgage note. Assume that the fair market value of such a note would be $42,017. Based on these facts, the obligation to S is treated as indebtedness because its fair market value without equity features (*i.e.*, $42,017) is not less than 50 percent of its actual fair market value (*i.e.*, $70,000/2 = $35,000).

Example (5). (a) On December 1, 1989, corporation T issues variable interest notes in the principal amount of $1,000 each. The notes pay interest at a rate that may vary between 2 percent and 10 percent, depending on the earnings of corporation T. The board of directors of corporaton T may, in its discretion, defer all payments of interest until the notes mature on December 1, 2014, and may subordinate the notes to other debts of corporation T. Based on these facts, each note provides for fixed payments of $1,000 in principal and $500 in interest (*i.e.*, 2% x $1,000 x 25 years) on December 1, 2014.

(b) Assume that the fair market value of the variable interest notes is $1,000 each. The notes without their equity features would provide for the payment of $1,500 (total principal and interest) on December 1, 2014, and would be subject to subordination at the discretion of the board of directors of corporaton T. Assume that the fair market value of such instruments would be $219 each. Based on these facts, the variable interest notes are treated as stock because the fair market value of each note without its equity features (*i.e.*, $219) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2 = $500).

Example (6) (a) On April 1, 1984, corporation U issues inflation provision notes in the principal amount of $557,700. The notes pay interest at a fixed rate of 6 percent on a fluctuating maturity value, and are due on April 1, 1994. The maturity value is determined according to the Consumers' Price Index, published monthly by the Bureau of Labor Statistics. Based on these facts, the inflation provision notes provide for fixed payments of both principal and interest.

(b) The inflation provision notes are treated as indebtedness because they are straight debt instruments.

Example (7). (a) Corporation W owns a tract of land and is building 350 houses there. On August 15, 1985, P lends $300,000 to corporation W pursuant to a written agreement. The agreement provides that corporation W will pay $175,000 to P "in lieu of interest," with $500 payable on the sale of each house. In addition, W is obligated to return P's $300,000 investment on demand at any time after December 31, 1987. The loan is secured by the general credit of corporation W, and the written agreement contains appropriate protective provisions. Based on these facts, the written agreement provides for the fixed payment of $300,000 in principal and for a contingent payment of $175,000.

(b) Assume that the fair market value of the obligation to P is $300,000. The obligation without its equity features would be a noninterest-bearing note for $300,000 due on December 31, 1987. Assume that the fair market value of such a note would be $170,000. Based on these facts, the obligation to P is treated as indebtedness because its fair market value without equity features (*i.e.*, $170,000) is not less than 50 percent of its actual fair market value (*i.e.*, $300,000/2 = $150,000).

Example (8). (a) On May 1, 1981, corporation X issues subordinated debentures due on May 1, 1991, in the principal amount of $1,000 each. Interest is payable annually at the rate of 7 percent a year. Additional interest, which is contingent on the net profits of corporation X, is payable at a maximum rate of 1 percent a year. Default in the payment of interest, while not accelerating the maturity of the debenture, gives rise to a cause of action which the debenture holder may maintain against corporation X for nonpayment of interest. Based on these facts, each debenture provides for a fixed $1,000 payment of principal and for fixed payments of interest at the rate of 7 percent a year.

(b) Assume that the fair market value of the subordinated debentures is $1,000 each. The debentures without their equity features would be 7-percent subordinated debentures with no provision for additional interest. Assume that the fair market value of such debentures would be $949 each. Based on these facts, the subordinated debentures issued by corporation X are treated as indebtedness because the fair market value of each debenture without its equity features (*i.e.*, $949) is not less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (9). (a) Corporation Z owns a large tract of land and is engaged in the business of developing, subdividing, and selling the land. On January 25, 1986, corporation Z issues noninterest-bearing debenture bonds having a face value of $500,000 and a maturity date of January 25, 2011. The retirement of the bonds will be secured by the deposit of 10 percent of corporation Z's gross receipts into a special bank account. However, if corporation Z is liquidated after all of its lands have been sold, it will have no further obligation to retire any of the outstanding bonds unless the 10-percent payments have not been made as required. Based on these facts, the bonds do not provide for fixed payments of either principal or interest.

(b) The debenture bonds without their equity features would pay neither principal nor interest. Such instruments would be worthless. Therefore, the debenture bonds are treated as stock.

Example (10). (a) On August 1, 1983, corporation U issues debentures in the principal amount of $1,000 each. The debentures pay interest at a fixed rate of 8 percent, are due on August 1, 1993, and provide for the payment of principal and interest in German marks. Based on these facts, the debentures provide for fixed payments of both principal and interest.

(b) The debentures are treated as indebtedness because they are straight debt instruments.

(f) *Additional illustrations.* The following examples are additional illustrations of the application of this section. It is assumed that §§ 1.385–6 through 1.385–8 do not apply to the instruments described in these examples.

Example (1). On January 1, 1990, corporation M issues 7-percent Series A bonds in the principal amount of $1,000 each.

The bonds are due on January 1, 2015, and are secured by the general credit of corporation M. They are registered with the Securities and Exchange Commission and sold to the public at par. Because the Series A bonds are straight debt instruments, they are treated as indebtedness.

Example (2). The facts are the same as in example (1), except that the instruments issued by corporation M are 9-percent Series B income bonds. Interest is not payable on the Series B income bonds unless earned and is noncumulative. A Series B bond without its equity features would be a $1,000 noninterest-bearing bond. Assume that the fair market value of such a noninterest-bearing bond would be $184. Based on these facts, the Series B income bonds are treated as stock because the fair market value of each bond without its equity features (*i.e.*, $184) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (3). The facts are the same as in example (2), except that the Series B income bonds are due on January 1, 2000. A Series B bond without its equity features would be a $1,000 noninterest-bearing bond due on January 1, 2000. Assume that the fair market value of such a noninterest-bearing bond would be $508. Based on these facts, the Series B income bonds are treated as indebtedness because the fair market value of each bond without its equity features (*i.e.*, $508) is not less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (4). The facts are the same as in example (3), except that the Series B income bonds bear 10-percent interest and are subordinated to the general creditors of corporation M. A Series B bond without its equity features would be a $1,000 subordinated noninterest-bearing bond due on January 1, 2000. Assume that the fair market value of such a subordinated noninterest-bearing bond would be $463. Based on these facts, the Series B income bonds are treated as stock because the fair market value of each bond without its equity features (*i.e.*, $463) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (5). The facts are the same as in example (2), except that the Series B income bonds pay 8-percent cumulative interest, and accumulated interest becomes unconditionally due at maturity. A Series B bond without its equity features would be a $1,000 bond paying simple interest at 8 percent, with the interest not due until maturity on January 1, 2015. Assume that the fair market value of such an instrument would be $553. Based on these facts, the Series B income bonds are treated as indebtedness because the fair market value of each bond without its equity features (*i.e.*, $553) is not less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (6). The facts are the same as in example (1), except that the instruments issued by corporation M are 6-percent Series C convertible bonds. Each Series C bond is convertible into two shares of common stock of corporation M. A Series C bond without its equity features would be a $1,000 6-percent bond due on January 1, 2015. Assume that the fair market value of such a bond would be $883. Based on these facts, the Series C convertible bonds are treated as indebtedness because the fair market value of each bond without its equity features (*i.e.*, $883) is not less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (7). The facts are the same as in example (6), except that the Series C convertible bonds pay 2-percent interest and are convertible into four shares of stock of corporation M. A Series C bond without its equity features would be a $1,000, 2-percent bond due on January 1, 2015. Assume that the fair market value of such a bond would be $417. Based on these facts, the Series C convertible bonds are treated as stock because the fair market value of each bond without its equity features (*i.e.*, $417) is less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (8). The facts are the same as in example (1), except that the instruments issued by corporation M are 7-percent Series D convertible income bonds due on January 1, 2015. The Series D bonds are convertible into two shares of common stock of corporation M, and accumulated interest on the Series D bonds is unconditionally due at maturity. A Series D bond without its equity features would be a $1,000 bond paying simple interest at 7 percent with the interest not due until maturity on January 1, 2015. Assume that the fair market value of such a bond would be $506. Based on these facts, the Series D convertible income bonds are treated as indebtedness because the fair market value of each bond without its equity features (*i.e.*, $506) is not less than 50 percent of its actual fair market value (*i.e.*, $1,000/2=$500).

Example (9). The facts are the same as in example (4), except that the Series B income bonds are privately placed with corporation X. In reliance on an independent appraisal, both X and M reasonably believe that the fair market value of the Series B income bonds without their equity features is $510 each. Based on these facts, the Series B income bonds are treated as indebtedness. See paragraph (c) of this section.

§ 1.385-6 Proportionality.

(a) *In general*—(1) *Scope.* (i) This section applies to a class or classes of instruments (whether or not issued pursuant to a plan) if there is a substantial identity of interest among shareholders of the issuing corporation and holders of the instruments. Under this section, certain hybrid instruments and certain instruments issued for property may be treated as stock.

(ii) Generally, a substantial identity of interest results from substantial proportionality between holdings of stock and instruments. However, if a corporation's stock and instruments are widely held and if the instruments are separately traded and readily marketable, then there is no substantial identity of interest.

(iii) If holdings of stock and instruments would be substantially proportionate on the exercise of any options, warrants, conversion rights, or any similar rights, then they will be considered substantially proportionate. On the other hand, if actual holdings of stock and instruments are substantially proportionate, then these rights will not be taken into account.

(iv) In determining whether holdings of stock and convertible instruments are substantially proportionate, stock into which the instruments are convertible will not be taken into account.

(v) A substantial identity of interest exists among members of a family described in § 318(a)(1).

(2) *Exception.* (i) This section does not apply to any instrument held by an independent creditor.

(ii) For purposes of this section, an independent creditor is one who—

(A) Owns stock possessing less than 5 percent of the total combined voting power of all classes of stock entitled to vote,

(B) Owns less than 5 percent of the total combined fair market value of all classes of stock, and

(C) Has no interest in the corporation (including an interest as officer, director or employee), other than an interest as a creditor or a less-than-five-percent stock interest described in paragraphs (a)(2)(ii)(A) and (B) of this section.

(iii) In determining whether any creditor is independent—

(A) Any stock constructively owned by the creditor under section 318(a) is taken into account;

(B) Any other stock constructively owned by any other person under section 318(a)(4) (relating to options) is not taken into account; and

(C) The constructive ownership rules of section 318(a) shall be applied by substituting "5 percent" for "50 percent" in sections 318(a)(2)(C) and 318(a)(3)(C).

(3) *Illustrations.* The following examples illustrate the application of this paragraph (a):

Example (1). A and B each own 50 percent of the stock of corporation X. In addition, A owns 40 percent of a class of debentures issued by X, and B owns the remaining 60 percent. Based on these facts, holdings of the debentures and holdings of stock in X are substantially proportionate, and this section applies to the debentures.

Example (2). A, B and C each own 100 shares of common stock in corporation Y. Y has no other stock of any class outstanding. However, Y does have outstanding convertible debentures in the principal amount of $100,000. A owns $40,000 of the debentures, B owns $30,000, C owns $20,000, and an independent creditor owns the remaining $10,000. Based on these facts, holdings of the debentures and holdings of stock in Y are substantially proportionate, and this section applies to the debentures held by A, B and C. However, this section

does not apply to the debentures held by the independent creditor.

Example (3). The facts are the same as in example (2), except that A, B and C each own $10,000 of debentures, and the independent creditor owns $70,000. Based on these facts, the holdings of stock and debentures are not substantially proportionate.

Example (4). A, B and C each own ⅓ of the common stock of corporation Z. In addition, Z issues $100,000 of 10-year, 8-percent debentures to A, $100,000 of 12-year, 8½-percent debentures to B, and $100,000 of 15-year, 9-percent debentures to C. Based on these facts, the debentures are held in substantial proportion by A, B and C. Therefore, this section applies to the debentures.

Example (5). A and B each own 50 percent of the common stock of corporation U. In addition, U has outstanding $100,000 of 7-percent debentures of which A's spouse holds 60 percent and B holds 40 percent. Based on these facts, there is a substantial identity of interest among the shareholders and debenture holders. Therefore, this section applies to the debentures.

Example (6). Corporation V has more than 100,000 shareholders. On January 1, 1990, V issues $10 of debentures on each share of stock as a dividend. The stock and debentures are traded separately on a national securities exchange. Based on these facts, there is no substantial identity of interest between the shareholders and the debenture holders, and this section therefore does not apply to the debentures.

Example (7). A owns all the stock of corporation W. In addition, W has outstanding $100,000 of debentures, of which A owns $50,000 and an independent creditor owns $50,000. Based on these facts, this section does not apply to the debentures.

Example (8). A owns all 100 shares of stock in corporation Y. A also owns 50 percent of a class of senior debentures issued by Y, and B owns the remaining 50 percent. In addition, A and B each own 50 perent of a class of junior debentures issued by Y, which are convertible into a total of 200 shares of Y stock. Based on these facts, holdings of stock in Y and the senior debentures would be substantially proportionate on the exercise of B's right to convert the junior debentures into 100 shares of Y stock. Therefore, holdings of Y stock and the senior debentures are treated as substantially proportionate under paragraph (a)(1)(iii) of this section. Consequently, this section applies to the senior debentures. However, in determining whether holdings of Y stock and the junior debentures are substantially proportionate, the shares of stock into which the junior debentures are convertible are not taken into account. (See paragraph (a)(1)(iv) of this section.) Therefore, holdings of Y stock and the junior debentures are not substantially proportionate.

Example (9). A and B each own 100 shares of common stock in corporation Z, and Z has no other shares of stock outstanding. In addition, A and B each own $50,000 of debentures issued by Z, and A also owns an option to acquire 100 shares of Z common stock. Based on these facts, holdings of the debentures and stock in Z are substantially proportionate, and this section applies to the debentures.

(b) *Hybrid instruments*—(1) *In general.* If—

(i) A corporation issues a class of hybrid instruments, and

(ii) This section applies to the instruments immediately after they are issued,

then the instruments are treated as stock.

(2) *Hybrid instrument.* For the definition of the term "hybrid instrument", see § 1.385–3(f).

(3) *Illustration.* The following example illustrates the application of this paragraph (b):

Example. Corporation X has outstanding 100 shares of common stock and no other shares of any other class. Individual A owns 50 shares of common stock in X, individual B owns 30 shares, and individual C owns 20 shares. On January 1, 1990, corporation X issues $100,000 of convertible debentures. Sixty thousand dollars of the convertible debentures are issued to A, $25,000 are issued to B, and the remaining $15,000 are issued to C. Based on these facts, the convertible debentures are treated as stock.

(c) *Instruments issued for property*—(1) *In general.* An instrument issued by a corporation is treated as stock if—

(i) This section applies to the instrument immediately after it is issued, and

(ii) The stated annual rate of interest on the instrument is not reasonable (within the meaning of paragraph (d) of this section).

(2) *Special rules.* (i) This paragraph (c) does not apply to an instrument issued for money.

(ii) For purposes of this paragraph (c), the reasonableness of a rate of interest is determined on the day an instrument is issued.

(3) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). J organizes corporation W on December 10, 1985 to operate a distributorship of radios, television sets, and other types of electrical appliances. On the same day, J transfers certain franchises, cash, and other assets to corporation W in exchange for all of the capital stock of corporation W and $100,000 of 10-year, 5-percent debenture bonds. Assume that on December 10, 1985, 5 percent is not a reasonable rate of interest (within the meaning of paragraph (d) of this section). Based on these facts, the debenture bonds are treated as stock.

Example (2). Corporation X operates a wholesale electrical supply business. In the course of a recapitalization on December 30, 1990, X issues 2,100 class B debentures to L in exchange for common stock. Immediately after the recapitalization, L holds 90 percent of the common stock of X. The principal amount of each class B debenture is $100, and each debenture pays $50 a year in interest. Assume that on December 30, 1990, 50 percent is not a reasonable rate of interest (within the meaning of paragraph (d) of this section). Based on these facts, the class B debentures issued to L are treated as stock.

Example (3). On January 1, 1987, individuals A, B and C transfer a tract of undeveloped land and $4,500 in cash to newly formed corporation X. In exchange, each receives 100 shares of stock and a 2-year, 10-percent promissory note for $110,000. Assume that 10 percent is not a reasonable rate of interest (within the meaning of paragraph (d) of this section). Based on these facts, the promissory notes are treated as stock for all purposes of the Internal Revenue Code. In particular, the notes are not treated as "other property" within the meaning of section 351(b). Thus, no gain or loss is recognized on the transfer of the land to X (see section 351), and X's basis in the land is the same as it was in the hands of A, B and C (see section 362(a)(1)).

(d) *Reasonable rate of interest*—(1) *In general.* In determining whether the annual rate of interest on an instrument issued by a corporation is reasonable, a rate within the range of rates paid to independent creditors on similar instruments by corporations in the same general industry, geographic location, and financial condition on the date the determination is made is considered reasonable.

(2) *Rule of convenience.* An annual rate of interest on an instrument is considered to be reasonable if—

(i) On the date the determination is made, it is between the rate in effect under section 6621 and the prime rate in effect at any local commercial bank, or equals either of such rates, and

(ii) At the end of the taxable year in which the determination is made, the debt-to-equity ratio of the issuing corporation is not greater than 1:1.

(3) *Exception.* Paragraph (d)(2) of this section does not apply to an instrument that evidences a nonrecourse liability.

(e) *Meaning of terms*—(1) *Debt-to-equity ratio.* For the definition of the term "debt-to-equity ratio", see § 1.385–3(c).

(2) *Instrument.* for the definition of the term "instrument", see § 1.385–3(d).

§ 1.385–7 Principal shareholders.

(a) *In general.* This section applies to certain instruments owned by the principal shareholders of the issuing corporation. It has effect where there is a change in terms or a failure to pay principal or interest, or where an instrument is payable on demand.

(b) *Change in terms*—(1) *In general.* If one of the principal shareholders of a corporation—

(i) Owns an instrument treated as indebtedness that was issued by the corporation after December 31, 1980, and

(ii) Agrees to postpone the maturity date or otherwise to make a substantive change in the terms of the instrument,

then (solely for purposes of the regulations under section 385) the instrument is treated as newly issued in exchange for property on the day of agreement. Thus, beginning on the day of agreement the instrument may be treated as stock under § 1.385–5 (relating to hybrid instruments), § 1.385–6 (relating to proportionality), or § 1.385–7(d) (relating to instruments payable on demand). However, § 1.385–8 (relating to nominal capital) does not apply unless there is an increase in the principal amount of the instrument.

(2) *Substantive.* For purposes of this paragraph (b), each change in the terms of an instrument is substantive if the fair market value of the instrument could be materially affected by that change. Thus, for example, subordination (however effected) or a change in interest rate is ordinarily a substantive change. On the other hand, a mere substitution of collateral need not be a substantive change. In addition, prepayment will not be considered a substantive change in terms.

(3) *Day of agreement.* For purposes of this paragraph (b), the "day of agreement" is the day the issuer and the holder enter into a binding contract to change the terms of an instrument.

(4) *Illustrations.* The following examples illustrate the application of this paragraph (b):

Example (1). A is the sole shareholder of corporation X. On January 1, 1990, X issues a $10,000 9-percent note to A for $10,000 in cash. The note is due on January 1, 2000, and is treated as indebtedness under § 1.385–4(a). However, on December 10, 1999, A and X agree to extend the maturity of the note until January 1, 2015. Assume that under the terms of the agreement the note will continue to pay 9 percent interest, and that on December 10, 1999, 9 percent is not a reasonable rate of interest (within the meaning of § 1.385–6(d)) for a note due on January 1, 2015. Based on these facts, the note would be treated as stock under § 1.385–6(c) if it were newly issued in exchange for property on December 10, 1999. Therefore, the note is reclassified as stock on December 10, 1999.

Example (2). The facts are the same as in example (1). In addition, X issues a $20,000, 10-percent note to A for $20,000 in cash on January 1, 2005. The note is due on January 1, 2007, and is treated as indebtedness under § 1.385–4(a). On December 10, 2005, A and X agree to extend the maturity of the note until January 1, 2037, and to increase the interest rate from 10 to 11 percent. For purposes of paragraph (b) of this section, both changes in terms made on December 10, 2005 are substantive because both could materially affect the fair market value of the note. The result is the same even if the two changes are mutually offsetting in the sense that, taken together, they have no material effect on the fair market value of the note.

(c) *Nonpayment of interest*—(1) *In general.* If—

(i) The owner of an instrument is one of the principal shareholders of the issuing corporation,

(ii) The corporation fails to pay all or part of the interest accrued on the instrument during a taxable year, and

(iii) The owner of the instrument fails to pursue available remedies with the ordinary diligence of an independent creditor,

then the instrument is treated as stock beginning on the first day of the taxable year in which the failure to pay occurs.

(2) *Illustrations.* The following examples illustrate the application of paragraph (c)(1) of this section:

Example (1). M is the sole shareholder of X, a corporation that uses the calendar year as the taxable year. On January 1, 1985, X issues $100,000 of 10-year, 9-percent debentures. Ten thousand dollars of the debentures are issued to M and are treated as indebtedness under § 1.385–4(a). The remaining debentures are issued to independent creditors. X pays all interest accrued on the debentures semiannually until 1990. Because of adverse business conditions, X does not pay the interest accrued in 1990 on the debentures held by M. X continues to pay interest on the debentures held by the independent creditors, but M does not bring suit against X for nonpayment of interest. The debentures held by M are treated as stock beginning on January 1, 1990. However, the debentures held by independent creditors are not affected.

Example (2). The facts are the same as in example (1), except that X does not pay interest to either M or the other debenture holders. Additionally, the debenture holders as a group decide not to bring suit against X in the hope that business conditions will improve, and that X will be able to meet its obligations. The debentures held by M continue to be treated as indebtedness because M has not failed to pursue available remedies with the ordinary diligence of an independent creditor.

(3) *Special rule.* (i) For purposes of this paragraph (c), interest accrued while the owner of the instrument is not one of the principal shareholders of the issuing corporation is disregarded.

(ii) The following example illustrates the application of this subparagraph (3):

Example. Individual A owns all the stock of X, a corporation that uses the calendar year as the taxable year. On January 1, 1981, X issues $10,000 of 8-percent debentures to B, an independent creditor. The debentures are treated as indebtedness under § 1.385–4(a) (relating to instruments generally). Interest on the debentures is payable semiannually on January 1 and July 1 of each year. X fails to make the $400 payment of interest due on July 1, 1985, and A then buys the debentures from B. X actually pays the $400 interest due on December 31, 1985, but A forgives the $400 payment that was due on July 1, 1985. Based on these facts, the debentures are not treated as stock under this paragraph (c). There is no requirement that interest accrued while B held the debentures must be paid.

(d) *Payable on demand*—(1) *Initial classification.* If on the day of issue—

(i) By its terms, an instrument is payable on demand,

(ii) The owner of the instrument is a principal shareholder of the issuing corporation, and

(iii) The stated annual rate of interest on the instrument is not reasonable (within the meaning of § 1.385–6(d)),

then the instrument is treated as stock.

(2) *Reclassification.* If for any taxable year (or portion thereof)—

(i) Either by its terms or by operation of paragraph (d)(3) of this section, an instrument is payable on demand,

(ii) The owner of the instrument is a principal shareholder of the issuing corporation, and

(iii) The issuing corporation fails to pay interest on the instrument at a reasonable rate;

then the instrument is treated as stock beginning on the first day of that taxable year (or portion thereof). For purposes of this subparagraph (2), a rate of interest is considered reasonable if it is reasonable (within the meaning of § 1.385–6(d)) as of any day of the taxable year.

(3) *Nonpayment of principal.* If—

(i) The issuing corporation fails to pay principal on an instrument within 90 days after the principal is due, and

(ii) The holder of the instrument fails to pursue available remedies with the ordinary diligence of an independent creditor,

then for purposes of this paragraph (d) the instrument is considered to be payable on demand beginning on the day after the day the principal is due.

(4) *Exceptions.* (i) This paragraph (d) does not apply to an instrument that is actually retired within 6 months after the day of issue; provided that the sum of—

(A) The outstanding principal amount of all such instruments, plus

(B) The outstanding balance of all unwritten loans described in § 1.385–9(a)(2),

does not exceed $25,000 on the day of issue. For this purpose, an instrument is not considered to be actually retired if it is reissued, renewed, or offset in any manner.

(ii)(A) If a failure to pay interest on an instrument at a reasonable rate results solely from a failure to pay interest when due, then paragraph (d)(2) of this section does not apply. See, however, paragraph (c) of this section (relating to nonpayment of interest when due).

(B) The following example illustrates the application of this subdivision (ii):

Example. Individual A owns 25 percent of the stock of corporation X. On January 1, 1990, X issues a 14-percent demand note to A. X uses the calendar year as the taxable year. Assume that 14 percent is a reasonable rate of interest (within the meaning of § 1.385–6(d)) on January 1, 1990, but that X fails to pay any part of the interest due on the note for the taxable year 1990. Based on these facts, paragraph (d)(2) of this section does not apply. However, if A has failed to pursue available remedies with the ordinary diligence of an independent creditor, the note will be treated as stock under paragraph (c) of this section.

(5) *Illustrations.* The following examples illustrate the application of this paragraph (d) and related provisions:

Example (1). J and N operate a partnership that distributes beer. On April 1, 1989, J and N organize corporation T and transfer the assets of the partnership to the corporation. In exchange for the assets of the partnership, J and N each receive half of the common stock of corporation T and a noninterest-bearing demand note for $45,000. Based on these facts, the demand notes are treated as stock.

Example (2). On August 24, 1986, F organizes corporation G to own and operate an outdoor amusement business. Corporation G uses the calendar year as the taxable year. On August 25, 1986, F transfers trucking equipment, mechanical rides, and other assets to corporation G in exchange for all the capital stock of corporation G and a 6-percent note for $200,000. The note is due on August 25, 1990, and is classified as indebtedness under § 1.385–4(a). However, corporation G does not pay the principal within 90 days after it is due, and F does not pursue available remedies against the corporation. Based on these facts, beginning on August 26, 1990, the note is considered to be payable on demand. Assume that during 1990 the lowest reasonable rate of interest on a demand note issued by corporation G (taking into account the financial condition of the corporation) is 12 percent a year, and that under applicable local law the note continues to pay 6 percent interest after maturity. Based on these facts, the note is treated as stock on August 26, 1990.

Example (3). The facts are the same as in example (2) except that G agrees to pay 12 percent interest on the note. In addition, assume that 12 percent is a reasonable rate of interest on August 26, 1990. Based on these facts, the note is not treated as stock.

Example (4). The facts are the same as in example (3), except that corporation G issues a 12-percent demand note for $200,000 to F in payment for the 6-percent note due on August 25, 1990. Based on these facts, the 6-percent note is not treated as stock.

(e) *Meaning of terms*—(1) *Failure to pay.* For purposes of this section, a corporation fails to pay interest on an instrument during a taxable year of the corporation if the interest is not actually paid within 90 days after the end of the year.

(2) *Fair market value.* For the definition of the term "fair market value," see § 1.385–3(b).

(3) *Instrument.* For the definition of the term "instrument," see § 1.385–3(d).

(4) *Principal shareholders.* (i) The term "principal shareholder" means a person who—

(A) Owns 5 percent or more of the total combined fair market value of all classes of stock of the corporation, or

(B) Owns stock possessing 5 percent or more of the total combined voting power of all classes of stock entitled to vote.

(ii) In determining whether any shareholder is a principal shareholder, the following rules apply:

(A) Any stock constructively owned by the shareholder under section 318(a) is taken into account;

(B) Any other stock constructively owned by any other person under section 318(a)(4) (relating to options) is not taken into account; and

(C) The constructive ownership rules of section 318(a) shall be applied by substituting "5 percent" for "50 percent" in §§ 318(a)(2)(C) and 318(a)(3)(C).

(iii) The following example illustrates the application of this paragraph (e)(4) of this section:

Example. Individual A owns all 100 outstanding shares of stock and an option to acquire an additional 1,000 shares of stock in corporation X. Individual B owns an option to acquire 10 shares of stock in corporation X. Applying the constructive ownership rules of section 318, B is considered to own 10 out of 110 outstanding shares of stock in X. See section 318(a)(4). Therefore, B is a principal shareholder of X.

§ 1.385–8 Nominal capital.

(a) *In general.* Any instruments are treated as stock if—

(1) The debt-to-equity ratio of the issuing corporation (determined under § 1.385–3(c) at the end of the taxable year in which the instruments are issued) is greater than 10:1, and

(2) Immediately after the instruments are issued, the debt-to-equity ratio of the issuing corporation, computed by using the fair market value of the corporation's outstanding stock as the stockholders' equity, is greater than 10:1.

(b) *Instrument.* For the definition of the term "instrument," see § 1.385–3(d).

(c) *Exception.* This section does not apply to instruments issued in exchange for an equal or greater principal amount of indebtedness.

(d) *Illustrations.* The following examples illustrate the application of this section:

Example (1). Corporation M uses the calendar year as the taxable year. On January 1, 1982, M issues $100,000 of 15-percent debentures. Corporation M's debt-to-equity ratio (computed immediately after the debentures are issued on January 1, 1982, by using the fair market value of M's outstanding stock as the stockholders' equity) exceeds 10:1. In addition, corporation M's debt-to-equity ratio (computed under § 1.385–3(c) on December 31, 1982) is greater than 10:1. Based on these facts, the debentures are treated as stock.

Example (2). The facts are the same as in example (1), except that M's assets include substantially appreciated real estate. As a result, M's debt-to-equity ratio (computed immediately after the debentures are issued on January 1, 1982, by using the fair market value of M's outstanding stock as the stockholders' equity) does not exceed 10:1. Consequently, the debentures are not treated as stock by reason of this section.

Example (3). The facts are the same as in example (3) of § 1.385–3(c)(4). Because D's debt-to-equity ratio on December 31, 1981, computed by using the fair market value of D's common stock as the stockholders' equity, is greater than 10:1, the debentures are treated as stock under this section.

Example (4). Corporation N uses the calendar year as the taxable year. On January 1, 1981, corporation N issues $25,000 in 10-year, 12-percent debentures. On December 31, 1981, N's debt-to-equity ratio is 1:1, and the debentures are treated as indebtedness under § 1.385–4(a). Because of financial difficulties, N is unable to pay the debentures when they mature on December 31, 1990. In order to avoid forcing N into bankruptcy, the debenture holders agree to accept an equal principal amount of new convertible debentures in full satisfaction of their claims on December 31, 1990. Based on these facts, the convertible debentures are not treated as stock under this section. The result is the same whether or not N's debt-to-equity ratio exceeds 10:1 on December 31, 1990. See paragraph (c) of this section.

§ 1.385–9 Certain unwritten obligations.

(a) *Scope*—(1) *In general.* This section applies to any loan of money made to a corporation by one of its shareholders, unless all material terms and conditions of the loan are contained in a written document (or a set of related documents) enforceable under applicable nontax law.

(2) *Exception.* This section does not apply to loans that are actually repaid within six months after the day they are made, but only to the extent that the outstanding balance of such loans does not exceed $25,000. For this purpose, a loan is not considered to be actually repaid if it is renewed or offset in any manner.

(b) *Initial classification*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, a loan to which this section applies is treated as a contribution to capital (as of the day the loan is made) for all purposes of the Internal Revenue Code.

(2) *Exception.* A loan to which this section applies is treated as indebtedness if the debt-to-equity ratio of the debtor corporation (determined at the end of the taxable year in which the loan is made) is not greater than 1:1.

(c) *Reclassification*—(1) *In general.* If a loan is treated as indebtedness under paragraph (b)(2) of this section, and if the debtor corporation fails to pay interest on the loan at a rate described in § 1.385–6(d)(2) during any taxable year of the debtor corporation, then the loan is reclassified as a contribution to capital as of the first day of the taxable year. For purposes of this subparagraph (1), a rate is considered to be described in § 1.385–6(d)(2) if it is so described as of any day of the taxable year.

(2) *Special rules.* For purposes of paragraph (c)(1) of this section, a corporation is not considered to pay interest on a loan during a taxable year unless the interest is actually paid within 90 days after the end of the year.

(d) *Effect of this section*—(1) *Initial classification.* If a loan is treated as a contribution to capital under paragraph (b)(1) of this section, then all payments of principal and interest on the loan are treated as distributions to which section 301 applies.

(2) *Reclassification.* If a loan is reclassified as a contribution to capital under paragraph (c) of this section at the beginning of a taxable year, then all payments of principal and interest made on the loan after the beginning of that year are treated as distributions to which section 301 applies. In addition, once a loan is reclassified under paragraph (c) of this section, its status as a contribution to capital can never change.

(e) *Debt-to-equity ratio.* For the definition of the term "debt-to-equity", see § 1.385–3(c).

(f) *Illustrations.* The following examples illustrate the application of this section:

Example (1). Corporation M uses the calendar year as the taxable year. A is the sole shareholder of M. On March 1, 1986, A advances $73,000 to M, and M establishes an account payable to A in the amount of $73,000. The account payable is entered on the books of M but otherwise is not evidenced by a written document. On December 31, 1986, the debt-to-equity ratio of corporation M is 3:2. Based on these facts, the account payable is classified as a contribution to capital.

Example (2). The facts are the same as in example (1), except that the debt-to-equity ratio of corporation M on December 31, 1986, is 2:3. The account payable is classified as indebtedness. However, if corporation M fails to pay interest at a rate described in § 1.385–6(d)(2) on the account payable for the last 10 months of 1986, the account payable will be reclassified as a contribution to capital (effective retroactively to March 1, 1986).

§ 1.385–10 Locked interests.

(a) *In general.* For purposes of the regulations under section 385, two or more distinct interests in a corporation are treated as separate even though title to one cannot be transferred without transferring title to the others. Thus, for example, if a corporation issues a bond with a nondetachable warrant, the bond and the warrant are treated as two separate interests in the corporation.

(b) *Illustrations.* The following examples illustrate the application of this section:

Example (1). On January 1, 1989, corporation X issues 20-year, $1,000 debentures with nondetachable warrants. Each warrant entitles the holder to buy 100 shares of common stock in X for $10 a share. Based on these facts, the debentures and the warrants are treated as separate interests.

Example (2). The facts are the same as in example (1), except that each debenture can be surrendered on the exercise of a warrant in lieu of cash. The result is the same as in example (1).

Example (3). On January 1, 1990, corporation Y issues a 25-year, $1,000 debenture to individual A for $1,000 in cash. Y has no other debentures outstanding. The debenture pays interest at a rate of $100 a year; $50 is payable in all events and the other $50 is noncumulative and payable only if earned. Individual A owns 80 percent of the stock in X, and the fair market value of the debenture is $1,000. Based on these facts, the debenture is treated as stock under § 1.385–6(b) (relating to hybrid instruments held proportionately).

Example (4). The facts are the same as in example (3), except that corporation Y issues a $600 debenture together with four shares of preferred stock to individual A. The debenture pays fixed interest of $50 a year and has a fair market value of $600. Each share of preferred stock has a liquidation value of $100 and pays a noncumulative dividend of $12.50 a year if earned. In addition, corporation Y is required to redeem the preferred stock at $100 a share at the end of 25 years. Assume that §§ 1.385–6 through 1.385–8 do not apply to the debenture. Based on these facts, the debenture is treated as indebtedness under § 1.385–4(a). The result is the same even if individual A cannot transfer title to the debenture without also transferring title to the preferred stock.

§ 1.385–11 Guaranteed loans.

(a) *In general.* If—

(1) A shareholder in a corporation guarantees a loan made to the corporation (either directly or indirectly, *e.g.*, by pledging collateral), and

(2) It is not reasonable (at the time of the guarantee) to expect that the loan can be enforced against the corporation according to its terms,

then (at the time of the guarantee) the loan is treated as made to the shareholder, and the shareholder is treated as making a contribution to the capital of the corporation.

(b) *Illustrations.* The following examples illustrate the application of this section:

Example (1). On September 25, 1982, J organizes corporation N and acquires all of its capital stock. In addition, J guarantees a note for $600,000 issued by corporation N to corporation O on September 28, 1982. On September 28, 1982, it is not reasonable to expect that corporation O will be able to enforce the note against N according to its terms. Therefore, the note is treated as an obligation of J, and J is treated as making a $600,000 contribution to the capital of corporation N.

Example (2). The facts are the same as in example (1). In addition, corporation N pays $33,000 in interest and $100,000 in principal on the note on September 28, 1983. The total $133,000 in payments is treated as a distribution from corporation N to J to which section 301 applies. However, J is allowed a deduction of $33,000 for interest paid under section 163.

Example (3). The facts are the same as in example (1). In addition, corporation N defaults and J is required to pay $500,000 in principal on the note. Because J is treated as the primary obligor on the note (and not merely as a guarantor), the $500,000 payment will in no circumstances be treated as a loss from a loan or as a contribution to the capital of N.

Example (4). The facts are the same as in example (1), except that J does not guarantee the note issued by corporation N until September 28, 1983. On that date, a principal balance of $400,000 is due on the note, and it is not reasonable to expect that O will be able to enforce the note against N according to its terms. Based on these facts, J is treated as making a $400,000 contribution to the capital of corporation N on September 28, 1983.

§ 1.385–12 Certain preferred stock.

(a) *In general.* For purposes of the regulations under section 385, preferred stock is treated as an instrument if it provides for fixed payments (as defined in § 1.385–5(d)) in the nature of principal or interest.

(b) *Illustrations.* The following examples illustrate the application of this section:

Example (1). On July 7, 1985, corporation C issues 500 shares of $100 par value, 5-percent preferred stock. Dividends on the stock must be paid if earned. The par value of the stock and accumulated dividends are "absolutely and unconditionally" payable on July 15,

2005. If the holders of the preferred stock are not paid $100 plus accumulated dividends on July 15, 2005, they have the right to require the dissolution of corporation C and the application of its assets (after payment of all liabilities) to the payment of their claims. Based on these facts, the preferred stock provides for fixed payments in the nature of principal and interest and therefore is treated as an instrument. Accordingly, the preferred stock may be treated as indebtedness under § 1.385–4(a) (relating to instruments generally).

Example (2). On August 8, 1985, corporation D issues 500 shares of $100 par value, 6-percent preferred stock. Dividends on the preferred stock are cumulative, and D may not pay dividends on its common stock so long as dividends on the preferred stock are in arrears. However, dividends on the preferred stock are payable only if declared by D's board of directors. In addition, the preferred stock is callable for $105 a share at the discretion of D's board of directors. Based on these facts, the preferred stock does not provide for fixed payments in the nature of principal or interest. Therefore, the preferred stock is not treated as an instrument.

Par. 3. Section 1.482–2 is amended by adding a new paragraph (a)(4) to read as follows:

§ 1.482–2 Determination of taxable income in specific situations.

(a) *Loans or advances.* * * *

(4) *Relation to section 1232.* In determining the rate of interest actually charged on a loan or advance evidenced by a written instrument—

(i) Any original issue discount included in income by the lender under § 1232(a)(3), or

(ii) Any bond premium deducted by the lender under § 1.61–12(c)(2),

is taken into account. The following example illustrates the application of this paragraph (a)(4) of this section:

Example. Domestic corporation P owns all the stock of domestic corporation S. On January 1, 1985, P advances $10,000 to S on a 5-percent, 20-year note. The fair market value of the note on the day of issue is $8,000. Based on these facts, P is treated as making a contribution of $2,000 to the capital of S (see § 1.385–3(a)(1)), and the issue price of the note (within the meaning of section 1232(b)(2)) is $8,000. Therefore, P must include $100 in income under section 1232(a)(3) each year. As a result, the rate of interest actually charged on the note is considered to be 6 percent.

Par. 4. Section 1.1371–1 is amended by deleting the last three sentences of paragraph (g); and by inserting a new paragraph (h) to read as follows:

§ 1.1371–1 Definition of small business corporation.

* * * * *

(h) *Relation to section 385.* [Reserved]

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–8935 Filed 3–20–80; 2:43 pm]

BILLING CODE 4830–01–M

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26 CFR Parts 1, 53, 301

[EE–2–79]

Treatment of Certain Elderly Care Facilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of private foundations that maintain certain elderly care facilities. Changes to the applicable tax law were made by the Revenue Act of 1978. The proposed regulations would provide private foundations with the guidance needed to comply with that Act and would affect private foundations that provide long-term care facilities for disabled persons, elderly persons, needy widows, and children.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 20, 1980. The amendment is proposed to be effective for taxable years beginning after December 31, 1969.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE–2–79, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Kerby of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3422 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Reguations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(j)(6), as added to the Internal Revenue Code of 1954 by section 522 of the Revenue Act of 1978 (92 Stat. 2885). These regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917: 26 U.S.C. 7805).

This document also contains proposed deletions to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to reflect the repeal of section 6050 of the Code by section 5 of the Act of December 29, 1979 (Pub. L. No. 96–167; 93 Stat. 1275).

Treatment as Operating Foundation

Under Code section 4942, in order to avoid the imposition of an excise tax, a private foundation must make annual distributions for exempt purposes equal to the greater of its adjusted net income or minimum investment return. However, certain private foundations which qualify as "operating foundations" are exempt from this requirement. Under Code section 4942(j)(6), a private foundation that, as its principal functional purpose, provides long-term care facilities for disabled persons, elderly persons, needy widows, or children will be treated as an operating foundation, if it also satisfies the "endowment test" of section 4942(j)(3)(B)(ii). The endowment test requires a foundation to make qualifying distributions directly for the active conduct of its exempt function in an amount not less than 66⅔ percent of its minimum investment return.

Deductibility of Contributions

The rules governing the deductibility of contributions to an operating foundation are generally more favorable than those governing the deductibility of contributions to a "nonoperating" foundation. The provisions of Code section 4942(j)(6) apply, however, only to determine whether a foundation providing long-term care facilities would be subject to the distribution requirements applicable to nonoperating foundations. The deductibility of contributions to such a foundation is to be determined without regard to whether the foundation is an operating foundation under section 4942(j)(6).

Repeal of Code Section 6050

In general, repealed section 6050 required persons who transferred certain income producing property to a tax-exempt organization, a tax-exempt trust, or a state college or university to report the transfer to the Internal Revenue Service. Section 6050 was repealed with respect to transfers made after December 29, 1979. Accordingly, §§ 1.6050–1 and 301.6050–1 are being deleted from the Code of Federal Regulations.

Comments and Requests 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 regulations is Charles Kerby of the Employee Plans and Exempt Organizations Division of the Ofice 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

The proposed amendments to 26 CFR Parts 1, 53, and 301 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.6050–1 [Deleted]

Par. 1. Section 1.6050–1 is deleted.

PART 53—FOUNDATION EXCISE TAXES

Par. 2. Section 53.4942 (b)–(1) is revised to read as follows:

§ 53.4942 (b)–1 Operating foundations.

(a) *Operating foundation defined*—(1) *In general.* For purposes of section 4942 and the regulations thereunder, the term "operating foundation" means any private foundation which makes qualifying distributions (within the meaning of § 53.4942 (a)–3 (a)(2)) directly for the active conduct of activities constituting its charitable, educational, or other similar exempt purpose equal in value to substantially all of its adjusted net income (as defined in § 53.4942 (a)–2 (d)) and which, in addition, satisfies the assets test, the endowment test or the support test set forth in § 53.4942 (b)–2 (a), (b) and (c).

(2) *Certain elderly care facilities described in section 4942(j)(6)*—(i) *In general.* For purposes of the distribution requirements of section 4942 (but no other provision of the Internal Revenue Code) and for taxable years beginning after December 31, 1969, the term "operating foundation" includes a private foundation which—

(A) On or before May 26, 1969, and continuously thereafter to the close of the taxable year, operates and maintains, as its principal functional purpose, residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, and

(B) Satisfies the endowment test set forth in § 53.4942 (b)–2 (b).

(ii) *Principal functional purpose.* For purposes of section 4942(j)(6) and this subparagraph (2), an organization's "principal functional purpose" is operating and maintaining residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, if it is organized for the principal purpose of operating and maintaining such residential facilities and is primarily engaged directly in the operation and maintenance of those facilities. An organization will be treated as being primarily engaged directly in the operation and maintenance of the described residential facilities if at least 50% of the qualifying distributions (as defined in § 53.4942(a)–3(a)(2)) normally made by the organization are expended for the operation and maintenance of the facilities.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

§ 301.6050–1 [Deleted]

Par. 3. Section 301.6050–1 is deleted.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–8778 Filed 3–20–80; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 301 and 404

[LR–5–80]

Disclosures of Returns and Return Information to Officers and Employees of Bureaus of the Census and Economic Analysis

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to regulations relating to disclosures of returns and return information to officers and employees of the Bureaus of the Census and Economic Analysis of the Department of Commerce for certain statistical purposes. Changes to the applicable tax law were made by section 1202 of the Tax Reform Act of 1976. These regulations affect disclosures of returns and return information under section 6103(j)(1) of the Internal Revenue Code of 1954 and provide Internal Revenue Service personnel and other persons with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 23, 1980. The amendments are proposed to be effective with respect to disclosures of returns and return information made after the date of publication of these amendments as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–5–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David E. Dickinson 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, 202–566–3218, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) and the Temporary Regulations on Procedure and Administration (26 CFR Part 404) under section 6103 (j) (1). These amendments are proposed to conform the regulations to section 1202 of the Tax Reform Act of 1976. They are issued under the authority of sections 6103 (j) (1) and (q) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1678 and 1685, 68A Stat. 917; 26 U.S.C. 6103 (j) (1) and (q), 7805).

Provisions of the Regulations

These proposed regulations materially correspond to existing § 404.6103 (j) (1)–1 of temporary regulations under section 6103 (j) (1) of the Code. Until these proposed amendments are published as a Treasury decision, § 404.6103 (j) (1)–1 will remain in effect.

These proposed regulations provide rules governing disclosures return information to certain officers and employees of the Department of Commerce for statistical purposes and related activities authorized by section 6103 (j) (1) of the Code.

The proposed regulations describe in detail the particular return information which the Service will disclose to officers and employees of the Bureau of the Census and Bureau of Economic Analysis for use in statistical programs and related activities authorized by law. The proposed regulations also prescribe the procedures to be followed with respect to requested disclosures of return information and the limited extent to which such return information can be redisclosed and provide that the

confidentiality of return information disclosed as provided by the regulations must be protected to the satisfaction of the Service.

Drafting Information

The principal author of these regulations was David E. Dickinson 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 regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 301 and 404 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The following new section is added immediately after § 301.6103(h)(2)–1:

§ 301.6103(j)(1)–1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(1) of the Internal Revenue Code and subject to the requirements of paragraph (d) of this section, officers or employees of the Internal Revenue Service will disclose return information (as defined by section 6103(b)(2) but not including return information described in section 6103(o)(2)) to officers and employees of the Department of Commerce to the extent, and for such purposes as may be, provided by paragraphs (b) and (c) of this section. Further, in the case of any disclosure of return information so provided by paragraphs (b) and (c), the tax period or accounting period to which such return information relates will also be disclosed.

(b) Disclosure of Return Information to Officers and Employees of the Bureau of the Census

(1) Officers or employees of the Service will disclose the following return information reflected on returns of an individual taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code, intercensal estimates of population and per capita income for all geographic areas included in the general revenue sharing program and demographic statistics programs, censuses and related program evaluation—

(i) Taxpayer identity information (as defined in section 6103(b)(6) of the Code), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported;

(ii) District office and service center codes;

(iii) Marital status;

(iv) Numbers and classifications of reported exemptions;

(v) Adjusted gross income;

(vi) Wage and salary income;

(vii) Dividend income;

(viii) Interest income;

(ix) Gross rent and royalty income;

(x) Entity code;

(xi) Residence information from the revenue sharing question;

(xii) Code indicators for Form 1040; Schedules C, D, E, F, and SE;

(xiii) Julian date relative to filing; and

(xiv) (A) Earned income credit, and (B) Advance earned income credit payments received.

(2) Officers or employees of the Service will disclose to officers and employees of the bureau of the Census for purposes of, but only to the extent necessary in, conducting, as authorized by chapter 5 of Title 13, United States Code, demographic, economic, and agricultural statistics programs and censuses and related program evaluation—

(i) From the business master files of the Service, the taxpayer name directory and entity records consisting of taxpayer identity information (as defined in section 6103(b)(6)) with respect to taxpayers engaged in a trade or business, the principal industrial activity code, and monthly corrections of, and additions to, such entity records.

(ii) From Form SS–4, all return information reflected on such return;

(iii) From an employment tax return—

(A) Taxpayer identifying number (as described in section 6109) of the employer and any employee identified on such return,

(B) Total compensation reported,

(C) Total number of employees reflected on such return,

(D) Master file tax account number,

(E) Taxable period covered by such return,

(F) Employment code,

(G) Final return indicator,

(H) Document locator number,

(I) Record code,

(J) Total number of individuals employed in the taxable period covered by the return,

(K) Taxable wages paid for purposes of chapter 21 to each such employee,

(L) Taxable tip income for purposes of chapter 21 reported on the return with respect to each such employee,

(M) Total taxable wages paid for purposes of chapter 21, and

(N) Total taxable tip income reported for purposes of chapter 21; and

(iv) From Form 1040, Schedule SE—

(A) Taxpayer identifying number of self-employed individual,

(B) Business activities subject to the tax imposed by chapter 21,

(C) Net earnings from farming,

(D) Net earnings from nonfarming activities,

(E) Total net earnings from self-employment, and

(F) Taxable self-employment income for purposes of chapter 2.

(3) Officers or employees of the Service will disclose the following business related return information reflected on the return of a taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code, demographic, economic, and agricultural statistics programs and censuses—

(i) From Form 1040, Schedule C, taxpayer identity information (as defined in section 6103(b)(6)), the principal industrial activity code, reported gross receipts, returns and allowances, cost of labor, and salaries and wages;

(ii) From Form 1120F, Section II, and Forms 1065, 1120, 1120S, 990C, and 990T, the taxpayer identifying number (as described in section 6109), the principal industrial activity code, and reported gross receipts less returns and allowances;

(iii) From Form 1040, Schedule F, taxpayer identity information and reported gross profits (cash basis) or gross sales (accrual basis) and labor hired;

(iv) From Form 1040, Schedule C, and Forms 1065, 1120, and 1120S, answers to the business activity questions;

(v) From Form 1040, Schedule C, business address and answer to the question relating to Form 941;

(vi) From Form 990PF, the taxpayer identifying number, the principal industrial activity code, and reported total receipts;

(vii) From Form 1065, the names and taxpayer identifying numbers of no more than 10 members of the partnership; and

(viii) From Form 1120S, the names and taxpayer identifying numbers of, and the number of shares of stock owned by, no more than 10 shareholders of the corporation.

(4) Officers or employees of the Service will disclose return information

relating to a taxpayer contained in the exempt organization master files of the Service to officers and employes of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code, economic censuses. This return information consists of taxpayer identity information (as defined in section 6103 (b) (6)), activity codes, and filing requirement code, and monthly corrections of, and additions to, such return information.

(5) Subject to the requirements of paragraph (d) of this section and § 301.6103 (p) (2) (B)–1, officers or employees of the Social Security Administration to whom the following return information has been disclosed as provided by section 6103 (l) (1) (A) or (5) may disclose such return information to officers and employees of the Bureau of the Census for necessary purposes described in subparagraph (2) or (3) of this paragraph—

(i) From Form SS–4, all return information reflected on such return;

(ii) From an employment tax return—

(A) Taxpayer identifying number (as described in section 6109) of the employer and any employee identified on such return,

(B) Total number of employees reflected on the return,

(C) Total number of individuals employed in the taxable period covered by the return,

(D) Total compensation reported,

(E) Taxable wages paid for purposes of chapter 21 to each such employee,

(F) Taxable tip income for purposes of chapter 21 reported on the return with respect to each such employee,

(G) Total taxable wages paid for purposes of chapter 21, and

(H) Total taxable tip income reported for purposes of chapter 21,

(I) Employment code; and

(iii) From Form 1040, Schedule SE—

(A) Taxpayer identifying number of self-employed individual,

(B) Business activities subject to the tax imposed by chapter 21,

(C) Net earnings from farming,

(D) Net earnings from nonfarming activities,

(E) Total net earnings from self-employment, and

(F) Taxable self-employment income for purposes of chapter 2.

(c) *Disclosure of return information to officers and employees of the Bureau of Economic Analysis.* Officers or employees of the Service will disclose to officers and employees of the Bureau of Economic Analysis for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by law, statistical analyses return information consisting of Statistics of Income transcript—edit sheets containing return information reflected on returns of designated classes or categories of corporations with respect to the tax imposed by chapter 1 and microfilmed records of return information reflected on such returns where needed for further use in connection with such conduct or preparation.

(d) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Service or the Social Security Administration as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing—

(1) The particular return information to be disclosed,

(2) The taxable period or date to which such return information relates, and

(3) The particular purpose for which the return information is to be used, and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (b) or (c) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such bureau whose duties or responsibilities require such disclosure for a purpose described in paragraph (b) or (c), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Code or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Service determines that such requirements have been or will be satisfied.

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

§ 404.6103(j)(1)–1 [Deleted]

Par. 2. Section 404.6103(j)(1)–1 is deleted.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–8777 Filed 3–21–80; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 301, 404 and 420

[LR–140–77]

Disclosures of Returns and Return Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to regulations relating to disclosures of returns and return information under certain circumstances. Changes to the applicable tax law were made by section 1202 of the Tax Reform Act of 1976 and section 503 of the Revenue Act of 1978. These regulations affect disclosures of such returns and return information for such purposes as are described herein and provide Internal Revenue Service personnel and other persons with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 23, 1980. The amendments are proposed to be effective with respect to disclosures of returns and return information made after the date of publication of these amendments as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–140–77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David E. Dickinson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3218, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) and the Temporary Regulations on Procedure and Administration (26 CFR Parts 404 and 420), all under section

6103. The amendments are proposed to conform the regulations to section 1202 of the Tax Reform Act of 1976 (90 Stat. 1667) and section 503 of the Revenue Act of 1978 (92 Stat. 2879). They are issued under the authority contained in section 6103 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1667, 68A Stat. 917; 26 U.S.C. 6103, 7805).

Provisions of the Regulations

Except as indicated below, these proposed regulations materially correspond to existing permanent and temporary regulations under section 6103 of the Code. Until these proposed amendments are published as a Treasury decision, the temporary regulations will remain in effect, and § 301.6103(h)(2)–1 of the permanent regulations will be interpreted to reflect certain amendments to section 6103(h)(2) of the Code made by section 503 of the Revenue Act of 1978 which are described below.

Proposed §§ 301.6103(a)–1 and 301.6103(a)–2

Prior to its amendment by section 1202 of the Tax Reform Act of 1976, effective as of January 1, 1977, section 6103(a) of the Code authorized the disclosure of Federal tax data by the Internal Revenue Service to other Federal agencies for nontax related purposes as provided by orders of the President and implementing rules and regulations approved by the President. Proposed § 301.6103(a)–1 provides that returns and return information so disclosed by the Service to another Federal agency before January 1, 1977 pursuant to the authority of prior law (and orders of the President and implementing rules and regulations) may, with one restriction, be disclosed after December 31, 1976 by such agency for any purpose authorized by such prior law (and orders, rules, and regulations). The restriction on such further disclosure would be use of such returns or return information after December 31, 1976, by, or on behalf of, the Federal agency in an administrative or judicial proceeding. Such use would be restricted to an administrative or judicial proceeding described in section 6103(i)(4) and then only if the requirements of section 6103(i)(4) are first met.

Prior to amendment by the Tax Reform Act of 1976, the Code authorized disclosures of tax returns and tax return information to Justice Department attorneys and Internal Revenue Service Chief Counsel personnel for Federal tax administration purposes as provided by Presidentially approved regulations. A substantial volume of tax returns and tax return information furnished to these attorneys and personnel for tax administration purposes under prior law and regulations was in their possession on January 1, 1977, the effective date of the new statutory disclosure rules of the Act.

Proposed § 301.6103(a)–2 provides that, as a general rule, tax returns and tax return information furnished to these persons under prior law for Federal tax administration purposes may be used by them after December 31, 1976 for tax administration purposes authorized by prior law. However, if any such tax returns or tax return information is to be introduced into evidence in tax litigation after that date, the statutory relevancy tests prescribed by the new law must first be met.

Proposed § 301.6103(c)–1

The Tax Reform Act of 1976 amended section 6103(c) to permit disclosures of tax returns and tax return information to a person designated by the taxpayer in a written request or consent. Paragraph (a) of proposed § 301.6103(c)–1 prescribes rules governing the necessary form and content of these written requests or consents. Paragraph (b) of proposed § 301.6103(c)–1 prescribes rules for disclosures to a person who has been requested by the taxpayer to obtain information or provide assistance concerning a contact between the taxpayer and the Service.

Proposed Amendments to § 301.6103(h)(2)–1

Paragraph 3 of the notice would amend § 301.6103(h)(2)–1 of existing regulations to conform them to certain amendments made to section 6103(h)(2) by section 503 of the Revenue Act of 1978. First, the section would be amended to make the requirements of section 6103(h)(2), rather than those of section 6103(h)(4), applicable to the use of returns and return information in Federal grand jury proceedings involving tax administration. Second, the section would be amended to authorize Service disclosures of returns and return information to "officers and employees" of the Department of Justice as opposed to the more limited category of "attorneys" as provided by prior law.

Proposed § 301.6103(i)–1

This section of the proposed regulations describes the circumstances and conditions under which returns and return information may be disclosed to and by officers and employees of the Department of Justice and other Federal agencies in connection with preparation for, or investigations which may result in, proceedings pertaining to the enforcement of specifically designated Federal criminal statutes (not involving tax administration) to which the United States or a Federal agency is or may be a party. This section also makes it clear that use of returns and return information by the Department of Justice in Federal grand jury proceedings is governed by the requirements of section 6103(i) (1) or (2) rather than those of section 6103(i)(4).

Proposed § 301.6103(j)(2)–1

This section of the proposed regulations provides rules governing disclosures of return information to certain officers and employees of the Federal Trade Commission for statistical purposes and related activities authorized by section 6103(j)(2) of the Code.

The proposed regulations describe in detail the particular return information which the Service will disclose to officers and employees of the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for use in statistical programs and related activities authorized by law. The proposed regulations also prescribe the procedures to be followed with respect to requested disclosures of return information and the limited extent to which such return information can be redisclosed and provide that the confidentiality of return information disclosed as provided by the regulations must be protected to the satisfaction of the Service.

Proposed § 301.6103(k)(6)–1

This section of the proposed regulations provides rules governing disclosures of return information by officers and employees of the Service and Office of the Chief Counsel thereof for investigative purposes authorized by section 6103(k)(6) of the Code.

The proposed regulations describe the circumstances and conditions under which such officers or employees are authorized to disclose return information to a person other than the taxpayer to whom such return information relates (or such taxpayer's representative) in connection with official duties relating to an examination, collection activitiy, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws or relating to certain personnel or claimant representative matters under such laws or 31 U.S.C. 1026.

Proposed §§ 301.6103(l)(2)–1, 301.6103(l)(2)–2, and 301.6103(l)(2)–3

These sections of the proposed regulations under section 6103(l)(2) of

the Code provide rules regarding disclosures of returns and return information to and by officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice for purposes of administering titles I and IV of the Employee Retirement Income Security Act of 1974. The section also makes it clear that returns and return information may be used by the Department of Justice in Federal grand jury proceedings where necessary to enforce the Act.

Proposed § 301.6103(n)–1

These proposed regulations describe the circumstances and conditions under which an officer or employee of the Treasury Department (including the Internal Revenue Service), a State tax agency described in section 6103(d), or the Social Security Administration is authorized under section 6103(n) of the Code to disclose returns and return information to a person for the purpose of procuring property and services necessary to Federal or State tax administration. The regulations provide general rules regarding the requirement of necessity for the disclosure and limiting the extent to which such disclosures are authorized. The proposed regulations also provide that the person to whom disclosures are made for these purposes may in turn disclose the tax data only for purposes specified by section 6103(n) and must maintain, to the satisfaction of the Service, safeguards to protect the confidentiality of the returns and return information and ensure against unauthorized disclosures.

The proposed regulations differ from present temporary regulations in one respect. By reason of section 232 of the Social Security Act, section 6103(l)(5) of the Code, and an implementing agreement between the Internal Revenue Service and the Social Security Administration, the Social Security Administration now receives and processes employment tax returns for Federal tax administration purposes. In order to properly carry out these tax administration responsibilities, the Social Security Administration must utilize outside sources to assist with the work. A present example is the need to use outside sources to microfilm employment tax returns for use by the Internal Revenue Service. Accordingly, the proposed regulations would permit the Social Security Administration to engage others to perform necessary tax administration functions described in section 6103(n).

Proposed § 301.6103(p)(2)(B)–1

This proposed regulation is new and is not generally reflected in the existing temporary regulations under section 6103. Under section 6103, a substantial volume of tax returns and tax return information is disclosable by the Service to other Federal agencies for purposes authorized or required by section 6103. It is likely that much of this tax information otherwise disclosable directly by the Service to yet other agencies as authorized or required by section 6103 may be more readily available from the intermediate Federal agency than the Service. For this reason, proposed § 301.6103(p)(2)(B)–1 permits the Service to authorize disclosures of tax returns and tax return information by the intermediate Federal agency to other agencies to whom section 6103 otherwise authorizes or requires disclosures directly by the Service. Under this proposed regulation, however, the Service retains the authority to impose, by regulation or otherwise, such restrictions on these disclosures as the Service may deem appropriate to properly protect the confidentiality of the information to be disclosed consistent with the requirements of section 6103. Further, this proposed regulation imposes upon the head of the disclosing Federal agency the duty to maintain records of disclosures made under this regulation in order to meet the reporting requirements of section 6103(p)(3) (B) and (C).

Drafting Information

The principal author of these regulations was David E. Dickinson 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 regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 301, 404, and 420 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The following new sections are added immediately after § 301.6102–1:

§ 301.6103(a)–1 Disclosures after December 31, 1976 by officers and employees of Federal agencies of returns and return information (including taxpayer return information) disclosed to such officers and employees by the Internal Revenue Service before January 1, 1977 for a purpose not involving tax administration.

(a) *General rule.* Except as provided by paragraph (b) of this section, a return or return information (including taxpayer return information), as defined in section 6103 (b)(1), (2), and (3) of the Internal Revenue Code, disclosed by the Internal Revenue Service before January 1, 1977, to an officer or employee of a Federal agency (as defined in section 6103(b)(9)) for a purpose not involving tax administration (as defined in section 6103(b)(4)) pursuant to the authority of section 6103 (or any order of the President under section 6103 or rules and regulations thereunder prescribed by the Secretary or his delegate and approved by the President) before amendment of such section by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1667) may be disclosed by, or on behalf of, such officer, employee, or agency after December 31, 1976, for any purpose authorized by such section (or such order or rules and regulations) before such amendment.

(b) *Exception.* Notwithstanding the provisions of paragraph (a) of this section, a return or return information (including taxpayer return information) disclosed before January 1, 1977, by the Service to an officer or employee of a Federal agency for a purpose unrelated to tax administration as described in paragraph (a) may, after December 31, 1976, be disclosed by, or on behalf of, such agency, officer, or employee in an administrative or judicial proceeding only if such proceeding is one described in section 6103(i)(4) of the Code and if the requirements of section 6103(i)(4) have first been met.

§ 301.6103(a)–2 Disclosures after December 31, 1976 by attorneys of the Department of Justice and officers and employees of the Office of the Chief Counsel for the Internal Revenue Service of returns and return information (including taxpayer return information) disclosed to such attorneys, officers, and employees by the Service before January 1, 1977 for a purpose involving tax administration.

(a) *General rule.* Except as provided by paragraph (b) of this section and subject to the requirements of this paragraph, a return or return information (including taxpayer return

information), as defined in section 6103(b)((1), (2), and (3), of the Internal Revenue Code disclosed by the Internal Revenue Service before January 1, 1977, to an attorney of the Department of Justice (including a United States attorney) or to an officer or employee of the Office of the Chief Counsel for the Service for a purpose involving tax administration (as defined in section 6103(b)(4)) pursuant to the authority of section 6103 (or any order of the President under section 6103 or rules and regulations thereunder prescribed by the Secretary or his delegate and approved by the President) before amendment of such section by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1667) may be disclosed by, or on behalf of, such attorney, officer, or employee after December 31, 1976, for any purpose authorized by such section (or such order or rules and regulations) before such amendment.

(b) *Exception.* Notwithstanding the provisions of paragraph (a) of this section, a return or return information (including taxpayer return information) disclosed before January 1, 1977, by the Service to an attorney of the Department of Justice or to an officer or employee of the Office of the Chief Counsel for the Service for a purpose related to tax administration as described in paragraph (a) may, after December 31, 1976, be disclosed by, or on behalf of, such attorney, officer, or employee in an administrative or judicial proceeding only if such proceeding is one described in section 6103 (h) (4) of the Code and if the requirements of section 6103 (h)(4) have first been met.

§ 301.6103(c)–1 Disclosure of returns and return information (including taxpayer return information) to designee of taxpayer.

(a) *Disclosure of returns and return information (including taxpayer return information) to person or persons designated in a written request or consent.* Section 6103 (c) of the Internal Revenue Code applies to disclosures of a return or return information (including taxpayer return information) to a person designated in a written request for or consent to disclosure. A request for or consent to disclosure must be in the form of a written document pertaining solely to the authorized disclosure. The written document must be signed and dated by the taxpayer who filed the return or to whom the return information relates. The taxpayer must also indicate in the written document—

(1) The taxpayer's taxpayer identity information described in section 6103(b)(6);

(2) The indentity of the person to whom disclosure is to be made;

(3) The type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and

(4) The taxable year covered by the return or return information.

Thus, for example, a provision included in a taxpayer's application for a loan or other benefit authorizing the Internal Revenue Service to disclose to the grantor of the loan or other benefit such returns or return information as the grantor may request for purposes of verifying information supplied on the application does not meet the requirements of this paragraph. The disclosure of a return or return information authorized by a request for or consent to the disclosure shall not be made unless the request or consent is received by the Service within 60 days following the date upon which the request or consent was signed and dated by the taxpayer.

(b) *Disclosure of returns and return information (including taxpayer return information) to designee of taxpayer to comply with request for information or assistance.* Section 6103(c) of the Code applies to requests made by the taxpayer to other persons (for example, members of Congress, friends or relatives of the taxpayer, and, when not acting as a taxpayer's representative, income tax return preparers) for information or assistance relating to the taxpayer's return or a transaction or other contact between the taxpayer and the Service.

The taxpayer's request for information or assistance must be in the form of a letter or other written document signed and dated by the taxpayer. The taxpayer must also indicate in the written request—

(1) The taxpayer's taxpayer identity information described in section 6103(b)(6);

(2) The identity of the person to whom disclosure is to be made; and

(3) Sufficient facts underlying the request for information or assistance to enable the Service to determine the nature and extent of the information or assistance requested and the returns or return information to be disclosed in order to comply with the taxpayer's request.

A return or return information will be disclosed to the taxpayer's designee as provided by this paragraph only to the extent considered necessary by the Service to comply with the taxpayer's request for information or assistance. This paragraph does not apply to disclosures to a taxpayer's representative in connection with practice before the Service (as defined in Treasury Department Circular No. 230). For disclosures in these cases, see § 601.502(c) of this chapter.

(c) *Exceptions.* A disclosure of return information shall not be made under this section if the Service determines that the disclosure would seriously impair Federal tax administration (as defined in section 6103(b)(4) of the Code).

Par. 2. Section 301.6103(h)(2)–1 is amended to read as follows:

§ 301.6103(h)(2)–1 Disclosure of returns and return information (including taxpayer return information) to and by officers and employees of the Department of Justice for use in Federal grand jury proceeding, or in preparation for proceeding or investigation, involving tax administration.

(a) *Disclosure of returns and return information (including taxpayer return information) to and by officers and employees of the Department of Justice.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Internal Revenue Code, shall, to the extent provided by section 6103(h)(2) (A), (B), and (C) and subject to the requirements of section 6103(h)(3), be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directed engaged in, and for their necessary use in, any Federal grand jury proceeding, or preparation for any proceeding (or for their necessary use in an investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court, in a matter involving tax administration (as defined in section 6103(b)(4)), including any such proceeding (or any such investigation) also involving the enforcement of a related Federal criminal statute which has been referred by the Secretary to the Department of Justice.

(2) Returns and return information (including taxpayer return information) inspected by or disclosed to officers and employees of the Department of Justice as provided in paragraph (a)(1) of this section may also be used by such officers and employees or disclosed by them to other officers and employees (including United States attorneys and supervisory personnel, such as Section Chiefs, Deputy Assistant Attorneys General, Assistant Attorneys General, the Deputy Attorney General, and the Attorney General), of the Department of Justice where necessary—

(i) In connection with any Federal grand jury proceeding, or preparation for any proceeding (or with an investigation

which may result in such a proceeding), described in paragraph (a)(1), or

(ii) In connection with any Federal grand jury proceeding, or preparation for any proceeding (or with an investigation which may result in such a proceeding), described in paragraph (a)(1) which also involves enforcement of a specific Federal criminal statute other than one described in paragraph (a)(1) to which the United States is or may be a party, provided such matter involves or arises out of the particular facts and circumstances giving rise to the proceeding (or investigation) described in paragraph (a)(1) and further provided the tax portion of such proceeding (or investigation) has been duly authorized by or on behalf of the Assistant Attorney General for the Tax Division of the Department of Justice, pursuant to the request of the Secretary, as a proceeding (or investigation) described in paragraph (a)(1).

If, in the course of a Federal grand jury proceeding, or preparation for a proceeding (or the conduct of an investigation which may result in such a proceeding), described in subdivision (ii) of this subparagraph, the tax administration portion thereof is terminated for any reason, any further use or disclosure of such returns or taxpayer return information in such Federal grand jury proceeding, or preparation or investigation, with respect to the remaining portion may be made only pursuant to, and upon the grant of, a court order as provided by section 6103(i)(1)(A), provided, however, that the returns and taxpayer return information may in any event be used for purposes of obtaining the necessary court order.

(b) *Disclosure of returns and return information (including taxpayer return information) by officers and employees of the Department of Justice.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Code, inspected by or disclosed to officers and employees of the Department of Justice as provided by paragraph (a) of this section may be disclosed by such officers and employees to other persons, including, but not limited to, persons described in paragraph (b)(2), but only to the extent necessary in connection with a Federal grand jury proceeding, or the proper preparation for a proceeding (or in connection with an investigation which may result in such a proceeding), described in paragraph (a). Such disclosures may include, but are not limited to, disclosures—

(i) To properly accomplish any purpose or activity of the nature described in section 6103(k)(6) and the regulations thereunder which is essential to such Federal grand jury proceeding, or to such proper preparation (or to such investigation);

(ii) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer to whom such return or return information relates (or such taxpayer's legal representative) or from any witness who may be called to give evidence in the proceeding; or

(iii) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates or such taxpayer's legal representative to properly accomplish any purpose or activity described in this paragraph should be made, however, only if such purpose or activity cannot otherwise properly be accomplished without making such disclosure.

(2) Among those persons to whom returns and return information may be disclosed by officers and employees of the Department of Justice as provided by paragraph (a)(1) of this section are—

(i) Other officers and employees of the Department of Justice, such as personnel of an office, board, division, or bureau of such department (for example, the Federal Bureau of Investigation or the Drug Enforcement Administration), clerical personnel (for example secretaries, stenographers, docket and file room clerks, and mail room employees) and supervisory personnel (such as supervisory personnel of the Federal Bureau of Investigation or the Drug Enforcement Administration);

(ii) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of any such officers and employees of the Department of Justice; and

(iii) Court reporters.

Par. 3. The following new sections are added immediately after § 301.6103(h)(2)–1:

§ 301.6103(i)–1 Disclosure of returns and return information (including taxpayer return information) to and by officers and employees of the Department of Justice or another Federal agency for use in Federal grand jury proceeding, or preparation for proceeding or investigation, involving enforcement of Federal criminal statute not involving tax administration.

(a) *Disclosure of returns and return information (including taxpayer return information) to officers and employees of the Department of Justice or another Federal agency.* Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Internal Revenue Code, shall, to the extent provided by section 6103(i) (1), (2), and (3) and subject to the requirements of section 6103(i) (1) and (2), be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) or of another Federal agency (as defined in section 6103(b)(9)) personally and directly engaged in, and for their necessary use in, any Federal grand jury proceeding, or preparation for any administration or judicial proceeding (or their necessary use in an investigation which may result in such a proceeding), pertaining to enforcement of a specifically designated Federal criminal statute not involving or related to tax administration to which the United States or such agency is or may be a party.

(b) *Disclosure of returns and return information (including taxpayer return information) by officers and employees of the Department of Justice or another Federal agency.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Code, disclosed to officers and employees of the Department of Justice or other Federal agency (as defined in section 6103(b)(9)) as provided by paragraph (a) of this section may be disclosed by such officers and employees to other persons, including, but not limited to, persons described in subparagraph (2) of this paragraph, but only to the extent necessary in connection with a Federal grand jury proceeding, or the proper preparation for a proceeding (or in connection with an investigation which may result in such a proceeding), described in paragraph (a). Such disclosures may include, but are not limited to, disclosures where necessary—

(i) To properly obtain the services of persons having special knowledge or technical skills (such as, but not limited to, handwriting analysis, photographic development, sound recording enhancement, or voice identification);

(ii) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer to whom such return or return information relates (or such taxpayer's legal representative) or any witness who may be called to give evidence in the proceeding; or

(iii) To properly conduct negotiations concerning, or obtain authorization for,

disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates or such taxpayer's legal representative to properly accomplish any purpose or activity described in this subparagraph should be made, however, only if such purpose or activity cannot otherwise properly be accomplished without making such disclosures.

(2) Among those persons to whom returns and return information may be disclosed by officers and employees of the Department of Justice or other Federal agency as provided by subparagraph (1) of this paragraph are—

(i) Other officers and employees of the Department of Justice (including an office, board, division, or bureau of such department, such as the Federal Bureau of Investigation or the Drug Enforcement Administration) or other Federal agency described in subparagraph (1), such as clerical personnel (for example, secretaries, stenographers, docket and file room clerks, and mail room employees) and supervisory personnel (for example, in the case of the Department of Justice, Section Chiefs, Deputy Assistant Attorneys General, Assistant Attorneys General, the Deputy Attorney General, the Attorney General, and supervisory personnel of the Federal Bureau of Investigation or the Drug Enforcement Administration);

(ii) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of such officers and employees of the Department of Justice or other Federal agency described in subparagraph (1); and

(iii) Court reporters.

§ 301.6103(j)(2)–1 Disclosure of return information to officers and employees of the Federal Trade Commission for certain statistical purposes and related activities.

(a) *General rule.* (1) Pursuant to the provisions of section 6103(j)(2) of the Internal Revenue Code and subject to the requirements of paragraph (b) of this section, officers or employees of the Internal Revenue Service will disclose the following return information (as defined by section 6103(b)(2) but not including return information described in section 6103(o)(2)) reflected on the return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for purposes of, but only to the extent necessary in, developing and preparing, as authorized by law, the Quarterly Financial Report—

(i) From the business master files of the Service—

(A) Taxpayer identity information (as defined in section 6103(b)(6)),

(B) Consolidated return and final return indicators,

(C) Principal industrial activity code,

(D) Partial year indicator,

(E) Annual accounting period,

(F) Gross receipts less returns and allowances,

(G) Net income or loss,

(H) Total assets; and

(ii) From Form SS–4—

(A) Month and year in which such form was executed,

(B) Taxpayer identity information; and

(C) Principal industrial activity, geographic, firm size, and reason for application codes.

(2) Subject to the requirements of paragraph (b) of this section and § 301.6103(p)(2)(B)–1, officers or employees of the Social Security Administration to whom the following return information reflected on Form SS–4 with respect to a corporation has been disclosed as provided by section 6103(l)(1)(A) may disclose such return information to officers and employees of the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for a purpose described in subparagraph (1) of this paragraph—

(i) Month and year in which such form was executed;

(ii) Taxpayer identity information; and

(iii) Principal industrial activity, geographic, firm size, and reason for application codes.

(b) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Service or the Social Security Administration as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Chairman of the Federal Trade Commission describing the particular return information to be disclosed and the taxable period or date to which such return information relates and designating by name and title the officers and employees of the Division of Financial Statistics of the Bureau of Economics to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such division whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the division, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Code or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(2) and paragraph (a) of this section until the Service determines that such requirements have been or will be satisfied.

§ 301.6103(k)(6)–1 Disclosure of return information by internal revenue officers and employees for investigative purposes.

(a) *Disclosure of taxpayer identity information and fact of investigation in connection with official duties relating to examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws.* In connection with the performance of official duties relating to any examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws, or in connection with preparation for any proceeding (or investigation which may result in such a proceeding) described in section 6103(h)(2) of the Internal Revenue Code, an officer or employee of the Internal Revenue Service or Office of the Chief Counsel therefor is authorized to disclose taxpayer identity information (as defined in section 6103(b)(6)), the fact that the inquiry pertains to the performance of official duties, and the nature of the official duties in order to obtain necessary information relating to performance of such official duties or where necessary in order to properly accomplish any activity described in subparagraph (6) of paragraph (b) of this section. Disclosure of taxpayer identity information to a person other than the taxpayer to whom such taxpayer identity information relates or such taxpayer's legal representative for the purpose of obtaining such necessary information or otherwise properly accomplishing such activities as authorized by this paragraph should be made, however, only if the necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of the

official duties, or if such activities cannot otherwise properly be accomplished without making such disclosure.

(b) *Disclosure of return information in connection with official duties relating to examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws.* In connection with the performance of official duties relating to any examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws, an officer or employee of the Service or Office of the Chief Counsel therefor is authorized to disclose return information (as defined in section 6103(b)(2)) in order to obtain necessary information relating to the following—

(1) To establish or verify the correctness or completeness of any return (as defined in section 6103(b)(1) of the Code) or return information;

(2) To determine the responsibility for filing a return, for making a return where none has been made, or for performing such acts as may be required by law concerning such matters;

(3) To establish or verify the liability (or possible liability) of any person, or the liability (or possible liability) at law or in equity of any transferee or fiduciary of any person, for any tax, penalty, interest, fine, forfeiture, or other imposition or offense under the internal revenue laws or the amount thereof to be collected;

(4) To establish or verify misconduct (or possible misconduct) or other activity proscribed by the internal revenue laws;

(5) To obtain the services of persons having special knowledge or technical skills (such as, but not limited to, knowledge of particular facts and circumstances relevant to a correct determination of a liability described in subparagraph (3) of this paragraph or skills relating to handwriting analysis, photographic development, sound recording enhancement, or voice identification) or having recognized expertise in matters involving the valuation of property where relevant to proper performance of a duty or responsibility described in this paragraph;

(6) To establish or verify the financial status or condition and location of the taxpayer against whom collection activity is or may be directed, to locate assets in which the taxpayer has an interest, to ascertain the amount of any liability described in subparagraph (3) of this paragraph to be collected, or otherwise to apply the provisions of the Code relating to establishment of liens against such assets, or levy on, or seizure, or sale of, the assets to satisfy any such liability; or

(7) To prepare for any proceeding described in section 6103(h)(2) or conduct an investigation which may result in such a proceeding, or where necessary in order to accomplish any activity described in subparagraph (6) of this paragraph. Disclosure of return information to a person other than the taxpayer to whom such return information relates or such taxpayer's legal representative for the purpose of obtaining information necessary to properly carry out the foregoing duties and responsibilities as authorized by this paragraph or for the purpose of otherwise properly accomplishing any activity described in subparagraph (6) of this paragraph should be made, however, only if such necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of such duties and responsibilities, or if the activities described in subparagraph (6) of this paragraph cannot otherwise properly be accomplished without making such disclosure.

(c) *Disclosure of return information in connection with certain personnel or claimant representative matters.* In connection with the performance of official duties relating to any investigation concerned with the enforcement of any provision of the Code, including enforcement of any rules, directives, or manual issuances prescribed by the Secretary or his delegate under section 7803 or any other provision of the Code, which affects or may affect the personnel or employment rights or status, or civil or criminal liability, of any employee or former or prospective employee of the Treasury Department or the rights of any person who is or may be a party to an administrative action or proceeding pursuant to 31 U.S.C. 1026, an officer or employee of the Service or Office of the Chief Counsel therefor is authorized to disclose return information (as defined in section 6103(b)(2)) for the purpose of obtaining, verifying, or establishing other information which is or may be relevant and material to such investigation. Disclosure of return information to a person other than the taxpayer to whom such return information relates or such taxpayer's legal representative for the purpose of obtaining information necessary to properly carry out the foregoing duties and responsibilities as authorized by this paragraph should be made, however, only if such necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of such duties and responsibilities.

§ 301.6103(l)(2)-1 Disclosure of returns and return information to Pension Benefit Guaranty Corporation for purposes of research and studies.

(a) *General rule.* Pursuant to the provisions of section 6103(l)(2) of the Internal Revenue Code and subject to the requirements of paragraph (b) of this section, officers and employees of the Internal Revenue Service may disclose returns and return information (as defined by section 6103(b)) to officers and employees of the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, conducting research and studies authorized by title IV of the Employee retirement Income Security Act of 1974.

(b) *Procedures and restrictions.* Disclosure of returns or return information by officers or employees of the Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Executive Director of the pension Benefit Guaranty Corporation describing the returns or return information to be disclosed, the taxable period or date to which such returns or return information relates, and the purpose for which the returns or return information is needed in the administration of title IV of the Employee Retirement Income Security Act of 1974, and designating by title the officers and employees of such corporation to whom such disclosure is authorized. No such officer or employee to whom returns or return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such returns or return information to any person, other than the taxpayer by whom the return was made or to whom the return information relates or other officers or employees of such corporation whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

§ 301.6103(l)(2)-2 Disclosure of returns and return information to Department of Labor for purposes of research and studies.

(a) *General rule.* Pursuant to the provisions of section 6103(l)(2) of the

Internal Revenue Code and subject to the requirements of paragraph (b) of this section, officers or employees of the Internal Revenue Service may disclose returns and return information (as defined by section 6103(b)) to officers and employes of the Department of Labor for purposes of, but only to the extent necessary in, conducting research and studies authorized by section 513 of the Employee Retirement Income Security Act of 1974.

(b) *Procedures and restrictions.* Disclosure of returns or return information by officers or employees of the Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Administrator of the Pension and Welfare Benefit Programs of the Department of Labor describing the returns or return information to be disclosed, the taxable period or date to which such returns or return information relates, and the purpose for which the returns or return information is needed in the administration of title I of the Employee Retirement Income Security Act of 1974, and designating by title the officers and employees of such department to whom such disclosure is authorized. No such officer or employee to whom returns or return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such returns or return information to any person, other than the taxpayer by whom the return was made or to whom the return information relates or other officers or employees of such department whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

§ 301.6103(l)(2)–3 Disclosure to Department of Labor and Pension Benefit Guaranty Corporation of certain returns and return information.

(a) *Disclosures following general requests.* Pursuant to the provisions of section 6103(*l*)(2) of the Internal Revenue Code and subject to the requirements of this paragraph, officers or employees of the Internal Revenue Service may disclose the following returns and return information (as defined by section 6103(b)) to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of title I or IV of the Employee Retirement Income Security Act of 1974 (hereinafter referred to in this section as the Act)—

(1) Notification of receipt by the Service of an application by a particular taxpayer for a determination of whether a pension, profit-sharing, or stock bonus plan, a trust which is a part of such a plan, or an annuity or bond purchase plan meets the applicable requirements of part I of subchapter D of chapter 1 of the Code;

(2) Notification that a particular application described in subparagraph (1) of this paragraph alleges that certain employees may be excluded from participation by reason of section 410(b)(2) (A) and (B) for the purpose of obtaining the finding necessary for the application of such section;

(3) An application by a particular taxpayer for a determination of whether a pension, profit-sharing, or stock bonus plan, or an annuity or bond purchase plan, meets the applicable requirements of part I of subchapter D of chapter 1 of the Code with respect to a termination or proposed termination of the plan or to a partial termination or proposed partial termination of the plan, and any statement filed as provided by section 6058(b);

(4) Notification that the Service has determined that a plan or trust described in subparagraph (1) or (3) of this paragraph meets or does not meet the applicable requirements of part I of subchapter D of chapter 1 of the Code and has issued a determination letter to such effect to a particular taxpayer or that an application for such a determination has been withdrawn by the taxpayer;

(5) If the Department of Labor or the Pension Benefit Guaranty Corporation has commented on an application upon which a determination letter described in subparagraph (4) of this paragraph has been issued, a copy of the letter or document issued to the applicant;

(6) Notification to a particular taxpayer that the Service intends to disqualify a pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or bond purchase plan because such plan or trust does not meet the requirements of section 410(a) or 411 as of the date that such notification is issued;

(7) Notification required by section 3002(a) of the Act of the commencement of any proceeding to determine whether a particular pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or bond purchase plan meets the requirements of section 410(a) or 411;

(8) Prior to issuance of a notice of deficiency to a particular taxpayer under section 6212, notification that the Service has determined that a deficiency exists under section 6211 with respect to the tax imposed by section 4971 (a) or (b) on such taxpayer, except that if the Service determines that the collection of such tax is in jeopardy within the meaning of section 6861(a), such notification may be disclosed after issuance of the notice of deficiency or jeopardy assessment;

(9) Notification that the Service has waived the tax imposed by section 4971(b) on a particular taxpayer;

(10) Prior to issuance of a notice of deficiency to a particular taxpayer under section 6212, notification that a deficiency exists under section 6211 with respect to the tax imposed by section 4975 (a) or (b) on such taxpayer, except that if the Service determines that the collection of such tax is in jeopardy within the meaning of section 6861(a), such notification may be disclosed after issuance of the notice of deficiency or jeopardy assessment;

(11) Notification that the Service has waived the tax imposed by section 4975(b) on a particular taxpayer;

(12) Notification of applicability of section 4975 to a particular pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan enagaged in prohibited transactions within the meaning of section 4975(c);

(13) Notification to a plan administrator that the Service has determined that a pension, profit-sharing, stock bonus, annuity, or stock purchase plan no longer meets the requirements of section 401(a) or 404(a)(2);

(14) Notification that the Service has determined that there has been a termination or partial termination of a particular pension, profit-sharing, stock bonus, annuity, or stock purchase plan within the meaning of section 411(d)(3);

(15) Notification of the occurrence of an event (other than an event described in subparagraph (13), (14), or (18) of this paragraph) which the Service has determined to indicate that a particular pension, profit-sharing, stock bonus, annuity, or stock purchase plan may not be sound under section 4043(c)(2) of the Act;

(16) Notification that the Service has received and responded to a request on behalf of a particular pension, profitsharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan for an extension of time for filing an annual return by such plan or trust;

(17) Notification that the Service has received and responded to a request on behalf of a particular pension, profitsharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan to

change the annual accounting period of such plan or trust;

(18) Notification that the Service has determined that a particular plan does not meet the requirements of section 412 without regard to whether such plan is one described in section 4021(a)(2) of the Act;

(19) Notification of the results of an investigation by the Service requested by the Department of Labor or the Pension Benefit Guaranty Corporation, or both, with respect to whether the tax described in section 4971 should be imposed on any employer named in such request or whether the tax imposed by section 4975 should be paid by any person named in the request;

(20) Notification of receipt by the Service of an application by a particular taxpayer for exemption under section 4975(c)(2) or of initiation by the Service of an administrative proceeding for such exemption;

(21) Notification of receipt by the Service of an application by or on behalf of a particular taxpayer for a waiver or variance of the minimum funding standard under section 303 of the Act or section 412(d);

(22) Notification that the Service intends to undertake, or has completed, an examination to determine whether—

(i) A particular pension, profitsharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan meets the applicable requirements of part I of subchapter D of chapter 1 of the Code,

(ii) Any particular person is, or may be, liable for any tax imposed by section 4971 or 4975, or

(iii) A particular employee welfare benefit plan, as defined in section 3(1) of the Act, meets the applicable requirements of section 501(c) or 120, together with any completed Department of Labor or Pension Benefit Guaranty Corporation form (and supplemental schedules) relating to such examination; and

(23) Copies of initial pleadings indicating that the Service intends to intervene in a civil action under section 502(h) of the Act. Return information disclosed under this paragraph includes the taxpayer identity information (as defined in section 6103(b)(6)) of the plan or trust, the name and address of the sponsor and administrator of the plan or trustee of the trust, and the name and address of the pension authorized to represent the plan or trust before the Service. Disclosure of returns or return information as provided by this paragraph will be made only following receipt by the Commissioner of Internal Revenue of an annual written request for such disclosure by the Administrator of Pension and Benefit Welfare Programs of the Department of Labor or the Executive Director of the Pension Benefit Guaranty Corporation describing the categories of returns or return information to be disclosed by the Service and the particular purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by title the officers and employees of the Department of Labor or such corporation to whom such disclosure is authorized.

(b) *Additional returns and return information subject to disclosure*—(1) *Returns and return information relating to automatic notification.* Subject to the requirements of subparagraph (3) of this paragraph, officers or employees of the Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of title I or IV of the Act additional returns and return information relating to any item described in paragraph (a) of this section.

(2) *Other returns and return information.* Subject to the requirements of subparagraph (3) of this paragraph, officers or employees of the Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation returns and return information (other than returns and return information disclosed as provided by paragraph (a) of this section or § 301.6103 (*l*) (2)–1 or § 301.6103(*l*) (2)–2)) for purposes of, but only to the extent necessary in, administration of title I or IV of the Act.

(3) *Procedures.* Disclosure of returns or return information by officers or employees of the Service as provided by this paragraph will be made only upon written request to the Commissioner of Internal Revenue or his delegate by the Secretary of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate identifyng the particular taxpayer by whom such return was made or to whom such return information relates, describing the particular returns or return information to be disclosed, stating the purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by name and title the officers and employees of such department or corporation to whom such disclosure is authorized.

(c) *Disclosure and use of returns and return information by officers an employees of Department of Labor, Pension Benefit Guaranty Corporation, and Department of Justice*—(1) *Use by officers and employees of Department of Labor and Pension Benefit Guaranty Corporation.* Returns and return information disclosed to officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation as provided by this section may be used by such officers and employees for purposes of, but only to the extent necessary in, administration of any provision of title I or IV of the Act, including any preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) authorized by, or described in, title I or IV of the Act.

(2) *Disclosure by officers and employees of Department of Labor and Pension Benefit Guaranty Corporation to, and use by, other persons, including officers and employees of the Department of Justice.* (i) Returns and return information disclosed to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation as provided by this section may be disclosed by such officers and employees to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and for their necessary use in, any Federal grand jury proceeding, or preparation for any civil or criminal judicial proceeding (or for their necessary use in an investigation which may result in such a proceeding), authorized by, or described in, title I or IV of the Act.

(ii) Returns and return information disclosed to officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice as provided by this section may be disclosed by such officers and employees to other persons, including, but not limited to, persons described in subparagraph (2)(iii) of this paragraph, but only to the extent necessary in connection with administration of the provisions of title I or IV of the Act, including a Federal grand jury proceeding, and proper preparation for a proceeding (or investigation), described in subparagraph (1) or (2)(i). Such disclosures may include, but are not limited to, disclosures where necessary—

(A) To properly obtain the services of persons having special knowledge or technical skills;

(B) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from the taxpayer to whom such return or return information relates (or the legal representative of such taxpayer) or any

witness who may be called to give evidence in the proceeding; or

(C) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding. Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates (or the legal representative of such taxpayer) to properly accomplish any purpose or activity described in this subparagraph should be made, however, only if such purpose or activity cannot otherwise properly be accomplished without making such disclosure.

(iii) Among those persons to whom returns and return information may be disclosed by officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice as provided by subparagraph (2)(ii) of this paragraph are:

(A) Other officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice;

(B) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of such officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice; and

(C) Court reporters.—Disclosure of returns or return information to other persons by officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation as provided by subparagraph (2)(ii) of this paragraph for purposes of conducting research, surveys, studies, and publications referred to in section 513(a), or authorized by title IV, of the Act shall be restricted, however, to disclosure to other officers and employees of such department or corporation to whom such disclosure is necessary in connection with such conduct or to the taxpayer by whom such return was made or to whom such return information relates if the return or return information can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(3) *Disclosure in judicial proceedings.* A return or return information disclosed to officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice as provided by this section may be entered into evidence by such officers or employees in a civil or criminal judicial proceeding authorized by, or described in, title I or IV of the Act, provided that, in the case of a judicial proceeding described in section 6103(i)(4), the requirements of section 6103(i)(4) have first been met.

(d) *Disclosure of returns and return information in connection with certain consultations between Departments of the Treasury and Labor.* Upon general written request to the Commissioner of Internal Revenue by the Secretary of Labor, officers and employees of the Service may disclose to officers and employees of the Department of Labor such returns and return information as may be necessary to properly carry out any consultation required by section 3002, 3003, or 3004 of the Act.

(e) *Return information open to public inspection under section 6104.* Nothing in these regulations shall be construed to deny officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation the right to inspect return information available to the public under section 6104 of the Code.

§ 301.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

(a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Treasury Department, a State tax agency, or the Social Security Administration are authorized to disclose returns and return information (as defined in section 6103(b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement of—

(1) Equipment or other property, or

(2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information, or to the programming, maintenance, repair, or testing of equipment or other property, for purposes of tax administration (as defined in section 6103(b)(4)). No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Treasury Department, the State tax agency, or the Social Security Administration under the authority of this paragraph shall in turn disclose such return or return information for any purpose othr than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a purpose described in this paragraph, without written approval by the Internal Revenue Service.

(b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure. Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service or a State tax agency should be made only if such services cannot be reasonably, properly, or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If, however, disclosure of returns or return information is in fact necessary in order for such employees to reasonably, properly, or economically perform the computer related services, such disclosures should be restricted to returns or return information selected or appearing at random. Further, for purposes of paragraph (a), disclosure of returns or return information in connection with the contractual procurement of property or services described in such paragraph should be made only to the extent necessary to reasonably, properly, or economically conduct such procurement activity.

Thus, for example, if an activity described in paragraph (a) can be reasonably, properly, and economically conducted by disclosure of only parts or portions of a return or if deletion of taxpayer identity information (as defined in section 6103(b)(6) of the Code) reflected on a return would not seriously impair the ability of the contractor or his officers or employees to conduct the activity, then only such parts or portions of the return, or only the return with taxpayer identity information deleted, should be disclosed.

(c) *Notification requirements.* Each officer or employee of any person to whom returns or return information is or may be disclosed as authorized by paragraph (a) of this section shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used

only for a purpose and to the extent authorized by paragraph (a) of this section and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized by such paragraph constitutes a felony, punishable upon conviction by a fine of as much as $5,000, or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also so notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure.

(d) *Safeguards.* Any person to whom a return or return information is disclosed as authorized by paragraph (a) of this section shall comply with all applicable conditions and requirements which may be prescribed by the Internal Revenue Service for the purposes of protecting the confidentiality of returns and return information and preventing disclosures of returns or return information in a manner unauthorized by paragraph (a). The terms of any contract between the Treasury Department or a State tax agency and a person pursuant to which a return or return information is or may be disclosed for a purpose described in paragraph (a) shall provide, or shall be amended to provide, that such person, and officers and employees of the person, shall comply with all such applicable conditions and restrictions as may be prescribed by the Service by regulation, published rules or procedures, or written communication to such person. If the Service determines that any person, or an officer or employee of any such person, to whom returns or return information has been disclosed as provided in paragraph (a) has failed to, or does not, satisfy such prescribed conditions or requirements, the Service may take such actions as are deemed necessary to ensure that such conditions or requirements are or will be satisfied, including—

(1) Suspension or termination of any duty or obligation arising under a contract with the Treasury Department referred to in this paragraph or suspension of disclosures by the Treasury Department otherwise authorized by paragraph (a) of this section, or

(2) Suspension of further disclosures of returns or return information by the Service to the State tax agency, until the Service determines that such conditions and requirements have been or will be satisfied.

(e) *Definitions.* For purposes of this section—

(1) The term "Treasury Department" includes the Internal Revenue Service and the Office of the Chief Counsel for the Internal Revenue Service, and

(2) The term "State tax agency" means an agency, body, or commission described in section 6103 (d) of the Code.

§ 301.6103 (p) (2) (B)–1 Disclosure of certain returns and return information by other Federal agencies.

(a) *General rule.* Subject to the requirements of this section, returns and return information disclosed by the Internal Revenue Service to officers and employees of another Federal agency (as defined in section 6103 (b)(9) of the Internal Revenue Code) as provided by section 6103 may, if the Commissioner of Internal Revenue determines that such returns or return information is more readily available from such Federal agency, be disclosed by such officers and employees to officers and employees of another Federal agency, the General Accounting Office, an agency, body, or commission described in section 6103(d) or (l)(6), or a person described in section 6103(e) for a purpose or use authorized or required by, but subject to any requirements imposed by, any other provision of section 6103 and the regulations thereunder. Any such disclosure may be made only as, to the extent, and to such persons as may be authorized in writing by the Commissioner pursuant to a written request for such disclosure by such person, and containing such information, as may be designated or provided by the applicable provisions of section 6103 and the regulations thereunder pursuant to which the disclosure is sought. Such disclosure authorization by the Commissioner shall be directed to the head of the Federal agency from which disclosure is sought and may contain such conditions or restrictions as the Commissioner may prescribe.

(b) *Records and reports of disclosure.* The Federal agency making a disclosure authorized by paragraph (a) of this section shall maintain to the satisfaction of the Service a permanent system of standardized records with respect to any disclosure authorization by the Commissioner described in paragraph (a) and any disclosure of returns or return information made pursuant to such authorization. In order to enable the Service to make a timely submission of the public report on disclosures to the Joint Committee on Taxation as required by section 6103 (p)(3)(C) of the Code, the Federal agency shall, within 30 days after the close of each calendar year, furnish to the Commissioner a report with respect to such records which provides the number of—

(1) Disclosure authorizations by the Commissioner,

(2) Instances in which returns or return information was disclosed pursuant to such disclosure authorizations and to disclosure authorizations executed in prior calendar years, and

(3) Taxpayers whose returns or return information with respect to whom was disclosed pursuant to the disclosure authorization described in subparagraph (2). In addition, in order to enable the Service to make a timely submission of the report to the Joint Committee on Taxation required by section 6103(p)(3)(B), the Federal agency shall furnish to the Commissioner a report with respect to, or summary of, the records at such time or times, in such form, and containing such information as the Commissioner may prescribe in a written request directed to the head of such Federal agency. The requirements of this paragraph do not apply to disclosures of taxpayer identity information described in section 6103(m) or to disclosures of returns and return information as provided by paragraph (a) which, had such disclosures been made directly by the Service, would not have been subject to the recordkeeping requirements imposed by section 6103(p)(3)(A).

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

§§ 404.6103(a)–1, 404.6103(a)–2, 404.6103(c)–1, 404.6103(i)–1, 404.6103(j)(2)–1, 404.6103(k)(6)–1, and 404.6103(n)–1 [Deleted]

Par. 4. Sections 404.6103(a)–1, 404.6103(a)–2, 404.6103(c)–1, 404.6103(i)–1, 404.6103(j)(2)–1, 404.6103(k)(6)–1, and 404.6103(n)–1 are deleted.

PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

§§ 420.6103(l)(2)–1, 420.6103(l)(2)–2, and 420.6103(l)(2)–3 [Deleted]

Par. 5. Sections 420.6103(*l*)(2)–1, 420.6103(*l*)(2)–2, and 420.6103(*l*)(2)–3 are deleted.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–8776 Filed 3–21–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Determination of Completeness for Permanent Program Submission From the State of Missouri

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Determination of completeness of Missouri program submission.

SUMMARY: On February 1, 1980, the State of Missouri submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Missouri program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded a review and has determined the program submission is complete.

ADDRESSES: Written comments on the Missouri program and a summary of the public meeting are available for public review, 8 a.m.–4 p.m., Monday through Friday, excluding holidays at: Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Bldg., 818 Grand Avenue, Kansas City, MO 64106.

Copies of the full text of the proposed Missouri program are available for review during regular business hours at the OSM regional office above and at the following office of the state regulatory authority: Missouri Land Reclamation Commission, 1026–D Northeast Drive, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Bldg., 818 Grand Avenue, Kansas City, MO 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 1, 1980, OSM received a proposed permanent regulatory program from the State of Missouri. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326–15328, March 13, 1979), the Regional Director, Region IV, published notification of receipt of the program submission in the **Federal Register** of February 11, 1980, (45 FR 9123–9124) and in the following newspapers of general circulation within Missouri: St. Louis Post-Dispatch; The Kansas City Star; Jefferson City News/Tribune.

The February 11, 1980, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the program submission, announcement of a public review meeting on March 13, 1980, in Jefferson City, Missouri, to discuss the submission and its completeness, and announcement of a public comment period until March 13, 1980, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and **Federal Register** notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b), and constitutes the Regional Director's decision on the completeness of the Missouri program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Missouri submission fulfills the requirements for program submissions under 30 CFR 731.14 and is therefore complete.

No later than May 20, 1980, the Regional Director will publish a notice in the **Federal Register** and the following newspapers of general circulation in Missouri initiating substantive review of the program submission: St. Louis Post-Dispatch; The Kansas City Star; Jefferson City News/Tribune.

The review will include a formal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Missouri regulatory program, in accordance with Section 702(d) of SMCRA (30 USC S 1292(d)) which states that approval of state programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: March 17, 1980.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 80–8897 Filed 3–21–80; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 79–137]

Outboard Motors; Start-In-Gear Protection Devices

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: A number of boating accidents have resulted from the starting of outboard motors while in gear, producing a sudden movement of the boat which causes its occupants to either fall inside the boat or be thrown overboard. The Coast Guard is proposing to require that outboard engines which are capable of developing a static thrust of 115 pounds or more be equipped with a device that protects the operator against the dangers caused by starting them in gear with the throttle open. Use of this device will reduce accidents resulting from outboard motors being started in gear.

DATES: Comments must be received on or before July 24, 1980.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/24), (CGD 79–137), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating Safety (G–BBT/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426–4027.

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this proposed rule. The transcript of the proceedings of the National Boating Safety Advisory Council at which this proposed rule was discussed is available for examination in Room 4224, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. The minutes of the meeting are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G–BA), U.S. Coast Guard, Washington, D.C. 20593.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment submitted

should include the name and address of the person submitting it, identify this notice (CGD 79–137) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Those desiring acknowledgment that their comment has been received should enclose a stamped, self-addressed post card or envelope.

The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons.

No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received and it appears that an opportunity to make oral presentations will aid the rulemaking process.

Discussion of the Proposed Rule

This proposal is being made in an attempt to reduce the number of accidents that have been caused by outboard motorboats being started while in gear. Statistics gathered over five recent years have revealed that an average of 15 fatalities a year are attributable to these accidents.

When an outboard motor is started in gear, the sudden movement of the boat can cause its occupants to lose their balance. This inertial force is directly proportional to the acceleration of the boat. The greatest danger consequently exists when an outboard motor at or near the maximum horsepower capacity of the boat is started in gear with the throttle set for high speed. Under such conditions persons aboard the boat may be thrown off balance and either fall within the boat or fall overboard. Slow speed starting in gear represents a relatively smaller problem, especially with low horsepower motors.

The Coast Guard and the outboard motor industry conducted tests to analyze the factors contributing to accidents resulting from outboard motors started in gear. The Coast Guard tests were designed to determine the range of dangerous acceleration values and the industry tests concentrated on whether there was a practical lower limit on outboard motor horsepower below which start-in-gear protection (SIGP) was unnecessary. These tests were conducted using outboard motors ranging from 2 to 20 horsepower in combination with typical boats. The tests showed that motors developing less than 115 pounds of thrust did not produce sufficient acceleration when started in gear to require the use of a protective device. Based on these results, the Coast Guard is proposing to require start-in-gear protection on all outboard motors that are capable of developing more than 115 pounds of thrust.

The Coast Guard believes it is preferable to identify motors requiring start-in-gear protection in terms of thrust rather than horsepower. Start-in-gear protection is intended to limit the rapid acceleration of the boat. As a measurement of force generated by a propeller, thrust bears a closer relationship to acceleration than horsepower, a more general concept directed at an engine's capacity to perform work. An uncertain relationship exists between horsepower and thrust owing to the influence of gear train and propeller design. As an example, if these are poorly designed, thrust may be limited, regardless of the engine's horsepower rating. An additional reason why horsepower was not used is that all manufacturers do not measure horsepower in a consistent fashion. Some manufacturers measure horsepower by placing a dynomometer on the power head and others measure horsepower output in the propeller shaft. These techniques may not produce the same rating for any given engine.

The proposed subpart is comprised of four sections. Section 183.701 establishes the applicability of these regulations to the subject equipment and the parties responsible for its installation. Section 183.705 offers definitions of several significant terms used in the subpart. The principal part of the proposed regulations is contained in § 183.710. This would require any outboard motor producing 115 pounds of thrust or more at any motor operating speed with any propeller or jet attachment recommended or shipped with the outboard motor to have start-in-gear protection built into the motor or in associated remote starting equipment.

Many outboard motors in that low horsepower range are locally started, usually by means of a pull-cord. Since these outboard motors do not use "starting controls", as defined in § 183.705, this proposal would require that SIGP be built into the outboard motor, (§ 183.710(a)(1)). For outboard motors equipped with starting controls, § 183.710(a)(2) would allow the SIGP to be either built into the outboard motor or the controls.

Paragraph 183.710(c) requires the installer, be it the manufacturer, distributor, or dealer, to properly match outboard motor and controls when SIGP is to be included in the control unit. Informative labeling that would be required on both motors and controls under § 183.710 would aid in the performance of this task. This provision has been included in recognition of the fact that boat dealers are usually the ones who install outboard motors and starting controls.

Section 183.715 provides an exemption for outboard motors equipped with certain types of starting devices. The majority of remotely started outboard motors also have an emergency starting system. This usually consists of a pull-cord packed with the outboard motor which can be wrapped around the flywheel so the motor can be manually started. Under this proposed section, the requirements for SIGP would not apply to this secondary system. However, information would have to be displayed on the outboard motor instructing the operator to place the shift mechanism in neutral before starting. Since the use of these secondary starting systems is minimal, the Coast Guard feels the label will provide sufficient protection.

Finally, § 181.11(c) would provide an exception to the compliance certification labeling requirements of Part 181, Subpart B for any outboard motor or starting control covered by proposed § 183.710. Compliance certification labels normally contain the name and address of the equipment's manufacturer, along with a statement certifying compliance with Coast Guard safety standards. They are considered unnecessary for outboard motors and starting controls, as these products are comonly marked with their manufacturer's name and address. Labeling to indicate compliance with safety standards would be covered by § 183.710 (a)(2) and (b).

This proposal would place an additional burden on outboard motor and controls manufacturers, but the Coast Guard considers this to be minimal owing to the fact that many manufacturers have already been working to solve the start-in-gear problem. A start-in-neutral-only switch has been an option in controls for some time. Motor manufacturers have equipped many outboard models with either limited throttle or start-in-neutral devices. Although the application of this protection has been piecemeal, the technology already exists, and therefore the burden on manufacturers to extend this protection is minimal.

The effect on boaters, on the other hand, will be positive as accidents due to starting in gear will be reduced. However, since this proposal would not require a retrofit of existing outboard motors or controls, the effect of a reduction in accidents will be gradual as older models are phased out and replaced by new models having SIGP.

This regulation should be essentially self-enforcing, since in their normal course of production outboard motors will clearly fall into the category of requiring or not requiring start-in-gear protection. In doubtful cases the Coast Guard will conduct laboratory tests to determine if start-in-gear protection is needed. The Coast Guard is currently refining the test procedures that it will use. Copies of the tests that are currently proposed are available from the Office of Boating Safety (G-BBT-2/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593. A copy of the proposed tests has also been included in the public docket for this rulemaking and is available for inspection at the Marine Safety Council at the address indicated above.

This proposal has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034), and is not considered a significant rulemaking. Most engines produced in the United States already have start-in-gear protection devices. It is estimated that from 50,000 to 100,000 engines that are marketed each year without these devices will require them in the future if this proposal were adopted. The cost for adding start-in-gear protection would range from two dollars at the manufacturing level to ten dollars at the retail level. The maximum cost of these proposed regulations is therefore estimated to be less than one million dollars. This information is taken from a draft evaluation prepared for this proposal, which may be obtained from the Marine Safety Council at the address indicated above.

In consideration of the foregoing, the Coast Guard proposes to amend Parts 181 and 183 of Title 33, Code of Federal Regulations as set forth below.

1. By adding a new paragraph (c) to § 181.11 in Part 181 to read as follows:

§ 181.11 Exceptions to labeling requirement.

* * * * *

(c) This subpart does not apply to any outboard motor or starting control to which § 183.710 of this chapter applies.

2. By adding a new Subpart L to Part 183 to read as follows:

Subpart L—Start-in-Gear Protection

Sec.

183.701 Applicability.
183.705 Definitions.
183.710 Start-in-gear protection (SIGP) required.
183.715 Exception.

Authority: 46 U.S.C. 1454, 49 CFR 1.46 (n)(1).

Subpart L—Start-in-Gear Protection

§ 183.701 Applicability.

This subpart applies to outboard motors and starting controls manufactured after August 1, 1982 and to manufacturers, distributors or dealers installing such equipment after that date.

§ 183.705 Definitions.

For the purposes of this subpart—

(a) "Outboard motor" means a self-contained propulsion system of any horsepower rating designed to be installed on, and removable from the transom of a boat.

(b) "Static thrust" means the forward or backward thrust developed by an outboard motor and associated propulsion unit while stationary.

(c) "Starting control" means the motor throttle, shift and starting control mechanisms located at a position remote from the outboard motor.

(d) "Local starting" means operating a mechanical or electrical starting device built into the outboard motor.

(e) "Distributor" means any person engaged in the sale and distribution of boats or associated equipment for the purpose of resale.

(f) "Dealer" means any person who is engaged in the sale and distribution of boats or associated equipment to purchasers who the seller in good faith believes to be purchasing any such boat or associated equipment for purposes other than resale.

§ 183.710 Start-in-gear protection required.

(a) Any outboard motor which is capable of developing a static thrust of 115 pounds or more at any motor operating speed with any propeller or jet attachment recommended for or shipped with the motor by the manufacturer, must be equipped with a device to prevent the motor being started when controls are set so as to attain that thrust level, as follows:

(1) Outboard motors designed for local starting must have a built-in start-in-gear protection device.

(2) Outboard motors designed for remote starting must have either a built-in start-in-gear protection device or be installed with remote starting controls containing this device. An outboard motor designed for remote starting that does not have a built-in start-in-gear protection device must, at the time of sale, have a tag or label attached at the location of the control connection containing the following information: "Starting controls installed with this motor must comply with USCG requirements for start-in-gear protection in 33 CFR, Subpart L." The letters and numbers on the tag or label must be at least ⅛ inch high.

(b) Starting controls must have a tag or label with the following information to indicate whether or not they have been equipped with a start-in-gear protection device: "This control will (or will not) provide start-in-gear protection meeting USCG requirements of 33 CFR, Subpart L". The letters and numbers on the tag or label must be at least ⅛ inch high.

(c) Any manufacturer, distributor or dealer installing an outboard motor displaying the label described in § 183.710(a)(2) above must properly match it with a compatible starting control that contains a start-in-gear protection device.

§ 183.705 Exception.

Outboard motors designed to be equipped for remote starting, but which also have a provision for local starting in emergencies, need not comply with § 183.710 for their local starting system. However, the following information must be displayed on the motor: "Warning—Ensure shift control is in neutral before starting motor". This information must be clearly visible to a person using the emergency starting device.

(46 U.S.C. 1454; 49 CFR 1.46(n)(1))

Dated: March 18, 1980.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 80-8926 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Proportionate Reduction in Monthly Training Assistance Allowance Less Than 120 Hours

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulations allow certain hours of related training taken by an eligible veteran in an apprenticeship and other on-the-job training to count toward the 120 hours he or she must work in a month in order to receive the full monthly training

allowance. In the past no related training could be counted. The amended regulations allow those hours of related training which most closely approximate hours of training worked to count towards helping a veteran receive the full monthly training assistance allowance.

DATES: Comments must be received on or before April 23, 1980. It is proposed to make this amendment effective the date of final approval.

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

Comments will be available for inspection at the address shown above during normal business hours until May 5, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4136(i) is amended to allow the veteran's hours of related training, which occur during the standard workweek and for which he or she receives wages, to count toward the 120 hours the veteran must work in order to receive his or her full monthly training allowance. Section 21.4137 is amended for the same reason.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until May 5, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: March 17, 1980.
By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. In § 21.4136, paragraph (i) is revised to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. chapter 34.

* * * * *

(i) *Proportionate reduction in monthly training assistance allowance less than 120 hours*—(1) *Reduced training allowance.* For any month in which an eligible veteran pursuing an apprenticeship or on-job training program fails to complete 120 hours of training the Veterans Administration shall reduce the rate specified in paragraph (a) of this section proportionally. In this computation the Veterans Administration shall round the number of hours worked to the nearest multiple of eight.

(2) *Definition of "hours worked."* For the purpose of this paragraph "hours worked" include only—

(i) The training hours the veteran worked, and

(ii) All hours of the veteran's related training which occurred during the standard workweek and for which the veteran received wages. (See footnote 5 to § 21.4270(b) as to the requirements for full-time training.) (38 U.S.C. 1787(b)(3))

* * * * *

2. In § 21.4137, paragraph (f) is revised to read as follows:

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. chapter 35.

* * * * *

(f) *Proportionate reduction in monthly training assistance allowance less than 120 hours*—(1) *Reduced training allowance.* For any month in which an eligible person pursuing an apprenticeship or on-job training program fails to complete 120 hours of training the Veterans Administration shall reduce the rate specified in paragraph (a) of this section proportionally. In this computation the Veterans Administration shall round the number of hours worked to the nearest multiple of eight.

(2) *Definition of "hours worked"* For the purpose of this paragraph "hours worked" include only—

(i) The training hours the eligible person worked, and

(ii) All hours of the eligible person's related training which occurred during the standard workweek and for which the eligible person received wages. (See footnote 5 to § 21.4270(b) as to the requirements for full-time training. (38 U.S.C. 1787(b)(3))

* * * * *

[FR Doc. 80-8874 Filed 3-21-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1444-2; PP 9F2158/P134]

Tolerance and Exemption From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Socium Salt of Acifluorfen

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

ACTION: Proposed rule.

SUMMARY: This notice proposed that a tolerance be established for combined residues of the herbicide sodium salt of acifluorfen and its metabolites (the corresponding acid, methyl ester, and amino analogues) in or on soybeans at 0.1 ppm; liver and kidney of cattle, goats, hogs, horses, and sheep at 0.02 ppm; meat, fat, and meat byproducts of poultry at 0.02 ppm; and, milk and eggs at 0.02 ppm. The proposal was submitted by Rohm and Haas Company.

DATE: Comments must be received on or before April 3, 1980.

ADDRESS COMMENTS TO: Dr. Willa Garner, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. Willa Garner at the above address (202/755–1397).

SUPPLEMENTARY INFORMATION: On January 18, 1979, notice was given (44 FR 3771) that Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, had submitted a petition (PP 9F2158) to the Environmental Protection Agency (EPA) proposing that 40 CFR 180 be amended by establishing a tolerance for combined residues of the herbicide sodium salt of acifluorfen (sodium 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoic acid) and its metabolites (the corresponding acid, methyl ester, and amino analogues) in or on the raw agricultural commodities soybeans at 0.1 part per million (ppm); liver and kidney of cattle, goats, hogs, horses, and sheep at 0.01 ppm; fat, meat, and meat byproducts of poultry at 0.01 ppm; milk, and eggs at 0.01 ppm.

No comments were received in response to this notice of filing.

Rohm and Haas Co. subsequently amended the petition by proposing that the tolerance be increased to 0.02 ppm in the liver and kidney of cattle, goats, hogs, horses, and sheep; fat, meat, and meat byproducts of poultry; milk; and eggs.

Because of the potential increase in exposure of humans to residues as a result of the higher tolerance, the tolerance is being proposed at this time to provide an opportunity for public comment. The data submitted in this petition and other relevant material have been evaluated. The data included plant residue, lactating cow, laying hen, and rat metabolism feeding studies, a rat acute oral LD_{50} study with an LD_{50} of 1.30 grams/kilogram (gm/kg); a two-year rat feeding/oncogenicity study negative for oncogenic effects at doses from 2.5 ppm to 1,080 ppm at varying time intervals but not valid as a chronic feeding study, a rat reproduction/teratology study with a no-observed-effect level (NOEL) of 540 ppm, a rabbit teratology study with an NOEL of 60 milligrams/kilogram/day (mg/kg/day); a mouse oncogenicity study negative for oncogenic effects at doses from 7.5 ppm to 270 ppm, and a two-year dog feeding study with an NOEL of 50 ppm.

There are no permanent tolerances for sodium salt of acifluorfen. Based on the two-year dog feeding study with an NOEL of 50 ppm and a safety factor of 100, the allowable daily intake (ADI) is 0.0125 mg/kg/day and the maximal permissible daily intake (MPI) is 0.75 mg/kg/day/60/kg man. The requested tolerances will utilize 1.87% of the ADI.

There are no regulatory actions pending against registration of this chemical. The metabolism of sodium salt of acifluorfen is adequately understood and an analytical method (gas-liquid chromatographic separation and electron capture detection) is available for enforcement purposes. No other considerations are involved in establishing these tolerances.

The proposed tolerances are adequate to cover residues occurring in soybeans and in meat, milk, poultry, and eggs. The tolerances will protect the public health.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 10 days after publication of this proposal in the **FEDERAL REGISTER** that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 9F2158/P134." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 23, Room 351, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

The comment period is being limited to 10 days in order that the permanent tolerance may be established in the first week of April. This is necessary if the compound is to be marketed this growing season. The use of this new herbicide will result in a substantial increased yield of soybeans grown by American farmers.

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 proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of the Executive Order 12044.

Dated: March 19, 1980.

James W. Akerman,

Acting Director, Registration Division.

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

It is proposed that Part 180, Subpart C, § 180.383 be added, as follows:

§ 180.383 Acifluorfen; tolerances for residues.

Tolerances are hereby established for combined residues of the herbicide sodium salt of acifluorfen (sodium 5 - [2 - chloro - 4 - (trifluoromethyl) - phenoxyl] - 2 - nitrobenzoic acid) and its metabolites (the corresponding acid, methyl ester, and amino analogues) in or on the following raw agricultural commodities, as follows:

Commodity	*Parts per million*
Cattle, kidney	0.02
Cattle, liver	0.02
Eggs	0.02
Goats, kidney	0.02
Goats, liver	0.02
Hogs, kidney	0.02
Hogs, liver	0.02
Horses, kidney	0.02
Horses, liver	0.02
Milk	0.02
Poultry, fat	0.02
Poultry, mbyp	0.02
Poultry, meat	0.02
Sheep, kidney	0.02
Sheep, liver	0.02
Soybeans	0.10

[FR Doc. 80-8981 Filed 3-21-80; 8:45 am]

BILLING CODE 6560-01-M

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Improving Government Regulations; Amendment to Publication Schedule of Semiannual Agenda

AGENCY: National Science Foundation.

ACTION: Amendment of schedule of semiannual agenda.

Section 2 of Executive Order 12044, on improving Government regulations, requires the Foundation to publish a schedule of the dates when the Foundation's semiannual agenda will be published.

The Foundation's schedule for publication of semiannual agenda for fiscal year 1980, which was published in the October 1, 1979, page 56520, **Federal Register**, is being amended. The second agenda for Fiscal Year 1980, which was scheduled for publication on April 1, 1980, will now be published on June 13, 1980.

FOR FURTHER INFORMATION CONTACT:

Terese Judkins, telephone (202) 632-5760.

Charles H. Herz,

General Counsel.

[FR Doc. 80-8931 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order No. 16, Docket No. 80-15]

Rules of Practice and Procedure; Proceedings Under the Intercoastal Shipping Act

AGENCY: Federal Maritime Commission.

ACTION: Proposed rules.

SUMMARY: The Federal Maritime Commission hereby proposes to revise Rule 67 of the Commission's Rules of Practice and Procedure (46 CFR 502.67) in order to limit the application of certain provisions of the rule to vessel operating common carriers (VOCC's). The proposed revision will remove several inconsistencies between Rule 67 and the rules entitled Financial Exhibits and Scheduled Non-Vessel Operating Common Carriers in the Domestic Offshore Trades published (Docket No. 78-46), January 17, 1980. In addition, the Commission intends to clarify the rule to make it clear that the relevant Attorneys General receive the VOCC's testimony, exhibits and underlying workpapers on the same day that they are filed with the Commission.

DATES: Comments must be submitted on or before April 23, 1980.

ADDRESSES: Comments (original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

SUPPLEMENTAL INFORMATION: On January 17, 1980, the Federal Maritime Commission published (45 F.R. 3311) rules that (a) require non-vessel operating common carriers (NVO's) subject to the Intercoastal Shipping Act, 1933, to submit standard-format financial data and (b) establish procedures by which the Commission will evaluate proposed rate changes. The rules will become effective upon the completion of GAO review as required under The Federal Reports Act (44 U.S.C. 3512).

The rules will require an NVO to submit standard-form financial data only in the event the Commission institutes a formal investigation and hearing of a proposed rate change. The NVO would have thirty (30) days from the proposed effective date of the rates in which to comply with the rule (46 C.F.R. 514.2(b)). The exhibits and schedules required by the rules will be an essential element of the NVO's justification in support of the general rate change. In determining whether or not the NVO had met its burden of proof, the Commission will give great weight to the material submitted in compliance with the rules. NVOs will no longer be required to submit an annual report or submit justification concurrently with every general rate change.

The Commission's present Rules of Practice and Procedure require the carrier to file its entire direct case with any general rate increase or decrease in rates sixty (60) days prior to the proposed effective date of the change. All necessary testimony, exhibits, and underlying data must be readily available to protestants and other interested parties. Within seven (7) days after the effective date of the changes, Hearing Counsel and any protestants are required to serve on all parties all testimony and exhibits constituting the direct case, as well as the underlying data. These provisions are clearly inconsistent with the rules pertaining to NVO's. Accordingly, the Commission intends to limit their application to vessel operating common carriers.

Currently, section 502.67(d)(2) governs proceedings brought under section 3 of the Intercoastal Act that do not involve general rate increases or decreases. The carrier, Hearing Counsel, and all protestants are required to simultaneously serve testimony, exhibits, and workpapers on all parties and lodge copies of testimony and exhibits with the Administrative Law Judge no later than twenty (20) days after the proposed effective date of the tariff changes, should the proposed change be made subject to a docketed proceeding. The Commission proposes that all NVO rate proceedings brought under section 3 of the Intercoastal Act be governed by the procedural schedule in section 502.67(d)(2). However, the Commission believes that the twenty (20) day period must be extended to thirty (30) days in order to give parties time to prepare their cases. This is consistent with the thirty (30) period in the rules pertaining to NVO's (46 CFR 514.2(b)).

Section 502.67(b)(1) specifies that any protest "shall be filed with the Director, Bureau of Ocean Commerce Regulation and the carrier no later than thirty (30) days prior to the proposed effective date of the proposed changes." The filing date may not be satisfied merely by mail service on the date the filing is required. Section 502.67(a)(2) requires carriers to serve testimony, exhibits and underlying workpapers on the Attorney General of every non-contiguous State, Commonwealth, possession or Territory having ports in the relevant trade. At least arguably this could be satisfied by mailing. This inconsistency (i.e., service vs. filing) reduces substantially the time which an Attorney General has to formulate a protest. To remove this unfairness, the Commission intends to impose a filing requirement on carriers as well as protestants.

Accordingly, it is proposed that Title 46 CFR be amended by the revision of Section Part 502.67 as set forth below.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 21, 27 and 43 of the Shipping Act, 1916 (46 U.S.C. 820, 826, 841(a)), and section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), Part 502 of Title 46, Code of Federal Regulations is proposed to be amended by revising §§ 502.67 to read as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

(a)(1)(i) The term "general rate increase" means any change in rates, fares, or charges which will (A) result in an increase in not less than 50 per centum of the total rate, fare, or charge items in the tariffs per trade of any common carrier by water in intercoastal commerce; and (B) directly result in an increase in gross revenues of such carrier for the particular trade of not less than 3 per centum.

(ii) The term "general rate decrease" means any change in rates, fares, or charges which will (A) result in a decrease in not less than 50 per centum of the total rate, fare, or charge items in the tariffs per trade of any common carrier by water in the intercoastal commerce; and (B) directly result in a decrease in gross revenue of such carrier for the particular trade of not less than 3 per centum.

(2) No general rate increase or decrease shall take effect before the close of the sixtieth day after the day it is posted and filed with the Commission. A vessel operating common carrier (VOCC) shall file, under oath, concurrently with any general rate increase or decrease testimony and exhibits of such composition, scope and format that they will serve as the VOCC's entire direct case in the event the matter is set for formal investigation, together with all underlying workpapers used in the preparation of the testimony and exhibits. The VOCC shall also certify that copies of testimony, exhibits and underlying workpapers have been filed simultaneously with the Attorney General of every non-contiguous State, Commonwealth, possession or Territory having ports in the relevant trade that are served by the VOCC. The contents of underlying workpapers served on attorneys general pursuant to this paragraph are to be considered confidential and are not to be disclosed to members of the public except to the extent specifically authorized by an order of the Commission or a Presiding Administrative Law Judge. A copy of the testimony and exhibits shall be made available at every port in the trade at the offices of the VOCC or its agent during usual business hours for inspection and copying by any person. In addition, the underlying workpapers shall be made available promptly by the VOCC to all persons requesting them for inspection and copying upon the submission of the following certification, under oath, to the VOCC:

Certification

I (name and title if applicable)————, of (full name of company or entity)————, having been duly sworn, certify that the underlying workpapers requested from (name of VOCC)————, will be used solely in connection with protests related to and proceedings resulting from (name of VOCC)————'s, general rate (increase) (decrease) scheduled to become effective (date)———— and that their contents will not be disclosed to any person who has not signed, under oath, a certification in the form prescribed, which

has been filed with the VOCC, unless public disclosure is specifically authorized by an order of the Commission or a Presiding Administrative Law Judge.

(Signature) _____

(Date) _____

Signed and Sworn before me this —— day of ————.

(Notary public) _____

My Commission expires ————.

(3) Failure by the VOCC to meet the service and filing requirements of paragraph (a)(2) may result in rejection of the tariff matter. Such rejection will take place within three work days after the defect is discovered.

(b)(1) Protests against a proposed general rate increase or decrease made pursuant to section 3 of the Intercoastal Shipping Act, 1933, may be made by letter and shall be filed with the Director, Bureau of Ocean Commerce Regulation and the carrier no later than thirty (30) days prior to the proposed effective date of the proposed changes. In the event the due date for protests falls on a Saturday, Sunday or national legal holiday, protests must be filed with the Director, Bureau of Ocean Commerce Regulation and the carrier no later than the last business day preceding the weekend or holiday. Persons filing protests pursuant to this section shall be made parties to any docketed proceeding involving the matter protested, provided that the issues raised in the protest are pertinent to the issues set forth in the order of investigation. Protests shall include:

(i) Identification of the tariff in question;

(ii) Grounds for opposition to the change;

(iii) Identification of any specific areas of the VOCC's testimony, exhibits, or underlying data that are in dispute and a statement of position on each area in dispute (VOCC general rate increases or decreases only);

(iv) Specific reasons why a hearing is necessary to resolve the issues in dispute;

(v) Any requests for additional carrier data;

(vi) Identification of any witnesses that protestant would produce at a hearing, a summary of their testimony and identification of documents that protestant would offer in evidence; and

(vii) A subscription and verification.

(2) Protests against other proposed changes in tariffs made pursuant to section 3 of the Intercoastal Shipping Act, 1933, shall be filed no later than twenty (20) days prior to the proposed effective date of the change. The provisions of paragraph (b)(1) relating to the form, place and manner of filing protests against a proposed general rate increase or decrease shall be applicable to protests against other proposed tariff changes.

(c) Replies to protests shall conform to the requirements of § 502.74 (Rule 74).

(d)(1) In the event the general rate increase or decrease of a VOCC is made subject to a docketed proceeding, Hearing Counsel, the VOCC and all protestants shall serve, under oath, testimony and exhibits constituting their direct case, together with underlying workpapers on all parties and lodge copies of testimony and exhibits with the Administrative Law Judge no later than seven (7) days after the tariff matter takes effect or in the case of suspended matter, seven (7) days after the matter would have otherwise gone into effect.

(2) If other proposed tariff changes made pursuant to section 3 of the Intercoastal Shipping Act, 1933 are made subject to a docketed proceeding, the carrier, Hearing Counsel and all protestants will simultaneously serve testimony and exhibits constituting their direct case, together with underlying workpapers on all parties and lodge copies of testimony and exhibits with the Administrative Law Judge no later than thirty (30) days after the tariff matter takes effect, or in the case of suspended matter, thirty (30) days after the matter would have otherwise gone into effect.

(e)(1) Subsequent to the exchange of testimony, exhibits, underlying data and prehearing statements by all parties, the Administrative Law Judge shall, at his discretion, direct all parties to attend a prehearing conference to consider:

(i) Simplification of issues;

(ii) Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

(iii) Identification of any issues which require evidentiary hearing;

(iv) Limitation of witnesses and areas of cross-examination should an evidentiary hearing be necessary;

(v) Requests for subpoenas; and

(vi) Other matters which may aid in the disposition of the hearing.

(2) After considering the procedural recommendations of the parties, the Administrative Law Judge shall limit the issues to the extent possible and establish a procedure for their resolution.

(3) The Administrative Law Judge shall, whenever feasible, rule orally upon the record on matters presented before him.

(f)(1) It shall be the duty of every party to file a prehearing statement on a date specified by the Administrative Law Judge, but in any event no later than the date of the prehearing conference.

(2) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and briefly set forth:

(i) Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

(ii) Identification of any issues which require evidentiary hearing, together with the reasons why these issues cannot be resolved readily on the basis of documents, admissions of fact, stipulations or an alternative procedure;

(iii) Requests for cross-examination of the direct written testimony of specified witnesses, the subjects of such cross-examination and the reasons why alternatives to cross-examination are not feasible;

(iv) Requests for additional, specified witnesses and documents, together with the reasons why the record would be deficient in the absence of this evidence; and

(v) Procedural suggestions that would aid in the timely disposition of the proceeding.

(g) The provisions of this section are designed to enable the Administrative Law Judge to complete a hearing within sixty (60) days after the proposed effective date of the tariff changes and submit an initial decision to the Commission within one hundred twenty (120) days pursuant to section 3(b) of the Intercoastal Shipping Act, 1933. The Administrative Law Judge may employ any other provision of the Commission's Rules of Practice and Procedure, not inconsistent with this section, in order to meet this objective. Exceptions to the decision of the Administrative Law Judge, filed pursuant to section 502.227 (Rule 227) shall be served no later than fifteen (15) days after date of service of the initial decision. Replies thereto shall be served no later than ten (10) days after date of service of exceptions. In the absence of exceptions, the decision of the Administrative Law Judge shall be final within 30 days from the date of service unless within that period a determination to review is made in accordance with the procedures outlined in § 502.227 of this part.

(h) Intervention by persons other than protestants ordinarily shall not be granted. In the event intervention of such persons is granted, the Administrative Law Judge or the Commission may attach such conditions or limitations as are deemed necessary to effectuate the purpose of this section. [Rule 67.]

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8919 Filed 3-21-80; 8:45 am]

BILLING CODE 7630-01-M

46 CFR Part 537

[Docket No. 79-60]

The Filing With the Commission of Cargo Statistics Compiled by Various Conferences of, and Rate Agreements Between, Common Carriers by Water in the Foreign Commerce

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: The Commission instituted this proceeding by notice of proposed rulemaking published June 13, 1979 (44 FR 33913) and invited public comment whether the Commission would require the filing annually of cargo statistics by conferences and rate agreements, composed of common carriers by water engaged in the foreign commerce of the United States. In light of the comments received and because the Commission considers the proposal to increase the burden of regulation to conferences and rate agreements as well as the Commission itself, without sufficient corresponding regulatory benefit, the Commission has determined not to adopt a final rule at this time. Accordingly, this proceeding is hereby discontinued.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 1101, Washington, D.C. 20573, Tel. (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8916 Filed 3-21-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Materials Transportation Bureau

49 CFR Parts 172, 173, 178

[Docket No. HM-139C; Notice No. 80-5]

Conversion of Individual Exemptions Into Regulations of General Applicability

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments on or before April 23, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, 400 Seventh Street, S.W.; Washington, D.C. 20590, 202-472-2726.

SUPPLEMENTARY INFORMATION: Each of the proposed amendments described in the following table is founded upon either: (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application for an exemption. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

Primary drafters of these proposals are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Regulation, Exemptions and Regulation Termination Branch.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumer, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals. Adoption of an amendment derived from an existing exemption would obviate the need for that exemption and effectively terminate it. Upon such termination the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on the proposals may wish to address both the proposed amendment and the exemption application. Comments pertaining to modes of transportation other than those for which the exemption application requested is anticipated.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued. The suffix "No" mean no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

BILLING CODE 4910-60-M

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 4790	Smith & Wesson/ General Ordnance Equipment Co.	§ 172.101	Authorizes shipment of tear gas devices (Chemical Mace) meeting DOT Specification 2P inside DOT 12B30 fiberboard box. (Modes 1, 2).	To add the following entry to the Hazardous Materials Table in § 172. 101 in alphabetical sequence:

(1)	(2)	(3)	(3A)	(4)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names.	Hazard class	ID number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Tear gas device	Irritating material	NA1693	Irritant	None	§ 173.385	Forbidden	75 pounds	1	5	Stow away from living quarters.

Proposed Amendments of Hazardous Materials Regulations
to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
		§ 173.385		To add paragraph (a)(3) to read as follows: (3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside tear gas devices meeting specification 2P (§ 178.33 of this subchapter). Each inside container must be placed into spiral wound tubes fitted with metal ends or a double-faced fiberboard box with suitable padding. Not more than 30 inside containers shall be placed in one outside box and gross weight shall not exceed 35 pounds.
E 6526	Dow Chemical Co.	§ 173.353 (a)(3) § 173.357 (b)(1)	Authorizes the shipment of certain Poison B liquids in DOT Specification 4BA or 4BW cylinders with recessed valve protection.	To revise § 173.353(a)(3) to read: (a)(3) Specification 3A225, 3AA225, 3B225, 3E1800, 4A225, 4B225, 4BA225, or 4BW225 (§§ 178.36, 178.37, 178.38, 178.42, 178.49, 178.50, 178.51, 178.61 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit by equipping the cylinder with valve protection required by § 173.301(g) of this subchapter. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates (See § 173.25). To amend § 173.357(b)(1) by changing the first two sentences as follows: (b)(1) Specification 3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, or 4C (§§ 178.36, 178.37, 178.38, 178.40, 178.41, 178.42, 178.49, 178.50, 178.51, 178.61, 178.52 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit by equipping the cylinders with valve protection required by § 173.301(g) of this subchapter. ***.

Proposed Amendments of Hazardous Materials Regulations
to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 7710 8045 8185 8266	Container Corp. of America; Liqui-Box Corp.; Midway Can Co.; Industrial Plastic Container Co.	§ 173.119(a)(27) 173.125(a)(7) 173.222(a)(4) 173.245(a)(21) 173.263(a)(23) 173.272(i)(11) 173.277(a)(5) 173.346(a)(24)	Authorizes shipments of various flammable liquids corrosive liquids, and poisonous liquids in a DOT specification 12P fiberboard box having two inside DOT 2U polyethylene bottles of 2-1/2 gallon capacity each instead of one inside container as now prescribed.	To amend the first sentence of §§ 173.119(a)(27), 173.125(a)(7), 173.222(a)(4), 173.245(a)(21), 173.263(a)(23), 173.272(i)(11), 173.277(a)(5) and 173.346(a)(24) to read as follows: Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 5-gallon capacity or two inside specification 2U polyethylene containers of not over 2-1/2 gallon capacity each.
		§ 173.119(m)(8) 173.221(a)(9)		To amend the first sentence of §§ 173.119(m)(8) and 173.221(a)(9) to read as follows: Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 6-gallon capacity or two inside specification 2U polyethylene containers of not over 2-1/2 gallon capacity each.
		§ 178.211		To amend the section title as follows: § 178.211 Specification 12P; fiberboard boxes. Non reuseable containers for inside plastic containers greater than 1-gallon capacity as prescribed in Part 173 of this subchapter.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 7725 7921 8116	Supelco, Inc., Varian Associates Poly Science Corp; Becton, Dickinson & Co; U.S. EPA	§ 173.4	Authorizes the shipment of minute quantities of various hazardous materials as essentially unregulated materials. The materials are used as analytical standards by research, industry and government agencies to test properties of other materials. The maximum quantity of hazardous material in one outside package is not greater than 250 milliliters (about 8-1/2 ounces) but the package is composed of many glass ampules containing very small quantities of material. There is presently no such provision for such minute quantities in the hazardous materials regulations.	To add section § 173.4 to read: § 173.4 Exceptions for Analytical Standards and Minute Quantities of Certain Hazardous Materials. Hazardous materials (which are not forbidden from surface transportation by this subchapter) except radioactive materials, explosives and Poison A gases, when shipped in minute quantities as analytical standards and packaged and marked in accordance with all of the conditions of this paragraph and paragraph 173.24, are excepted from all other provisions of this subchapter. (a) Not more than 25 ml. (0.85 oz.) of hazardous material in a glass ampule with sufficient outage such that the ampule does not become liquid full at 130°F. Each ampule must be totally enclosed in an absorbent material of sufficient quantity to completely absorb its liquid content. In addition, each ampule containing a corrosive liquid must be surrounded by material capable of also neutralizing as well as absorbing the liquid. The ampules, appropriately cushioned and packed in a quantity not to exceed 10, must be either: (i) Enclosed in a heat sealed bag and placed in tightly fitting rigid inside packaging, or (ii) Placed in a tightly fitting rigid inside packaging which is enclosed in heat sealed bag. (b) Inside packages described in (i) or (ii) above must be placed and secured against movement in either a DOT Specification 12A or 12B (§ 178.205, 178.210 of this subchapter) fiberboard box of at least 275 pounds strength double-wall construction. Total net quantity of hazardous material in each fiberboard box must not exceed 250 mil.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
				(c) The outside of the completed package shall be marked "ANALYTICAL STANDARDS". (d) Not authorized for transportation in the passenger compartment of an aircraft.
E 7824 7944 8044 8118	FMC Corp; Champion Chemicals, Inc. Dow Chemical Co. Nalco Chemicals Co. Magna Corp.	§ 173.119(a)	Authorize the use of marine portable tanks (MPT) meeting the requirements of 46 CFR Part 64 for shipments by highway and cargo vessel for use in off-shore oil well supply industry. (Modes 1, 2).	To add paragraph (a)(29) to § 173.119 to read as follows: (29) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of § 178.245-4 of this subchapter when transported by highway.
		§ 173.245(a)		To add paragraph (a)(35) to § 173.245 to read as follows: (35) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tank must be compatible with lading. Not authorized for corrosive materials which also meet the definition of another hazard class. Tanks shall comply with mounting and tie-down requirements of § 178.245-4 of this subchapter when transported by highway.
		§ 173.263(a)		To add paragraph (a)(30) to § 173.263 to read as follows: (30) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of § 178.245-4 of this subchapter. Authorized only for mixtures of hydrochloric and hydrofluoric acid containing 2% or less of hydrofluoric acid.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
		§ 173.264(a)		To add paragraph (a)(20) to read as follows: (20) Marine portable tanks meeting requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of § 178.245-4 of this subchapter when transported by highway. Authorized for hydrofluoric acid mixtures.
		§ 173.272(c), (d), (e), (f), (g)		To amend paragraphs (c), (d), (e), (f), and (g) by adding reference to paragraph (i)(29) as authorized packaging.
		§ 173.272(i)		To add paragraph (i)(29) to read as follows: (29) Marine portable tanks meeting requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of § 178.235-4 of this subchapter when transported by highway. Authorized for sulfuric acid of concentrations up to 65.25 percent. Greater contrations are also authorized if the corrosive effect on steel is not greater than that of 65.25 percent sulfuric acid measured at 100°F.
8071-N	Ethyl Corp.	§ 172.101	Correction: Docket HM-139 (44 FR 21793), April 12, 1979) amended §§ 172.101 and 173.202 to provide for the shipment of sodium potassium alloy (liquid) in DOT speciifcation 51 portable tanks. An error was made in Column 6(b) of § 172.101 by authorizing 25 pounds aboard cargo-only aircraft. This entry should have been one pound.	To amend the entry for sodium potassium alloy (liquid) in § 172.101 by changing "25 pounds" in Column 6(b) to "1 pound."

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 8205-N	Roy E. Hanson Jr. MFG	§ 178.343-3(a)	Requested the use of a DOT Specification MC 312 cargo tank equipped with an elliptical manway as an alternate to the 15-inch inside diameter type. (Mode 1).	To amend the first sentence of § 178.343-3(a) to read: (a) Each compartment shall be accessible through a manhole conforming to paragraph UG-46(g)(1) of the ASME Code. * * *
8227-N	Interox America	§ 178.24a-2	Request to use an inside polyethylene bottle comparable with DOT Specification 2E except for a maximum capacity of 5 liters (Modes 1, 2, 3).	To revise paragraph (a) by deleting the reference to 4.73 liters to read as follows: (a) Maximum capacity not to exceed 5 quarts.
E 8229	Atlas Powder Co.	§ 172.504 173.114a	To allow the blasting agent placard for mixed loads of nitro carbo nitrate, classed as an oxidizer and blasting agent, n.o.s. and/or ammonium nitrate-fuel oil mixture. (See Docket HM-143, 44FR 31180, May 31, 1979). (Modes 1,2).	To add a new subparagraph to § 173.114a(j) as follows: (j)(1) During the voluntary compliance period, for mixed loads of nitro carbo nitrate, classed as oxidizer and blasting agent, n.o.s. and/or ammonium nitrate-fuel oil mixture, classed as a blasting agent, the blasting agent placard may be used in cases where both the blasting agent placard and the oxidizer placard would be required.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
6268-N	Union Carbide Corp.	§ 173.119(m)	Requests that DOT Specification 105A tank cars be authorized for the shipment of flammable liquids which are also corrosive. (Mode 2).	To consolidate paragraphs (m)(13) and (m)(15) into one paragraph to read as follows: (m)(13) Specification 103AW, 103ALW, 103A-ALW, 103ANW, 103BW, 103CW, 103DW, 103EW, 103W, 104W, 111A60ALW, 111A60W1, 111A60ALW2, 111A60W2, 111A60W5, 105A100W, 111A100F2, 111A100W3, 111A100W6, 115A60W6, or AAR206W (§§ 179.200, 179.201, 179.220 of this subchapter). Tank cars. All special requirements for tank cars according to flash point, vapor pressure, and viscosity, in paragraphs (a) through (l) of this section apply (See Note 1). Not authorized for flammable liquids which are also organic peroxides.
E 8276-N	Safeway Stores	§ 172.101 173.505	Would authorize the transport of ORM-D packages in less than case lots when secured in carts or overpacks. Applicable only when shipped between distribution center and retail store via private motor carrier. (Mode 1).	To change the entry for consumer commodity in § 172.101 Column 5(a) from "None" to "173.505(b)." To add a new paragraph in § 173.505 to read as follows: (b) Strong outside packagings as specified in § 173.1200 of this subchapter are not required for materials classed as ORM-D when unitized in cages, carts, or similar overpacks and when shipped by private motor carrier from a distribution center to retail outlet.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 8311-N	Pressed Steel Tank Co., Inc.	§ 178.37-5	Request the re-instatement of DOT SP 6129 which authorized the use of a carbon-boron steel in the manufacture of DOT Specification 3AA cylinders. (Modes 1,2,3 4).	To revise the Table in § 178.37-5 (a) by eliminating the un-used designations NE-8630, NE-9115, NE-9115X, NE-9125, NE-9125X and by adding a new designation after "4130X" to read as follows: § 178.37-5(a) * * *. Designation — Carbon-boron steel (percent) Carbon ..... 0.27-0.37 Manganese ..... 0.80-1.40 Phosphorus .... 0.035 max Sulphur ..... 0.045 max Silicon ..... 0.30 max Chromium ..... Molybdenum ..... Zirconium ..... Nickel ..... Boron ..... 0.0005-0.003 Also, a new paragraph (b) would be added to § 178.37-5 to read as follows: (b) When a carbon-boron steel is used, a hardenability test must be performed on the first and last ingot of each heat of steel. The results of this test must be recorded on the Record of Chemical Analysis of Material for Cylinders required by § 178.37-22 of this section. This hardness test must be made 5/16-inch from the quenched end of the Jominy quench bar and the hardness shall be at least Rc 33 and no more than Rc 53.

BILLING CODE 4910-60-C

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) App. A to Part 106.)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et. seq.). A regulatory evaluation is available for review of the docket.

Issued in Washington, D.C. on March 18, 1980.

Alan I. Roberts,

Associate Director for Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-8845 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-02; Notice 1]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

Correction

In FR 80-6425 appearing at page 13785 in the issue of Monday, March 3, 1980, on page 13786, in Table I-JJ, the second entry "P185/70R13", under maximum tire loads 280, the entry reading "460" should be corrected to read "560".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to determine Potentilla Robbinsiana (Robbins' Cinquefoil) To Be an Endangered Species and To Determine its Critical Habitat.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposal.

SUMMARY: The U.S. Fish and Wildlife Service proposes to determine a plant, *Potentilla robbinsiana* (Robbins' cinquefoil), to be an Endangered species and to determine its Critical Habitat under the authority contained in the Endangered Species Act of 1973. This plant occurs in New Hampshire solely on U.S. Forest Service lands and in Vermont on privately owned lands. The plant is threatened by human trampling and natural factors. A determination of *Potentilla robbinsiana* to be an Endangered species would implement the protection provided by the Endangered Species Act of 1973 as amended.

DATES: Comments from the public must be received on or before May 23, 1980. Comments from the Governors of New Hampshire and Vermont must be received on or before June 23, 1980. A public meeting will be held on Monday, April 28, 1980, beginning at 7:30 p.m.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Fifth Floor, Arlington, Virginia 22201. The public meeting will be held at the YMCA, 15 North State Street, Concord, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, (703) 235-2771.

SUPPLEMENTARY INFORMATION: *Potentilla robbinsiana* (Robbins' cinquefoil) was first discovered in 1829 by James Robbins for whom it was later named (Pease, 1917). This small perennial plant is a member of the rose family and forms densely tufted rosettes of leaves measuring 2–4 cm across. The yellow flowers are borne solitarily on stems, measuring only 1–3 cm long. *Potentilla robbinsiana* occurs in alpine areas of New Hampshire and Vermont. The habitat of this plant can be described as treeless, nearly barren fell-fields above 4,000 feet where the climate is extremely harsh. The substrate in which these plants occur has been described as a shallow loamy sand topped with a stony pavement like surface. This stony surface layer protects the soil from being either blown or washed away. The continued existence of this plant and the fragile habitat in which it occurs are being threatened by trampling and other factors. This rule proposes to determine *Potentilla robbinsiana* to be Endangered which would implement the protection provided by the Endangered Species Act of 1973. The following paragraphs further discuss the actions to date involving this plant, the threats to the plant, and effects of the proposed action.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975 **Federal Register** publication. *Potentilla robbinsiana* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A one year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976 proposal along with four other proposals which had expired. At this time the Service has sufficient new information to warrant reproposing *Potentilla robbinsiana*. Critical Habitat is being proposed for *Potentilla robbinsiana* for the first time.

Following the June 16, 1976 proposal, hundreds of comments were received from individuals, conservation organizations, botanical groups, business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered plants and their protection and regulation. These comments are summarized in the April 26, 1978, **Federal Register** publication of a final rulemaking which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909–17916). Additional comments which are received during the comment period for this proposal will be summarized in the final rulemaking.

In the June 24, 1977, **Federal Register** (42 FR 32373–32381), the Service

published a final rulemaking under 50 CFR Part 17 detailing the regulations to protect Endangered and Threatened plant species. The rulemaking established prohibitions and a permit procedure to grant exceptions, under certain circumstances, to the prohibitions.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Factors Affecting the Species

Section 4(a) of the Endangered Species Act (16 U.S.C. 1531 et seq.) states that the Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a) of the Act. These factors and their application to *Potentilla robbinsiana* Oakes (Robbins' cinquefoil) are as follows:

Potentilla robbinsiana

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, *Potentilla robbinsiana* has been known from two locales in the White Mountains of New Hampshire and from one recently discovered locale in Vermont. One 1800's herbarium sheet was reportedly also collected in Vermont. Today *Potentilla robbinsiana* is only known from one locale in New Hampshire, where the population has been greatly reduced and impacted by man, and from the Vermont locale.

The locale in New Hampshire where *Potentilla robbinsiana* still exists is in the Presidential Range of the White Mountains. This site is bisected by the Appalachian Trail which was constructed in the summer of 1819 (Burt 1960). In 1840 the trail was expanded to a bridle path opening the way to horseback parties. Although *Potentilla robbinsiana* was discovered at this site in 1829, little was known of its population dynamics and changes until recent years. Mr. F. L. Steele, a botanist, has noted that the *Potentilla robbinsiana* plants now occupy only about ¼ of the territory they occupied in 1934. Mrs. S. K. Harris, a botanist, noted plants were growing on both side of the trail as recently as 1965. But by 1972 the plants were noted as beig totally absent from the west side of the trail. Today they only exist on the east side of the trail and all plants within 8 meters of the trail have been destroyed. At present the hiker travel zone is widening at this site and further destruction of the *Potentilla robbinsiana* population will likely occur (Graber, 1980).

The second New Hampshire locale where *Potentilla robbinsiana* was once known to occur was in the Franconia Ridge of the White Mountains. Two populations, a north and a south station, were known from this locale. Both of these stations were traversed by the Appalachian Trail. The north station population was discovered in 1897 and has been relocated for nearly 65 years. The south station population was discovered in 1915. Mr. F. L. Steele observed three small clumps of *Potentilla robbinsiana* at this station in 1965 but subsequent searches, including extensive searches in 1977 and 1978, have not been able to relocate any plants at the south station (Graber, 1980). *Potentilla robbinsiana* may have been extirpated from both these sites.

The reason for this decline at both locales has been primarily due to hiker impacts. Hiker traffic on the Appalachian Trail in the White Mountains has increased dramatically in recent years. The nearly barren, fell-field habitat which the *Potentilla robbinsiana* occupies is open and offers no obstacle to hikers wandering off the trail, to groups wishing to walk abreast, or to illegal campers. Plants may actually be trampled and crushed but even more damaging to the population is the shifting and dislodging of the stony pavement-like surface. Once this stony pavement-like surface is disturbed by the abrasion and churning caused by the hiker's foot, the soil between the stones is loosened and is soon blown or washed away and with it *Potentilla robbinsiana's* habitat. Once disturbed, these fragile alpine habitats and plant communities take many years to recover. A long term solution to this problem may be to greatly reduce the human traffic in the areas where *Potentilla robbinsiana* occurs (Graber, 1980).

The Vermont locale is less well known historically since it was only recently discovered. The same threat of trampling exists for this population. The population occurs on privately-owned land and currently has received little or no protection planning.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Steele (1964) points out that one factor threatening *Potentilla robbinsiana* is over zealous collecting by botanists. He sites this as the probable cause of the extirpation of one of the Franconia sites. Graber (1980) also notes that the collecting of specimens of *Potentilla robbinsiana* for herbaria has also taken its toll. Graber notes that over 40 herbarium sheets containing nearly 100 plants (6 percent of the known current mature population) have been counted in various New England herbaria.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* Although *Potentilla robbinsiana* does appear on State lists which were developed by botanists within New Hampshire and Vermont, no State legislation currently offers it specific protection in either State. The habitat type (alpine areas) of *Potentilla robbinsiana* is offered some protection by Vermont State law. Vermont's Land Use and Development Law (Title 10 of Vermont Statutes, Part 5, Chapter 151, Act 250, Subchapter 3, Sec. 6042) does restrict what kinds of development can take place in certain *special areas.* The rules of the environmental board includes alpine areas as *special areas* and they are therefore offered some protection. Sec. 6086 of this same Act also requires the consideration of wildlife habitat and endangered species in the permitting of developments or subdivisions.

The Forest Service's regulations governing the land on which this species occurs prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare, or unique species (36 CFR 261.9). These regulations, however, may be difficult to enforce. The Endangered Species Act will offer additional protection to this species.

(5) *Other natural or man-made factors affecting its continued existence.* The small size and number of the populations cause this species to be in greater danger of extinction due to natural fluctuations in the populations.

Another major cause of *Potentilla robbinsiana* mortality in addition to trampling is the harsh climate of the area where the plants occur. Only 40 percent of the seedlings survive each year and during the first few years after germination the mortality rate of the plants is very high. Frost heaving during the spring and fall is the most frequent natural cause of plant death. Many seedlings also die during the hot, dry periods from what is believed to be drought stress. Trampling may also contribute to high seedling mortality. After the first few years the mortality rate decreases and plants may survive two or more decades with some plants approaching an age of 40 years (Graber, 1980).

This high mortality rate in seedlings and young plants is not terribly unusual in the plant kingdom but for a plant which is already declining in numbers this can make it even more vulnerable.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

Any activity which would result in increased trampling or disturbance of the fragile alpine areas where *Potentilla robbinsiana* occurs would probably adversely modify the Critical Habitat. The long term solution on how to best protect *Potentilla robbinsiana* may be to greatly reduce the human traffic in the area where this plant occurs. This may require prohibiting the development of new trails in areas where the plant occurs, relocating old trails, or other steps by the Forest Service.

Critical Habitat for *Potentilla robbinsiana* is being determined to include the area in New Hampshire where the species currently occurs. In the future, adjacent suitable habitat may be included so as to provide areas for management, reintroduction, and natural expansion. Therefore, the Critical Habitat delineated does not necessarily include the entire area necessary for the survival of *Potentilla robbinsiana* throughout its range, and modifications this Critical Habitat designation may be proposed in the future.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant in the foreseeable future. The Service has notified and is working with the U.S. Forest Service which has jurisdiction over the land and water under consideration in this proposed action. The U.S. Forest Service, other Federal agencies, and other interested persons or organizations are requested to submit information on economic or other impacts of the proposed action. The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for *Potentilla robbinsiana*.

The Critical Habitat which is being proposed for *Potentilla robbinsiana* excludes the summit of Mt. Washington where two small tracts, one (approximately 60 acres) which is owned by the state of New Hampshire and another (approximately 9 acres) which is owned by Dartmouth College are located. These tracts are located at the top of Mt. Washington which receives heavy visitor use and where no populations of *Potentilla robbinsiana* occur. Reintroduction and natural expansion would not be desirable or likely in this area due to this heavy use and therefore this area was excluded from the critical habitat. Other areas were also excluded from the Critical Habitat in order to allow the Forest Service more time in which to incorporate plans for protecting *Potentilla robbinsiana* into their unit plan. The Forest Service and the Fish and Wildlife Service will continue to work together to identify additional areas necessary for the conservation of this species.

Effects of This Proposal if Published as a Final Rule

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977 **Federal Register** set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. All of those prohibitions and exceptions also apply to any Threatened species, excluding seeds of cultivated plants treated as Threatened, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened plants, are found at Sections 17.61 and 17.71, of 50 CFR and are summarized below.

With respect to *Potentilla robbinsiana* all prohibitions of Section 9(a)(2) of the Act, as implemented by Section 17.61 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR Section 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered or Threatened. This protection would accrue to *Potentilla robbinsiana* if it is later determined to be Endangered as a result of this proposal.

Provisions for Interagency Cooperation implementing section 7 are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of *Potentilla robbinsiana*, but also to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party

concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of any populations of *Potentilla robbinsiana* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area; the probable impacts of such activities on the area designated as Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federal activities.

Final promulgation of the regulations on *Potentilla robbinsiana* will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt a final regulation that differs from this proposal.

Public Meetings

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meetings are set out below:

1. Place: YMCA, 15 North State Street, Concord, N.H.

Date: April 28, 1980.

Time: 7:30 p.m.

Subject: Proposal of *Potentilla robbinsiana* to be endangered.

This proposal is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884). The primary author of this proposed rule is Ms. E. LaVerne Smith, Washington Office of Endangered Species (703/235–1975).

Literature Cited

Burt, F. A. 1960. The Story of Mount Washington. Dartmouth Publications, Hanover, New Hampshire.

Graber, R. E. 1980. The life history and ecology of *Potentilla robbinsiana*. *Rhodora:* 82(829):131–140.

Pease, A. S. 1917. Notes on the botanical explorations of the White Mountains. *Appalachia* 14:157–178.

Steele, F. L. 1964. *Potentilla robbinsiana* in the White Mountains of New Hampshire. *Rhodora* 66:408–411.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend Section 17.12 by adding, in alphabetical order, the following to the list of plants:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Rosaceae—Rose family:						
Potentilla robbinsiana	Robbins' cinquefoil	U.S.C. New Hampshire and Vermont.	Entire	E		NA

§ 17.96(a) [Amended]

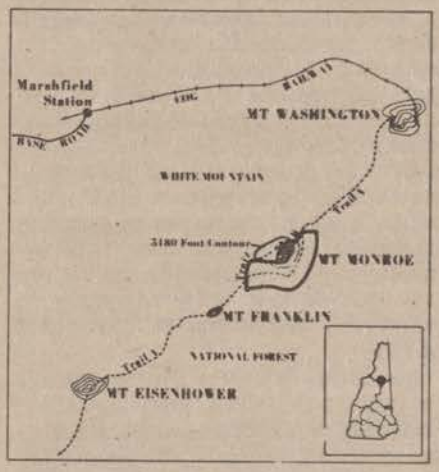
2. Also, the Service proposes to amend 17.96(a) by adding the Critical Habitat of *Potentilla robbinsiana* after that of the Poaceae—*Zizania texana*, as follows:

Rosaceae

Potentilla robbinsiana

Robbins' cinquefoil

New Hampshire, Coos County; the area bounded by the 5180 foot contour; by the Monroe Loop Trail north from the 5180 foot contour to the Crawford Path trail; by a line running due east for 200 feet from the northern junction of Monroe Loop Trail and Crawford Path; by a line running parallel to but 200 feet east or south of Crawford Path; by a line extending 200 feet south from the southern junction of the Monroe Loop Trail and Crawford Path; and by the Monroe Loop Trail north from its southern junction with Crawford Path to the 5180 foot contour.



Dated: March 17, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-8790 Filed 3-21-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Proposed Threatened Status for the Leopard in Sub-Saharan Africa

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

ACTION: Proposed rulemaking to determine the leopard in Sub-Saharan Africa as a Threatened species rather than an Endangered species.

SUMMARY: The Director, U.S. Fish and

Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking which would reclassify certain African populations of the leopard as Threatened rather than Endangered. All leopard populations occurring to the south of a line running along the borders of the following countries would be reclassified as Threatened (except Somalia which is excluded from this proposal because there are no data): Senegal/Mauritania; Mali/Mauritania; Mali/Algeria; Niger/Algeria; Niger/Libya; Chad/Libya; Sudan/Libya; Sudan/Egypt. A special rule is proposed that would allow the importation of a sport-hunted leopard trophy legally taken anywhere in Africa south of this line (except for Somalia) under the terms and conditions imposed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Since the leopard is on Appendix I of this Convention, a valid export permit from the country of origin of the trophy would be required, and a valid import permit must be issued by the United States Management Authority for the Convention. No Threatened species permit would be required in this limited situation. It must be emphasized that this action applies only to sport-hunted trophies. With regard to any transaction other than importation of a legally taken trophy, all of the prohibitions of 50 CFR 17.31 would still apply. In addition, it should be noted that leopard populations in any area other than that delineated above in Sub-Saharan Africa would remain on the Endangered species list, and would continue to be subject to all of the prohibitions of 50 CFR 17.21.

DATES: All relevant comments and materials with regard to this proposed rulemaking received no later than June 24, 1980, will be considered by the Director.

ADDRESSES: Comments and materials concerning this proposed rulemaking should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, 1000 North Glebe Road, Arlington, Virginia, 22201 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The leopard is one of the most widely distributed of any species of cat. It occurs throughout most of Africa, and from Asia Minor to China, Korea, Japan, and Java; it also is found in India, Ceylon and Southeast Asia. In March of 1972, the Service listed the leopard as an Endangered species pursuant to the Endangered Species Conservation Act of 1969. This was done primarily because it was felt that the species was being drastically overutilized in the commercial fur trade. For instance, in 1968 and 1969 alone, over 17,000 leopard hides were imported into the United States. This trade was unregulated, and illegal poaching was widespread. The Service felt that no species of large cat like the leopard could tolerate this enormous drain from its wild populations for any sustained period of time and continue to survive as a viable species. In addition, nearly every country contacted, in which the leopard was resident, expressed fears for the leopard's future if the fur trade was not brought under control. In a summary of its status report on the leopard (U.S. Fish and Wildlife Service Special Scientific Report-Wildlife No. 157) the Service stated: "The leopard, although still widespread in distribution, has been extirpated from some areas, and is drastically reduced in numbers elsewhere. This has come about primarily because of overutilization for commercial purposes and modification of habitat. Although there are differences of opinion regarding the true status of this species, most responsible authorities have expressed concern for its survival and regard it as endangered". Consequently, the leopard was listed as an Endangered species pursuant to the Endangered Species Act of 1969.

Under that Act, there were provisions for only the single status category of Endangered. A listing as Endangered automatically prohibited the importation of any leopards, alive or parts and products thereof, into the United States, except under permit. Permits could be issued only for scientific purposes, or to enhance the propagation or survival of the species. The heavy flow of leopards into the United States for the fur trade immediately ceased after the listing and there have been no imports of leopards, except under permit, since 1972.

In February and March of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter, the Convention) was negotiated in Washington, D.C. (the Convention, however, did not become effective until July 1, 1975). The leopard was placed on Appendix I of the Convention when the Convention was negotiated. Appendix I is defined as including all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances. With an Appendix I species, a valid export permit must be issued by the State of export and an import permit must be issued by the Management Authority of State of import before trade in that species is allowed. An export permit will not be granted by the State of export unless its Scientific Authority advises that such export will not be detrimental to the survival of the species. The United States Management Authority will not issue an import permit unless it determines that an export permit has been granted and that the importation is not for primarily commercial purposes, and unless the United States Scientific Authority has advised that the importation will be for purposes which are not detrimental to the survival of the species involved.

The placing of the leopard on the United States List of Endangered and Threatened Wildlife and Plants, and on Appendix I of the Convention, has generated considerable interest in that species' actual status in the wild. Since the listings, three major reports containing studies on the status of the leopard have been completed which form the basis for the present proposed action. These reports are the following: "The Leopard *Panthera pardus* in Africa" by Norman Myers (IUCN Monograph No. 5, 1976); "The Status and Conservation of the Leopard in Sub-Saharan Africa" by Randall L. Eaton (Safari Club International, January, 1977); and "Status of the Leopard in Africa South of the Sahara" by James G. Teer, and Wendell G. Swank (unpublished contracted study financed by U.S. Fish and Wildlife Service).

In December 1973, the Endangered Species Act of 1973 was passed into law. This Act differed from the previous 1969 Act in that it provided for a Threatened category as well as for an Endangered one. A Threatened species is one that is likely to become Endangered within the foreseeable future throughout all or a significant portion of its range. The Secretary has broad discretion in developing a

management strategy that will effectively conserve threatened species. Based on data contained in the status documents enumerated above, the Service feels that the leopard in Sub-Saharan Africa (except in Somalia) more properly fits the definition of a Threatened species than it does an Endangered species (an Endangered species is defined as one in danger of extinction througout all or a significant portion of its range).

As indicated above, the Service can promulgate any regulation for a Threatened species that is deemed necessary and advisable to provide for the conservation of that species. In the case of the leopard in Sub-Saharan Africa (except in Somalia), it appears to be advisable to permit the importation of legally taken sport-hunting trophies under the terms and conditions of the Convention in certain cases. In the following section, the Service will outline its reasons for proposing the reclassification of the leopard in Sub-Saharan Africa, and will present its reasoning as to why it appears to be advisable in some cases to permit the controlled importation of legally taken trophies.

Summary of Data on the Status of the Leopard

This proposal pertains to a broad, geographically defined region rather than to any specific political entity. Although data from each specific political entity within Sub-Saharan Africa are lacking, enough are available from representative entities within the region to warrant action representing the region as a whole. To attempt to reclassify the leopard in any other way, such as on a country by country basis, would be biologically unsound, and would result in impossible public confusion and law enforcement problems.

The Service believes that the leopard is a Threatened species in Sub-Saharan Africa because of the following: A careful analysis of area/habitat type, maximum estimated density and minimum estimated density of leopards in this region by Eaton (loc. cit.) shows that an absolute minimum of 233,050 leopards may occur over the entire area; a conservative estimate of numbers would be 546,076 leopards, while a realistic estimate would place the number at 1,155,500 animals. A country by country breakdown of estimated numbers is presented by Eaton as follows:

Country	Absolute minimum	Conservative estimate	Realistic estimate
Kenya	6,379	25,640	35,000
Uganda	1,547	3,413	20,000
Tanzania	14,740	36,100	70,000
Senegal	1,435	2,970	6,000
Mali	3,088	6,175	15,000
Upper Volta	1,633	3,265	10,000
Niger	1,527	3,055	5,000
Chad	4,325	8,650	15,000
C.A.R.	5,450	10,900	20,000
Gambia	528	1,055	2,500
Guinea	2,250	4,500	10,000
Sierra Leone	700	1,400	3,000
Libera	2,500	5,000	20,000
Ivory Coast	5,625	11,250	30,000
Ghana	2,975	5,950	20,000
Nigeria	4,653	9,305	20,000
Cameroon	4,563	10,705	30,000
Angola	17,369	42,340	87,000
Zambia	18,500	46,250	70,000
Mozambique	16,190	32,378	67,000
Malawi	1,918	3,835	10,000
Botswana	3,165	6,646	20,000
Rhodesia	2,288	6,676	20,000
South West A.	3,477	6,544	20,000
South Africa	3,800	7,150	15,000
Sudan	8,900	22,800	80,000
Ethiopia	6,907	12,814	30,000
Congo	13,200	27,500	55,000
Gabon	13,400	26,800	50,000
Zaire	70,000	155,000	300,000

Given the facts that an absolute minimum estimate of leopard numbers in the region under consideration is over 200,000 animals (a realistic estimate is in excess of 1½ million), that the species is widely distributed and that an effective international regulatory mechanisms (the Convention) now exists, the leopard in Sub-Saharan Africa can hardly be in danger of extinction (the definition of an Endangered species).

Eaton (loc. cit.) conducted a study on the status of the leopard in 11 Sub-Saharan African countries, and combined his results with those of Myers (loc. cit.) to adjudge status in major countires. His observations (based on responses from numerous game wardens, professional hunters, wildlife biologists, and other leopard authorities) represent the best scientific and commercial data available (as required by the Act) and are summarized as follows:

Kenya—"The leopard in Kenya has a satisfactory status * * *"

Uganda—"* * * leopard possibly rare, or satisfactory, but probably not endangered as a whole in Uganda."

Tanzania—"I rate the leopard as satisfactory, probably anundant in Tanzania."

Angola—"* * * every reason to give the leopard in Angola a satisfactory status."

Zambia—"The leopard in Zambia has a satisfactory status and is probably abundant."

Mozambique—"* * * the leopard is satisfactory and probably abundant in Mozambique * * *"

Malawi—"The leopard probably has a satisfactory status in Malawi."

Botswana—"The leopard has a satisfactory status in Botswana with indications of improving conditions in the future."

Rhodesia—"There may well be over 20,000 (leopards) in Rhodesia. The leopard has a satisfactory status in Rhodesia."

South West Africa—"The leopard has a satisfactory status in South West Africa."

South Africa—"The leopard is probably rare or potentially endangered in O.F.S. (Orange Free State), rare in Natal, and rare or satisfactory in Cape Province. It appears to be satisfactory in Transvaal and in the widespread preserves throughout South Africa. Overall in South Africa the present status should be rated between rare and satisfactory with present trends being stable."

West Africa—"Myers says that leopards may have stabilized or increased recently in the Sudano-Guinean zone, including parts or portions of Sierra Leone, Guinea, Liberia, and northern Ivory Coast. In all of Sub-Saharan Africa, the West African region probably has the least satisfactory leopard populations; however, in much of the region it appears that the species' status is relatively satisfactory and probably does not deserve Endangered status except locally. Moreover, the regional trend may even be improving due to the encroachment of bush from overgrazing and burning, end of the drought in the Sahel portion, increased edge effect in forests from patchy agriculture and so on, all of which favor leopards."

Sudan—"Myers indicates no status for the leopard in Sudan, but clearly all evidence suggests a satisfactory and probably stable population."

Ethiopia—"The leopard has a satisfactory status in Ethiopia, and given revision of foreign laws to encourage trophy hunting, and, as Myers hints, to allow for regulated fur trade, the future of the species in Ethiopia could be assured indefinitely in a satisfactory status."

Somalia—"Although Eaton considers the leopard as probably rare in Somalia but on an upward trend, Myers' view of the situation there is so grim that we are excluding that country from this proposal."

Congo—"The leopard is satisfactory and abundant in Congo."

Gabon—"The leopard is satisfactory and abundant in Gabon."

Zaire—"There are likely to be more than 300,000 leopards in Zaire. The leopard is satisfactory and abundant in Zaire."

The detailed reports by both Myers and Eaton, which contain supporting data for the above appraisals for the leopard's status, are available for examination in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia 22201.

Despite the fact that the leopard in Sub-Saharan Africa does not fit the category of an Endangered Species, the Service feels that it is a Threatened species in that region. Section 4(a) of the Act states:

> General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
>
> (1) The present of threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
>
> (3) Disease or predation;
>
> (4) The inadequacy of existing regulatory mechanisms; or
>
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

In the case of the leopard, factors (1), (2), (4), and (5) are still operational or could possibly become threatening again.

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* Myers (loc. cit.) feels that the leopard is more adaptable to habitat changes than many other forms of animal life. Nevertheless, large areas of Sub-Saharan Africa will be given over to crop farming within the next decade, particularly Savannah, as drought-resistant maize becomes available. This could present a long-term threat to the leopard as well as to many other forms of Africa wildlife.

(2) *Overutilization for commercial, sporting, scientific, or edcuational purposes.* Since the United States prohibited the importation of live leopards and leopard products in 1972, a good part of the market for illegal hides has vanished and the significant threat to the survival of the leopard was checked. Nevertheless, illegal poaching continues to be a problem in some Sub-Saharan countries with hides going to western European countries that are not party to the Convention. Many of the authorities interviewed by Teer and Swank (loc. cit.) expressed concern over the inability of some African nations to effectively control this illegal take. If reclassified as a threatened species, the leopard will continue to be protected by general prohibition against importation into the United States found at 50 CFR 17.31, and the trade restrictions found in the Convention.

(4) *The inadequacy of existing regulatory mechanisms.* Although the present position of the leopard on Appendix I of the Convention assures the species adequate regulatory protection at present, it is absolutely essential that the leopard remain on that Appendix. In fact, along with new evidence of stable status, it is the very presence of the leopard on Appendx I that makes it possible to permit the importation of a sport-hunting trophy under the Act. Any move by the Parties to the Convention to place the leopard on Appendix II, would, in the Service's opinion, result in a reduction of regulatory control and might require the United States to reconsider its status under the Act.

(5) Other natural or manmade factors affecting its continued existence. Norman Myers (loc. cit.) feels that the greatest threat to the leopard derives from increasing use of poison. The leopard's propensity for scavenging makes it more susceptible than many carnivores for taking treated lumps of meat. Myers states that preliminary signs suggest that this threat is certainly capable of extirpating leopards from sizeable areas in a short space of time. He feel that it is a factor of greater consequence to the future of the leopard than all other forms of combating the species combined. Although Eaton and some of the respondents in the Teer-Swank survey play down the importance of poison to the survival of the leopard, it is certainly a factor that should be considered a threat to the species.

Importation of Leopard Trophies

The Service has received information indicating that in some cases permitting the importation of a legally taken leopard trophy would benefit the species. The argument that the leopard might benefit from strictly controlled legal trophy hunts is expressed by Mr. Daniel Sindiyo, Assistant Director, Division of Wildlife, Ministry of Tourism and Wildlife, Kenya, in an interview contained in the Teer and Swank report. Mr. Sindiyo says:

> It seems very clear to me that no one is going to conserve and manage a resource that is not going to provide some financial return to them. This applies to Masai or any other landowners. The leopard does cause damage to livestock, and it cannot be expected that the Masai will live happily with an animal that has only negative benefits. Fortunately, we are beginning to make more progress in getting revenues from wildlife back to the people. For example, a leopard shot on a license would retun to the landwoner SH 5,000 ($865 U.S.) so this is it. The landowner now knows that fees due will go directly to him, either as a private landowner, or a member of a group ranch, and they appreciate this highly.
>
> As you well know, prior to 1973 very few of the landowners had much interest in wildlife. If they saw someone killing wildlife they just went about their business. That has now gradually changed. They now think of wildlife as common property because money from wildlife is invested in projects that will benefit the whole community.

Mr. E. T. Matenge, Director, Department of Wildlife, National Parks and Tourism, Botswana (in an interview contained in the Teer and Swank report) states:

> "Now, there are some places where they (leopards) come face to face with the cattle industry and they do damage. Now the plan for destruction of leopard in those areas is very great. So you need to reconcile this situation by insuring that these animals can continue to be hunted where they are available but protected where you feel they must continue to retain good populations of these animals. The hunting of leopards in these areas is, in fact, beneficial economically, because as you may be aware, the license fee for a sport hunter to hunt leopard is P300. I don't know what this is in terms of U.S. dollars, but it's roughly $380, or something like that. From that end, you can see that it is an economically important animal as well, but to say that you must just keep it conserved without utilizing it would really be destructive in the long-term to its populations."

The same argument is repeatedly presented by persons interviewed by Teer and Swank for their report. Myers (loc. cit.) sums it up as follows: "Above all, organized exploitation of the leopard could enhance the image of wildlife in general and predators in particular, as perceived by citizens in emergent Africa."

The Service believes that there may be cases in which permitting the importation of leopard trophies taken under a strictly controlled management program will benefit the species by giving it an economic value which would in turn stimulate conservation measures. By allowing the importation of sport trophies through a special rule, the permit system of the Convention can be used to allow sport trophy imports in appropriate cases. As indicated above, sport trophy imports into the United States will only be permitted when it is found to enhance the survival of the species. The Service, therefore, feels that it is advisable to promulgate regulations which will permit importation of a leopard trophy if the United States Management Authority for the Convention has issued a permit allowing for that importation.

Effect of the Rulemaking

This rulemaking will permit the

importation into the United States of sport-hunted leopard trophies from delineated Sub-Saharan African countries without an Endangered Species Act permit, when the U.S. Management Authority for the Convention has issued a Convention permit for said importation. All other prohibitions for the protection of Threatened Species will apply to the leopard in Sub-Saharan Africa, and it will not change in any way the prohibitions currently in effect for leopard populations outside of the delineated Sub-Saharan African countries.

Convention on International Trade in Endangered Species of Wild Fauna and Flora

In a separate action, the Service is publishing a notification that it does not recommend a transfer of the leopard from Appendix I to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It may seem contradictory at first that on the one hand the Service finds data sufficient to reclassify the leopard under the Act, but sufficient to warrant such action under the Convention. The Service, however, takes the view that these two actions are consistent for the following reasons:

(1) Both the Endangered Species Conservation Act of 1969 (under which the leopard was listed as Endangered), and the present Endangered Species Act of 1973, state that, among other reasons, a species shall be determined as Endangered because of its overutilization for commercial, sporting, scientific, or educational purposes. When the leopard was originally listed as Endangered, unregulated international trade in leopard hides was the primary threat to the species. Leopard skin coats and other articles of apparel were strongly in vogue and at one time over 9000 leopard hides were imported into the U.S. annually (1968) in order to meet the demand. The Service felt, at the time, that no large predatory animal could withstand such a drain on its wild population for a sustained period without facing extinction and hence listed the leopard as Endangered in 1972 based primarily on the factor of overutilization for commercial trade. Since that time the Convention on International Trade in Endangered Species of Wild Fauna and Flora has been convened, and some 58 countries are now parties (the U.S. became a party in 1975). The primary function of this Convention is to regulate trade in species that appear on its Appendices. The leopard appears on Appendix I which is the Appendix to which the Convention directs its most stringent controls. All shipments of Appendix I species, their parts and derivatives (including manufactured products), require two permits—one from the importing country, and another from the exporting country. Before a permit can be granted for import of an Appendix I species into the United States, Convention Authorities must find that the purposes of the importation will not be detrimental to the survival of the species in the wild. Permits for Appendix I species may not be issued for purposes which are primarily commercial. With the leopard now on Appendix I of the Convention, strict international control has been imposed, and unregulated trade is no longer the major threatening factor it was when the species was listed. Since the primary basis for its listing as endangered is no longer of critical concern because of the impact of the Convention, the restrictions under the Act can be somewhat lessened as long as the leopard remains on Appendix I.

(2) The categories of protection under the Act and on the Convention are sufficiently different so that it is consistent for a species to be Threatened under the Act and on Appendix I of the Convention. Both Endangered and Threatened categories under the Act offer levels of national protection comparable to that afforded by Appendix I under the Convention.

(3) Finally, the criteria for determining a species to be Endangered or Threatened under the Act are not identical to those for listing a species in Appendix I or Appendix II under the Convention. The Act requires only that reclassification of any species be based on the best scientific and commercial data available at the time; such data are provided by the three reports which prompt the present proposal. On the other hand, the criteria adopted by the party nations to the Convention require "positive scientific evidence that the plant or animal can withstand the exploitation resulting from the removal of protection. This evidence must transcend informal or lay evidence of changing biological status and any evidence of commercial trade which may have been sufficient to require the animal or plant to be placed on an Appendix initially. Such evidence should include at least a well documented population survey, and indication of the population trend of the species, showing recovery sufficient to justify deletion, and an analysis of the potential for commercial trade in the species or population." (Conference Report 1.2, Proc. 1st Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1976). The Service feels that the three documents which form the basis for a reclassification of the leopard under the Act, do not meet these specific requirements of the Convention.

Public Comments Solicited

The Director intends that the rules finally adopted will be accurate, and as effective as possible in the conservation of any Endangered or Threatened species. Therefore, any data, comments, or suggestions from the public, other governmental agencies, the scientific community, industry, private interest, or any other interested party concerning any aspect of this proposed action will be welcome.

Final promulgation of the regulations on the leopard in Sub-Saharan Africa will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differs from the proposal.

Pursuant to Section 4(b) of the Act, the Director will cooperate with the Secretary of State and with the countries which will be affected by this proposed rulemaking. Airgrams will be sent to each of the affected countries informing them of the proposed action, and requesting their advice in the matter.

An Environmental Impact Assessment has been prepared in conjunction with this proposal (in compliance with Executive Order 12114). It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia 22201 and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by John L. Paradiso, Office of Endangered Species (703/235–1975).

Note.—The Department of the Interior has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is hereby proposed to amend Part 17, Subparts B and D, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.11 [Amended]

1. It is proposed to amend § 17.11 as follows:

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Leopard	*Panthera pardus*	Africa, Asia Minor, India, Southeast Asia, China, Malaysia, Indonesia, Somalia.	Whenever found in the wild, except where it is listed as Threatened, as set forth below.	E	5	N/A	N/A
Leopard	*Panthera pardus*	Africa, Asia Minor, India, Southeast Asia, China, Malaysia, Indonesia, Somalia.	In Africa in the wild, south of a line running along the borders of the following countries: Senegal/Mauritania; Mali/Mauritania; Mali/Algeria; Niger/Algeria; Niger/Libya; Chad/Libya; Sudan/Libya; Sudan/Egypt (except for Somalia where it is Endangered).	T	.....	N/A	17.40(f)

2. It is proposed to amend § 17.40 by adding the following language:

§17.40 Special rules—mammals

* * * * *

(f) *Leopard.* (1) Except as noted in paragraph (f)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the leopard populations occurring in Sub-Saharan Africa (except for Somalia) to the south of a line running along the borders of the following countries:Senegal/Mauritania; Mali/Mauritania; Mali/Algeria; Niger/Algeria; Niger/Libya; Chad/Libya; Sudan/Libya; Sudan/Egypt.

(2) A legally taken, sport-hunted leopard trophy taken from the area south of the line delineated above may be imported into the United States without an Endangered permit issued pursuant to 50 CFR 17.32: *Provided,* That the import is done in accordance with the Convention.

Dated: March 17, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-8873 Filed 3-21-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 58
Monday, March 24, 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

Advisory Committee on State and Private Forestry; Meeting

The Advisory Committee on State and Private Forestry will meet in Tallahassee, Florida, on April 20, 21, and 22, 1980. The meeting will convene at 7:30 p.m. on April 20th at the Ramada Inn West.

This Committee, comprised of 15 members from a broad spectrum of geographic and special interest areas, advises the Secretary of Agriculture and various agencies of the Department on the protection, management, and development of the Nation's non-Federal forest land resources. Dr. M. Rupert Cutler, Assistant Secretary for Natural Resources and Environment, will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

Discussion will center on advice and guidance to the Secretary of Agriculture on USDA State and Private Forestry programs.

The meeting will be open to the public for participation as time permits. Persons who wish to attend, should notify the Committee's Executive Secretary, Howard W. Burnett, USDA–Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 472–5580. Written statements may be filed with the Executive Secretary before or after the meeting.

March 18, 1980.

Jerome A. Miles,

Deputy Chief.

[FR Doc. 80–8831 Filed 3–21–80; 8:45 am]

BILLING CODE 3410–11–M

Chattahoochee-Oconee National Forests Land Management Plan; Chattahoochee-Oconee National Forests, Gainesville, Georgia; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, (PL 91–190) and the National Forest Management Act of 1976 (PL 94–588), the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Chattahoochee-Oconee National Forests' Land Management Plan. The Chattahoochee National Forest is located in Banks, Catoosa, Chattooga, Dawson, Fannin, Floyd, Gilmer, Gordon, Habersham, Lumpkin, Murray, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield Counties in Georgia; and the Oconee National Forest is located in Greene, Jasper, Jones, Morgan, Oconee, Oglethorpe and Putnam Counties in Georgia.

The land management plan will provide for multiple use and sustained yield of goods and services from the Chattahoochee-Oconee National Forests. It will guide all natural resource management activities, and will establish management standards and guidelines for the Forests. A reasonable range of alternatives will be developed and considered. One of these alternatives will be a "no-action" alternative which represents continuation of present management direction. Other alternatives will reflect of range of resource outputs and expenditure levels.

A 30-day public involvement session will be held from March 31, 1980 to April 30, 1980 to identify significant public issues to be addressed in the environmental impact statement and land management plan. The State of Georgia, concerned Federal agencies, and interested publics will be involved in the process. Interested publics will be notified of how and when to get their input into the planning process.

The draft environmental impact statement is scheduled for filing in October 1981, with a 3-month review period, and the final environmental impact statement is scheduled for filing in April, 1982.

Lawrence M. Whitfield, Regional Forester, Southern Region of the Forest Service, is the responsible official for approval of the environmental impact statement and plan.

Written comments and suggestions concerning this Notice of Intent or the proposal should be sent to W. Pat Thomas, Forest Supervisor, Chattahoochee-Oconee National Forests, by April 30, 1980.

For further information about the planning process, or the environmental impact statement, contact: Jack Kennedy, Chattahoochee-Oconee National Forests, 601 Broad Street, Gainesville, Georgia 30501 (Phone: 404–536–0541).

Dated: March 13, 1980.

James S. Sabin, Jr.

Acting Regional Forester.

[FR Doc. 80–8890 Filed 3–21–80; 8:45 am]

BILLING CODE 3410–11–M

Science and Education Administration

Proposed Procedures for Implementing National Environmental Policy Act (NEPA), Extension of Comment Period

AGENCY: Science and Education Administration (SEA), U.S. Department of Agriculture (USDA).

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the notice of proposed procedures for implementing National Environmental Policy Act (NEPA) published on February 20, 1980 (45 FR 11147), requesting comments to March 21, 1980. The comment period is being extended to April 21, 1980, to provide interested parties additional time to respond to the proposed procedures.

DATE: Comments will be received until April 21, 1980.

ADDRESSES: Interested parties are invited to submit written comments or suggestions to: Mr. Richard A. Kennell, USDA, SEA, Joint Planning and Evaluation, Program Planning Staff, Room 18, Building 005, BARC–West, Beltsville, Maryland 20705 (301) 344–2198. All written comments received on these proposed procedures will be made available upon request for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Kennell at the same

address and telephone number listed above.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 80-8905 Filed 3-21-80; 8:45 am]

BILLING CODE 3410-03-M

Special Research Grants Program for Fiscal Year 1980; Solicitation of Applications

The Notice of Solicitation of Applications for the Special Research Grants Program for Fiscal Year 1980 relating to High Priority Regional Agricultural Research, appearing in 45 FR 8520–8526, February 7, 1980, is amended as provided below to remove cost sharing as a factor in the selection process. In addition, in view of the above the deadline for submission of proposals is being extended to the close of business on May 5, 1980. Upon further review it has been determined that these amendments are necessary to comply more clearly with the provisions of Section 2(c) of the Act of August 4, 1965, Pub. L. 89–106, as amended by Section 1414 of Pub. L. 95–113 (7 U.S.C. 450i), which provides that "These grants shall be made without regard to matching funds."

The amendments are as follows:

1. In Section 4.A. revise "April 21, 1980" to read "May 5, 1980."

2. Revise Section 6. to read as follows:

6. *Selection of Proposals for Funding.*—The regional research grant proposals will be reviewed in SEA/CR for unique and innovative research approaches, scientific merit, multi-State, multi-Institutional participation and scientific effort. Ad hoc reviewers will be utilized as needed.

3. Revise Section 8. to read as follows:

8. *Budget and Reporting Requirements.*—

The following items apply only to those proposals that are selected for funding:

A. Annual financial reports (Standard Form 269) will be required.

B. An annual progress report not to exceed 5 pages will be required in addition to a shorter summary for insertion into a computerized research information system. Annual reports will be organized around the objective and research timetable as specified in the project proposal.

C. Comprehensive (performance and financial) final reports must be submitted to SEA within 90 days after the termination date of the grant.

D. *Cost Sharing.* Section 2(c) of Public Law 89–106, as amended by Section 1414 of Public Law 95–113 (7 U.S.C. 450i) does not require matching from non-Federal sources.

Done at Washington, D.C., this 19th day of March, 1980.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 80-8904 Filed 3-21-80; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 80-3-109]

USAir Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–3–109, *USAir Subpart Q Proceeding*, Docket 37890.

SUMMARY: The Bureau of Domestic Aviation is issuing Order 80–3–109 under delegated authority to show cause why it should not make final its tentative findings with respect to the applications of USAir and Republic for various nonstop route authority filed under our expedited procedures (Subpart Q).[1] Specifically, the Bureau tentatively finds that it is consistent with the public convenience and necessity to award the authority that USAir and Republic seek. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES FOR OBJECTIONS: All interested persons having objections to the Bureau issing the proposed authority shall file and serve upon all persons listed below, no later than April 21, 1980, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 37890, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Objections should be served upon all persons listed in the service list of Docket 37890.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5340.

[1] USAir's Subpart Q application requests that its certificate be amended to remove stop restrictions in the following markets: Detroit-Philadelphia, Columbus-Washington, D.C., and Dayton-Washington, D.C. Republic's Application requests that its certificate be amended to remove a one-stop restriction in the Detroit-Philadelphia market.

By the Bureau of Domestic Aviation: March 18, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-8889 Filed 3-21-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on April 10, 1980, at the Maine Teachers' Association, 35 Community Drive, Augusta, Maine 04330.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is the status of Maine Department of Indian Affairs; project on sexual harassment; and distribution of report on November 1978 consultation.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 18, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-8901 Filed 3-21-80; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) will convene at 7:30 p.m., and will end at 9:30 p.m., on April 30, 1980, at the Federal Building, 275 Chestnut Street, Manchester, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss the Hispanic Project; and the Battered Women Report.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 18, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-8900 Filed 3-21-80; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m., on April 16, 1980, at the Pennsylvania Point Park College, 201 Wood Street, Pittsburgh, Pennsylvania 15222.

Persons wishing to attend this open meeting should contact the Committee Chairpersons, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Washington, D.C. 20037.

The purpose of this meeting is the Pennsylvania's component of the National Affirmative Action Project: Federal requirements pertaining to affirmative action in employment; private sector activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-8899 Filed 3-21-80; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on April 18, 1980, 2866 Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is the Affirmative Action Hearings.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 18, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-8903 Filed 3-21-80; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (WAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on April 11, 1980, at the Federal Building, 517 E. Wisconsin, Milwaukee, Wisconsin 53202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to plan information gathering activities for Vocational Education and Bilingual Education Assessment Projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 18, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-8902 Filed 3-21-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed 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 Semiconductor Technical Advisory Committee will be held on Monday, April 14, 1980, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda had four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Consideration of the Committee's recommendation of the Qualified Product License.
4. Committee and subcommittee reports.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652

or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on December 21, 1978 (43 FR 59537).

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: March 19, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80–8924 Filed 3–21–80; 8:45 am]

BILLING CODE 3510–25–M

Office of the Secretary

Solicitation of Public Views on Essentiality of Advisory Committees

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App., and Office of Management and Budget Circular A–63, Transmittal Memorandum No. 5, as revised, this Department is commencing a comprehensive review into the essentiality of its advisory committees. To comply with the law, the Department is undertaking this annual review of each advisory committee to determine: (1) whether such committee is carrying out its purpose; (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised: (3) whether it should be merged with other advisory committees; or (4) whether it should be abolished. This review will cover each of the 93 advisory committees officially chartered under the Federal Advisory Committee Act, as of December 31, 1979. The names of these committees and the responsible Commerce Department component are accounted for in the listing below.

Public comment is hereby solicited on the abolishment, consolidation, or continuation of each of these committees. Such comments should be addressed as follows:

U.S. Department of Commerce, Assistant Secretary for Administration, Room 5830, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Comments received by April 6, 1980 in response to this solicitation will be considered by the Department in the course of its comprehensive review. All comments which are received will be available for public inspection and copying at the Department's Central Reference and Records Inspection Facility, Room 5319, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Any questions regarding this matter may be directed to Mrs. Yvonne Barnes, Office of Organization and Management Systems, Room 5319, Main Commerce Building, telephone: 202–377–4217.

Dated: March 18, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

U.S. Department of Commerce Advisory Committees

[Chartered under Public Law 92–463, as of December 31, 1979]

Committee	Reporting responsibility*
Advisory Board to the U.S. Merchant Marine Academy.	MARAD
Advisory Committee on East-West Trade	ITA
Advisory Committee for International Legal Metrology.	NBS
Advisory Committee on Minority Enterprise Development.	O/Dep. U/S
Census Advisory Committee on Agriculture Statistics.	CENSUS
Census Advisory Committee of the American Economic Association.	CENSUS
Census Advisory Committee of the American Marketing Association.	CENSUS
Census Advisory Committee of the American Statistical Association.	CENSUS
Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census.	CENSUS
Census Advisory Committee on the Black Population for the 1980 Census.	CENSUS
Census Advisory Committee on Housing for 1980 Census.	CENSUS
Census Advisory Committee on Population Statistics.	CENSUS
Census Advisory Committee on the Spanish Origin Population for the 1980 Census.	CENSUS
Coastal Zone Management Advisory Committee	NOAA
Commerce Technical Advisory Board (CTAB)	O/AS-S&T
Committee of ISAC Chairmen for Multilateral Trade Negotiations.	ITA
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee.	ITA
Computer Systems Technical Advisory Committee.	ITA
Economic Advisory Board	Chief Economist
Electromagnetic Radiation Management Advisory Council.	NTIA
Electronic Instrumentation Technical Advisory Committee.	ITA
Exporters' Textile Advisory Committee	ITA
Fishery Management Councils (FMC):	
Caribbean FMC	NOAA
—Advisory Panel for the Caribbean FMC	NOAA
—Scientific and Statistical Committee for the Caribbean FMC.	NOAA
Gulf of Mexico FMC	NOAA
—Advisory Panel for the Gulf of Mexico FMC	NOAA
—Scientific and Statistical Committee for the Gulf of Mexico FMC.	NOAA
Mid-Atlantic FMC	NOAA
—Advisory Panel for the Mid-Atlantic FMC	NOAA
—Scientific and Statistical Committee for the Mid-Atlantic FMC.	NOAA

U.S. Department of Commerce Advisory Committees—Continued

[Chartered under Public Law 92–463, as of December 31, 1979]

Committee	Reporting responsibility*
New England FMC	NOAA
—Advisory Panel for the New England FMC	NOAA
—Scientific and Statistical Committee for the New England FMC.	NOAA
North Pacific FMC	NOAA
—Advisory Panel for the North Pacific FMC	NOAA
—Scientific and Statistical Committee for the North Pacific FMC.	NOAA
Pacific FMC	NOAA
—Advisory Panel for the Pacific FMC	NOAA
—Scientific and Statistical Committee for the Pacific FMC.	NOAA
South Atlantic FMC	NOAA
—Advisory Panel for the South Atlantic FMC	NOAA
—Scientific and Statistical Committee for the South Atlantic FMC.	NOAA
Western Pacific FMC	NOAA
—Advisory Panel for the Western Pacific FMC	NOAA
—Scientific and Statistical Committee for the Western Pacific FMC.	NOAA
Frequency Management Advisory Council	NTIA
Importers' and Retailers' Textile Advisory Committee.	ITA
Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN).	ITA
Industry Sector Advisory Committee for Multilateral Trade Negotiations (MTN).	ITA
ISAC on Automotive Equipment for MTN	ITA
ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN.	ITA
ISAC on Construction, Mining, Agricultural, and Oil Field Machinery and Equipment for MTN.	ITA
ISAC on Consumer Electronic Products and Household Appliances for MTN.	ITA
ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN.	ITA
ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN.	ITA
ISAC on Ferrous Metals and Products for MTN	ITA
ISAC on Food and Kindred Products for MTN	ITA
ISAC on Hand Tools, Cutlery, and Tableware for MTN.	ITA
ISAC on Industrial Chemicals and Fertilizers for MTN.	ITA
ISAC on Leather and Products for MTN	ITA
ISAC on Lumber and Wood Products for MTN	ITA
ISAC on Machine Tools—Other Metalworking Equipment and Other Nonelectrical Machinery for MTN.	ITA
ISAC on Miscellaneous Manufacturers, Toys, Musical Instruments, Furniture, Etc., for MTN.	ITA
ISAC on Nonferrous Metals and Products for MTN.	ITA
ISAC on Office and Computing Equipment for MTN.	ITA
ISAC on Other Fabricated Metal Products for MTN.	ITA
ISAC on Paints, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN.	ITA
ISAC on Paper and Products for MTN	ITA
ISAC on Photographic Equipment and Supplies for MTN.	ITA
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN.	ITA
ISAC on Retailing for MTN	ITA
ISAC on Rubber and Plastics Materials for MTN	ITA
ISAC on Scientific and Controlling Instruments for MTN.	ITA
ISAC on Stone, Clay, and Glass Products for MTN.	ITA
ISAC on Textiles and Apparel for MTN	ITA
Management-Labor Textile Advisory Committee	ITA
Marine Fisheries Advisory Committee	NOAA
National Advisory Committee on Oceans and Atmosphere.	NACOA
National Bureau of Standards Visiting Committee.	NBS
National Climate Program Advisory Committee	NOAA
National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete.	O/AS-S&T
National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials.	O/AS-S&T
National Public Advisory Committee on Regional Economic Development.	EDA
Numerically Controlled Machine Tool Technical Advisory Committee.	ITA
Patent and Trademark Office Advisory Committee.	PATENT

U.S. Department of Commerce Advisory Committees—Continued

[Chartered under Public Law 92-463, as of December 31, 1979]

Committee	Reporting responsibility*
President's Export Council	ITA
President's Export Council Subcommittee on Export Administration.	ITA
Public Advisory Committee for Trademark Affairs	PATENT
Sea Grant Review Panel	NOAA
Semiconductor Technical Advisory Committee	ITA
Telecommunications Equipment Technical Advisory Committee.	ITA
Travel Advisory Board	USTS

*Acronyms used are as follows:
EDA—Economic Development Administration.
ITA—International trade Administration.
MARAD—Maritime Administration.
NACOA—National Advisory Committee on Oceans and Atmosphere.
NBS—National Bureau of Standards.
NOAA—National Oceanic and Atmospheric Administration.
NTIA—National Telecommunications and Information Administration.
O/AS-S&T—Office of Assistant Secretary for Science and Technology.
O/Dep. U/S—Office of the Deputy Under Secretary.
PATENT—Patent and Trademark Office.
USTS—United States Travel Service.

[FR Doc. 80-8907 Filed 3-21-80; 8:45 am]

BILLING CODE 3510-17-M

National Oceanic and Atmospheric Administration

Intent To Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) intends to prepare a draft environmental impact statement (DEIS) on the proposed approval of the Mississippi Coastal Zone Management Program under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92-583, as amended), and distribute it in May 1980.

Federal approval of the Mississippi Coastal Zone Management Program would allow program administrative grants to be awarded to the State and require that Federal actions be consistent with the Program.

The Program consists of numerous goals, policies, and regulations on diverse management issues which will be prescribed and enforced by the laws of the State, and is the culmination of five years of development. The Mississippi Program will condition, restrict or prohibit some uses in parts of the Management area, while encouraging development and other uses in other parts. The Program should improve the decisionmaking process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The Program will possibly result in some short-term economic impacts on coastal users but should lead to increased long-term protection of the State's coastal resources. Federal alternatives will include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. State alternatives include the possibility to modify parts of the Program or withdraw its application for Federal approval.

In order to determine the scope and significance of issues to be addressed in the DEIS, OCZM would like to solicit comments on the proposed action, particularly with respect to the following issues:

—Extent of the authorities to control uses on uplands
—Enforceability of the wetlands use plan
—The procedural mechanism by which other State authorities are networked into the program

Persons or organizations wishing to submit comments on these or other issues should do so by April 21, 1980. Any comments received after that time will be considered in the response to comments on the DEIS. Please submit all comments to: Ann Berger-Blundon, Gulf/Islands Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202/254-7546.

Dated: March 18, 1980.

Michael Glazer,

Assistant Administrator, Coastal Zone Management.

[FR Doc. 80-8841 Filed 3-21-80; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council and Scientific and Statistical Committee; Cancellation of Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled Council and Scientific and Statistical Committee meeting on April 8-10, 1980, of the Pacific Fishery Management Council as published in the **Federal Register**, Vol. 45, No. 42, Friday, February 29, 1980, page 13498, has been canceled.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: March 19, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-8910 Filed 3-21-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic and Mid-Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic and Mid-Atlantic Fishery Management Councils, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will hold joint and separate meetings.

DATES: The South Atlantic Council meeting will convene on Tuesday, April 22, 1980, at 1 p.m. and will adjourn on Wednesday, April 23, 1980, at approximately 5 p.m. to review status of fishery management plans (FMPs) and to discuss mackerel hearings results, and other management business. The South Atlantic and Mid-Atlantic Council meeting will convene on Thursay, April 24, 1980, at 8 a.m. and will adjourn at 5 p.m. to discuss: future joint plan endeavors existing FMP activities impacting on Council Jurisdictions, Inter-Council liaison, and other joint management matters. The meetings are open to the public.

ADDRESS: The meetings will take place at Holiday Inn-International, 615 International Drive, Orlando, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: March 18, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-8909 Filed 3-21-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Level of Restraint for Certain Cotton Apparel Products Imported From the Dominican Republic

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint established for cotton nightwear in Category 351, produced or manufactured in the Dominican Republic and exported

to the United States during the twelve-month period which began on June 1, 1979 to 247,000 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbersf was published in the **Federal Register** on February 28, 1980 (45 FR 13172.)

SUMMARY: The Governments of the United States and the Dominican Republic have agreed to amend the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, to increase the level of restraint established for Category 351 from 163,462 dozen to 247,000 dozen during the agreement year that began on June 1, 1979 and extends through May 31, 1980.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 3, 1979, there was published in the **Federal Register** (44 FR 69317) a letter dated November 28, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing levels of restraint for certain categories of cotton and man-made fiber textile products, including cotton textile products in Category 351, produced or manufactured in the Dominican Republic, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on June 1, 1979 and extends through May 31, 1980 In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint previously established for Category 351 to 247,000 dozen.

Charles E. Raymond,

Acting Director, Office of Textiles and Apparel.

March 19, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of November 28, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order; in accordance with the provisions of 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on March 19, 1980, and for the twelve-month period beginning on June 1, 1979 and extending through May 31, 1980 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 351, produced or manufactured in the Dominican Republic, in excess of 247,000 dozen.[1]

The actions taken with respect to the Government of the Dominican Republic and with respect to imports of cotton textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Charles E. Raymond,

Acting Director, Office of Textiles and Apparel.

[FR Doc. 80-8842 Filed 3-21-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Recreation Use Fees

In accordance with the provisions of Section 327.25 of the regulation governing public use of U.S. Army Corps of Engineers Water Resource Development Projects which appears at Title 36 Code of Federal Regulations, notice is hereby given of a change in recreation use fees for camping. The raise is part of a plan to charge a fair and equitable fee at all Federal Government recreation areas in compliance with the requirements set by Congress for fees to be comparable with non-Federal public agencies. The fees for families will range from $1 to $4, depending on services offered and facilities available. An additional charge of $1 a day may be made for electrical hookups where available. However, total daily camping fees for family camp areas will not exceed $5.

[1] The level of restraint has not been adjusted to reflect any imports after May 31, 1979.

Group camp area fees will range from no charge for a primitive site, to a minimum of $3 and a maximum of $25 for areas with more facilities. At each U.S. Army Corps of Engineers Water Resource Development Project where camping is permitted the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicle access, where no fees will be charged.

The specific application of the increased fees will be reflected in notices posted at each U.S. Army Corps of Engineers water resource development project where a use fee is to be charged.

Dated: March 18, 1980.

Marian G. Spittle,

Army Liaison Officer with the Federal Register.

[FR Doc. 80-8871 Filed 3-21-80; 8:45 am]

BILLING CODE 3710-92-M

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

March 20, 1980.

The Air Force Academy Board of Visitors is scheduled to meet at the Air Force Academy, Colorado Springs, Colorado, during the period April 8–9, 1980. This meeting is pursuant to the Board's statutory charge (10 U.S.C. 9355) to meet at the Academy and to inquire into matters of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

The tentative agenda calls for portions of the meeting to be open for public attendance on April 8 from 8:15 a.m. to 11:15 a.m., in the Superintendent's Conference Room, Harmon Hall. Among the items on the tentative agenda during the open portions of the meeting are briefings to the Board on the following subjects: academics, the airmanship program, admissions, women cadets, Academy facilities, and the 25th Anniversary Review Committee. In addition to these open portions of the meeting, a press conference which will be open to the public has been schedulde for 10:15 a.m. on April 9 in Arnold Hall.

Portions of this meeting are tenatatively scheduled to be closed to the public as matters to be discussed are analogous to matters listed in subsections (2) and (6) section 552b(c), Title 5, United States Code. These closed protions include panel

discussions with groups of cadets, faculty members, and military training officers, involving personal information and opinions, the disclosure of which would be a clearly unwarranted invasion of personal privacy. Also included are the executive deliberations of the Board involving discussions of such personal information.

If additional information is desired, contact Headquarters, U.S. Air Force (MPPA), Washington DC 20330, at (202) 697-7116.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-8939 Filed 3-21-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlement Notice for January 1980

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: January 1980 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for January 1980.

DATES: Payments for entitlements required to be purchased under this notice must be made by March 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by April 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461, (202) 653-3873.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6911.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for January 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4), the national domestic crude oil supply ratio for January 1980 is calculated to be .224360.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of January 1980, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .679522 of a barrel of deemed old oil.

The issuance of entitlements for the month of January 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed oil oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of January 1980 is hereby fixed at $23.53 which is the exact differential as reported for the month of December between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of January 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of January 1980 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of January 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the January 1980 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its January 1980 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of January 1980, imports of residual fuel oil eligible for entitlements issuances totaled 25,896,970 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	2,725,624	25°
California upper tier crude oil	4,101,884	27°

The total number of entitlements required to be purchased and sold under this notice is 21,570,100.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for January 1980, the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of B/D	Weighted average cost	Percent of total volumes *
Lower tier	1,776	$6.86	11.6
Upper tier	2,741	14.40	17.9
Exempt domestic:			
Alaskan	1,412	23.46	9.2
Heavy and market tier	521	28.58	3.4
Naval petroleum reserve	113	29.82	0.7
Newly-discovered	263	38.85	1.7
Stripper	1,619	34.14	10.6
Tertiary	10	28.94	0.06
Total domestic	8,455	19.78	55.1
Imported	6,878	30.75	44.9
Total uncontrolled (exempt domestic and imported)	10,816	30.39	71
Total reported crude oil receipts	15,333	24.81	
Total reported crude oil runs to stills	15,129		

* Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for January 1980 must be made by March 31, 1980.

On or prior to April 10, 1980, each firm which is required to purchase or sell entitlements for the month of January 1980 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of January. The monthly transaction report forms for the month of January have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by March 31, 1980 are requested to contact the ERA at (202) 653–3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to March 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 23, 1980.

Issued in Washington, D.C., on March 18, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Notice of Entitlements for Domestic Crude Oil

[January 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and appeals	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
-Consol'd-Sales	−55,580	0	0	0	0	0	[1]55,580
A-Johnson	0	95,062	0	0	0	0	95,062
Adm	0	16,399	0	0	0	0	16,399
Akron-Ohio	0	1,665	0	0	0	0	1,665
Allied	41,038	23,763	0	0	0	17,275	0
Amer-Agri-Fuels	0	113	0	0	0	0	113
Amer-Petrofina	727,533	986,223	0	0	0	0	258,690
Amerada-Hess	3,101,874	4,187,176	0	41,833	0	0	1,085,302
American-Can-Co	0	2,319	0	0	0	0	2,319
Ames-Iowa	0	633	0	0	0	0	633
Amoco	10,098,474	6,368,587	0	0	0	3,729,887	0
Anchor	0	42,568	0	0	0	0	42,568
Apex	0	48,497	0	48,497	0	0	48,497
Arco	3,606,831	5,650,340	0	0	11,611	0	2,043,509
Arizona	90,048	34,468	0	0	1,477	[1]55,580	0
Asamera	106,324	102,878	0	0	0	3,446	0
Ashland	1,245,700	2,767,543	0	0	0	0	1,521,843
Bayou	13,749	21,962	0	0	0	0	8,213
Beacon	178,970	81,915	212	0	8,435	97,055	0
Belcher	0	206,582	0	206,582	0	0	206,582
Bruin	192,513	122,967	0	0	0	69,546	0
C&H	0	239	0	0	0	0	239
Cadence-Chem	0	1,910	0	0	0	0	1,910
Calcasieu	103,483	96,296	0	0	0	7,187	0
Calumet	11,794	17,210	0	0	0	0	5,416
Canal	106,817	51,669	0	0	0	55,148	0
Carbonit	49,746	27,147	0	0	0	22,599	0
Caribou	73,753	58,744	14,599	0	0	15,009	0
Champlin	1,247,379	1,397,217	0	0	26,259	0	149,838
Charter	423,393	490,167	0	0	0	0	66,774
Charter-Bahamas	0	320,706	0	320,706	0	0	320,706
Chevron	6,657,112	7,616,094	0	22,421	81,768	0	958,982
Cibro	0	231,262	0	115,076	0	0	231,262
Citgo	2,190,562	1,858,185	0	0	0	332,377	0
CK-Smith-Co	0	15,656	0	15,656	0	0	15,656
Claiborne	75,461	30,247	0	0	0	45,214	0
Clark	440,066	679,298	0	0	0	0	239,232
Coastal	269,296	1,432,369	0	0	0	0	1,163,073
Coastal-Petro	0	49,276	0	0	0	0	49,276
Colonial	0	75,989	0	75,989	0	0	75,989
Columbus-Ohio	0	275	0	0	0	0	275
Conoco	2,210,221	2,072,868	0	0	24,130	137,353	0
Consumers-Power	0	60,986	0	60,986	0	0	60,986
Copano	5,679	30,447	0	0	0	0	24,768
Coral	0	225,364	0	0	0	0	225,364
Corco	0	643,155	0	116,106	0	0	643,155
CRA-Farmland	357,860	516,363	0	0	0	0	158,503
Cross	46,583	64,003	0	0	0	0	17,420
Crown	322,614	504,729	0	0	0	0	182,115
Crystal-Oil	162,170	96,361	0	0	0	65,809	0
Crystal-Ref	0	13,590	0	0	0	0	13,590
Deepwater	0	20,137	0	20,137	0	0	20,137
Delta	216,134	318,835	0	0	0	0	102,701
Demenno	0	30,182	0	0	0	0	30,182
Detroit-Ed	0	51,688	0	51,688	0	0	51,688
DFSC	0	704	0	704	0	0	704

Notice of Entitlements for Domestic Crude Oil—Continued
[January 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Diamond	560,690	379,932	0	0	0	180,758	0
Dillman	0	242	0	0	0	0	242
Dorchester	15,672	183,650	0	0	0	0	167,978
Dow	91,049	67,776	0	0	0	23,273	0
E-Seaboard	0	99,883	0	99,883	0	0	99,883
ECO	7,273	33,419	0	0	546	0	26,146
Eddy	42,304	30,506	0	0	0	11,798	0
Energy-Coop	0	510,589	0	0	0	0	510,589
Ergon	28,807	59,910	0	0	0	0	31,103
Erickson	195,775	139,185	0	0	0	56,590	0
Essex-Union	0	229	0	0	0	0	229
Evangeline	45,681	18,093	0	0	0	27,588	0
Exxon	10,695,959	9,165,432	0	524,274	0	1,530,527	0
Ez-Serve	−4,739	28,820	0	0	0	0	33,559
Farmers-Un	234,675	249,242	0	0	0	0	14,567
Fletcher	40,764	184,993	0	0	527	0	144,229
Flint	4,503	5,642	0	0	0		1,139
Friendswood	90,599	59,942	0	0	0	30,657	0
Funding	61,888	36,073	0	0	0	25,815	0
Gary	219,002	61,958	0	0	0	157,044	0
Getty	1,292,087	1,380,103	0	0	0	0	88,016
Getty-Syn	0	881	0	0	0	0	881
Giant	7,134	31,353	0	0	0	0	24,219
Gibson	0	32,735	0	0	0	0	32,735
Glacier-Park	120,084	33,637	0	0	0	86,447	0
Gladieux	105,495	86,442	0	0	0	19,053	0
Golden-Eagle	0,	100,454	0	0	0	0	100,454
Goldking	268,044	131,994	0	0	0	136,050	0
Good-Hope	18,260	392,151	0	0	0	0	373,891
Guam	0	220,181	0	0	0	0	220,181
Gulf	7,583,124	5,675,482	0	0	5,792	1,907,642	0
Gulf-Energy	44,380	22,993	[4]0	0	0	21,387	0
Gulf-Sts	177,608	81,455	0	0	0	96,153	0
Hiri	0	396,373	0	0	0	0	396,373
Howell	682,594	242,948	0	0	0	439,646	0
Hrr	0	7,291	0	0	0	0	7,291
Hudson-Oil	35,167	117,054	0	0	0	0	81,887
Hunt	309,506	200,607	0	0	0	108,899	0
Huntway	6,614	32,368	0	0	0	0	25,754
Husky	774,711	774,711	[3]591,859	0	0	0	0
Independent-Ref	0	104,011	0	0	0	0	104,011
Indiana-Farm	29,235	150,572	0	0	0	0	121,337
Indust-Fuel	0	24,528	0	0	0	0	24,528
Inter-Process	52,491	138,405	0	0	0	0	85,914
Irving	0	22,539	0	22,539	0	0	22,539
Kenco	46,846	23,175	0	0	0	23,671	0
Kentucky	16,890	16,678	9,334	0	0	212	0
Kern	149,233	126,259	0	0	3,212	22,974	0
Kerr-McGee	1,048,376	760,560	0	0	0	287,816	0
Koch	617,426	962,269	0	49,065	0	0	344,843
La-County	0	5,198	0	0	0	0	5,198
Lagloria	363,023	254,197	0	0	0	108,826	0
Lake-Charles	86,788	46,493	0	0	0	40,295	0
Lakeside	27,798	24,148	0	0	0	3,650	0
Laketon	121,990	76,551	20,976	0	0	45,439	0
Little-Amer	1,484,710	591,045	0	0	0	893,665	0
Los-Angeles-Ca	0	17,174	0	0	0	0	17,174
Louisiana-Land	785,969	293,173	0	0	0	492,796	0
MacMillian	36,708	105,368	0	0	2,078	0	68,660
Madison-Chatham	0	18	0	0	0	0	18
Madison-City-Wi	0	1,385	0	0	0	0	1,385
Madison-Wi	0	217	0	0	0	0	217
Mallard	71,753	44,641	0	0	0	27,112	0
Marathon	4,700,233	3,301,252	0	0	0	1,398,981	0
Marion	56,218	120,639	0	0	0	0	64,421
Marlex	278	64,827	0	0	25	0	64,549
Metropolitan	0	88,908	0	88,908	0	0	88,908
Mid-Amer	358	15,659	0	0	0	0	15,301
Midwest-Solv	0	783	0	0	0	0	783
Milwaukee-Wi	0	720	0	0	0	0	720
Mobil	5,611,687	5,320,561	0	0	14,060	291,126	0
Mobile-Bay	2,316	86,119	0	0	0	0	83,803
Mohawk	232,588	159,445	0	0	7,812	73,143	0
Monoco	0	9,862	0	9,862	0	0	9,862
Monsanto	317,114	219,954	0	0	0	97,160	0
Morrison	19,623	5,937	0	0	0	13,686	0
Mountaineer	4,618	1,367	0	0	0	3,251	0
Mt-Airy	177,196	119,520	0	0	0	57,676	0
Murphy	1,199,027	871,652	0	0	0	327,375	0
N-Amer-Petro	77,563	181,743	0	0	87	0	104,180
Nashville-Tenn	0	3,532	0	0	0	0	3,532
Natl-Coop	193,411	329,336	0	0	0	0	135,925
Navajo	415,110	283,753	83,458	0	0	131,357	0
Nevada	2,774	19,708	0	0	0	0	16,934
New-Edgington	77,452	122,830	0	0	7,086	0	45,378
New-Engl-Power	0	41,929	0	41,929	0	0	41,929
Newhall	23,485	103,157	0	0	1,879	0	79,672
Northeast-Petro	0	124,592	0	124,592	0	0	124,592
Northland	23,177	23,177	16,049	0	0	0	0
Northville	0	39,137	0	39,137	0	0	39,137
Okc	138,077	153,829	0	0	0	0	15,752

Notice of Entitlements for Domestic Crude Oil—Continued

[January 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and appeals	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Okla-Ref	71,809	64,171	0	0	0	7,638	0
Oxnard	0	16,986	0	0	0	0	16,986
Peerless	0	55,813	0	0	0	0	55,813
Pennzoil	591,046	361,741	0	0	0	229,305	0
Pester	133,406	165,181	0	0	0	0	31,775
Petraco-Valley	0	31,772	0	0	0	0	31,772
Pheasant-Ridge	0	5,002	0	5,002	0	0	5,002
Philadelphia-Pa	0	3,185	0	0	0	0	3,185
Phillips	2,649,936	1,868,916	0	0	−1,501	781,020	0
Phillips-Pr	0	271,834	0	271,834	0	0	271,834
Pioneer	83,167	40,896	0	0	0	42,271	0
Placid	591,278	293,486	0	0	0	297,792	0
Plateau	178,932	129,450	0	0	0	49,482	0
Port	14	8,981	0	0	0	0	8,967
Powerine	39,996	216,842	0	0	2,001	0	176,846
Pride	−5,800	147,047	0	0	0	0	152,847
Quad	0	13,074	0	0	0	0	13,074
Quaker-St	32,972	120,987	0	0	0	0	88,015
Quitman	0	57,471	0	0	0	0	57,471
Rahway	0	162	0	0	0	0	162
Rancho-Ref	0	33,933	0	0	0	0	33,933
Resco	0	8,467	0	0	0	0	8,467
Road-Oil	0	19,585	0	0	0	0	19,585
Rock-Island	178,012	261,750	0	0	0	0	83,738
Saber-Tex	47,582	118,707	0	0	0	0	71,125
Sabre-Cal	2,647	59,600	0	0	121	0	56,953
Salem-Va	0	693	0	0	0	0	693
San-Joaquin	0	67,330	0	0	0	0	67,330
Scallop	0	215,253	0	215,253	0	0	215,253
Scanoil	0	75,211	0	75,211	0	0	75,211
Schulze	13,059	4,490	0	0	0	8,569	0
Seaview	0	238,430	0	0	0	0	238,430
Sector	64,680	22,055	0	0	0	42,625	0
Seminole	12,154	73,827	0	0	0	0	61,673
Sentry	0	77,764	0	0	0	0	77,764
Shell	10,344,114	6,272,911	0	0	29,737	4,071,203	0
Shepherd	43,227	45,397	0	0	0	0	2,170
Sigmor	46,055	159,949	0	0	0	0	113,894
Silver-Eagle	1,619	1,956	0	0	0	0	337
Slapco	98,500	88,187	0	0	0	10,313	0
So-Hampton	76,629	56,748	0	0	0	19,881	0
Sohio	1,126,573	3,223,980	0	0	0	0	2,097,407
Somerset	28,980	26,321	0	0	0	2,659	0
Sound	0	57,712	0	0	0	0	57,712
Southern-Union	180,655	224,235	0	0	0	0	43,580
Southland	289,578	169,852	19,463	0	0	119,726	0
Southwestern	6,893	3,452	0	0	0	3,441	0
Sprague	0	163,748	0	163,748	0	0	163,748
Sunland	4,493	80,192	0	0	112	0	75,699
Sunoco	3,734,065	3,441,160	0	25,587	0	292,905	0
Swann	0	51,789	0	51,789	0	0	51,789
T&S	5,437	1,271	0	0	0	4,166	0
Tenneco	1,175,137	670,355	0	0	3,063	504,782	0
Tesoro	273,231	443,990	0	15,851	0	0	170,759
Texaco	8,075,110	7,280,916	0	322,123	31,423	794,194	0
Texas-American	43,717	55,401	0	0	0	0	11,684
Texas-Asph	33,328	10,282	0	0	0	[3]23,046	0
Texas-City	490,487	727,742	0	0	0	0	237,255
Thagard	8,848	61,081	0	0	−1,177	0	52,233
Thriftway	53,682	34,689	0	0	0	18,993	0
Thunderbird	90,966	35,834	0	0	0	55,132	0
Tipperary	52,438	45,059	0	0	0	7,379	0
Tonkawa	27,679	70,382	0	0	0	0	42,703
Tosco	1,004,527	1,115,820	0	0	21,777	0	111,293
Total-Petroleum	119,836	588,297	0	0	0	0	468,461
UCC-Caribe	0	178,737	0	178,737	0	0	178,737
Uni-Ref	0	105,757	0	0	0	0	105,757
Union-Carbide	0	17,327	0	17,327	0	0	17,327
Union-Oil	3,091,488	2,760,933	0	0	12,303	330,555	0
Untd-Ref	110,804	306,626	0	0	0	0	195,822
US-Oil	14,096	78,565	0	0	946	0	64,469
USA-Petrochem	90,758	145,104	0	0	5,306	0	54,346
Val-Verde	0	4,227	0	0	0	0	4,227
Vickers	82,464	762,824	[3]401,294	0	0	0	680,360
Vicksburg	6,589	31,602	0	0	0	0	25,013
Waller	0	6,731	0	6,731	0	0	6,731
Warrior	37,731	39,080	20,976	0	0	0	1,349
Watson	0	4,223	0	0	0	0	4,223
West-Coast	16,673	30,723	0	0	1,122	0	14,050
Western	0	73,311	0	0	0	0	73,311
Winston	100,930	108,958	0	0	0	0	8,028
Wireback	0	313	0	0	0	0	313
Witco	21,345	98,337	0	0	675	0	76,992
Wyatt	0	26,032	0	26,032	0	0	26,032
Wyoming	0	72,518	0	0	0	0	72,518
Yetter	0	530	0	0	0	0	530
Young	24,167	50,040	31,677	0	0	0	25,873
Total	112,001,587	112,001,587	1,209,897	3,471,795	302,692	21,570,100	21,570,100

[1] See discussion in Notice.

[2] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), *remanded* ——F. 2d——(No. 10-18 TECA, August 10, 1978).

[3] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.* v. *FEA*, Civ. Action No. 4-75-268 (N. D. Tex., filed October 31, 1975).

[4] No entitlement purchase obligation was imposed on this company in the November list with respect to the startup inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Texas, 12/14/79.

[5] Correction of a prior month.

[FR Doc. 80-8894 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-01-M

Niagara Mohawk Power Corp.; Application To Amend Authorization To Export Electric Energy IE-80-1

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application To Amend Authorization to Export Electric Energy Across United States-Canadian Border by Niagara Mohawk Power Corporation.

SUMMARY: Niagara Mohawk Power Corporation and other members of the New York Power Pool have filed an application to amend existing authorization issued to Niagara Mohawk, to export electric energy across the United States-Canadian Border to Ontario Hydro by including other members of the New York Power Pool in that authorization.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3825.

Lise Courtney M. Howe, Office of General Counsel, Department of Energy, Room 5E-064, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: On January 25, 1980, Niagara Mohawk Power Corporation (Niagara Mohawk) and other members of the New York Power Pool (NYPP) (Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Company; New York State Electric & Gas Corporation; Orange & Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation) filed an application with the Economic Regulatory Adminstration (ERA), pursuant to the provisions of Section 202(e) of the Federal Power Act and § 32.30 of the Rules of Practice and Procedure, to amend authorization to export electric energy to Canada from the United States through facilities at the international boundary, which was previously granted to Niagara Mohawk by the Federal Power Commission in 1955 (Docket No. IT-5637). Applicants are seeking to include the above-named other members of the NYPP in that existing authorization.

Applicants state that the transmission of electric energy to Canada will be pursuant to the New York Power Pool/Ontario Hydro interconnection Agreement filed on October 3, 1977 with the FPC in Docket No. ER78-12. Accordingly, there will be no change in the nature and frequency of the exports as the result of the proposed amendment.

Applicants also state that the proposed power exchange with Ontario Hydro will not impair the sufficiency of electric supply within the United States because the authorization requested will not change the presently existing relationship between and among the NYPP member corporations and Ontario Hydro, and because electric energy will be supplied to Ontario Hydro only after domestic customers have been served.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with §§ 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

Any such petitions and protests should be filed on or before April 30, 1980. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and will, upon request, be made available for public inspection and copying at the ERA Docket Room B-210, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: March 18, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-8895 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-004; OFC Case Numbers 52902-6648-01-77 and 52902-6648-02-77]

Texas Power & Light Co.; Requests for Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Requests for Classification.

SUMMARY: On December 28, 1979, the Texas Power and Light Company (TP&L) filed requests with the Economic Reguatory Administration (ERA) of the Department of Energy (DOE) to classify Auxiliary Boilers 4A and 4B to be installed at its Sandow Steam Electric Station, Rockdale, Texas, as existing installations pursuant to § 515.13 of ERA's Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (44 FR 60690) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 6301 *et seq.* (FUA). FUA, which was effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new major fuel burning installations (MFBIs) consisting of a boiler.

ERA's decision in this matter will determine whether Auxiliary Boilers 4A and 4B are new or existing MFBIs. The prohibitions which apply to existing MFBIs are different from those which apply to new MFBIs.

As provided for in Section 515.26 of the Final Rule, interested persons are

invited to submit written comments in regard to this matter, however, no public hearing will be held.

DATES: Written comments are due on or before April 14, 1980.

ADDRESSES: Ten copies of written comments shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA–FC–80–004 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 653,4055.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

Edward Jiran, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3126–B, Washington, D.C. 20461, Phone (202) 653–3645.

SUPPLEMENTARY INFORMATION: The MFBIs for which the requests for classification were filed are two package boilers (designated Auxiliary Boilers 4A and 4B by the TP&L Company) having a design capability to consume fuel at a fuel heat input rate of 199.5 million BTU's per hour each and will be used at the Sandow Steam Electric Station for startup of the lignite-fired main steam generators. The boilers will use No. 2 fuel oil as the primary energy source and were scheduled to be placed in operation on February 15, 1980.

Section 515.10 of the Final Rule requires that to be eligible to request that a transitional facility be classified as existing, a contract for the construction or acquisition of the installation must have been signed prior to November 9, 1978. The TP&L Company states in its requests that a contract for the acquisition of Auxiliary Boilers 4A and 4B was signed on January 30, 1978.

In accordance with the provisions of § 515.13 of the Final Rule, ERA will classify an eligible installation as existing if it is demonstrated to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or the acquisition of the installation would result in substantial financial penalty or a significant operational detriment.

The TP&L Company's request for classification of Auxiliary Boilers 4A and 4B as existing is based on a demonstration of substantial financial penalty and significant operational detriment. Pursuant to § 515.13(a), ERA will classify a facility as existing upon demonstration that at least 25 percent of the total projected project costs were non-recoverable costs expended as of November 9, 1978. In accordance with § 515.15(b) and the instructions contained on ERA Form 300B Schedule 1 (Substantial Financial Penalty), TP&L indicated that 36.1% of its non-recoverable costs were expended as of November 9, 1978 and that these non-recoverable costs covered only the auxiliary boilers for the powerplant. TP&L asserts that a requirement to install coal-fired auxiliary boilers would result in additional financial penalties through the additional capital costs involved and the added expense of having to use older, less effective units to provide the power generation needed while the scheduled use of Sandow Unit 4 is delayed. The company further maintains that the installed cost of lignite-fired auxiliary boilers would be as much as ten times that of oil-fired auxiliary boilers.

Pursuant to § 515.13(b), ERA will classify a facility as existing upon a demonstration that significant operational detriment would have been incurred if on November 9, 1978, the installations had been cancelled, rescheduled, or modified to burn an alternate fuel or fuel mixture.

In accordance with § 515.15(c) TP&L has provided the following information to demonstrate that it would incur significant operational detriment if the construction or acquisition of Auxiliary Boilers 4A and 4B were to be cancelled, rescheduled or modified on November 9, 1978:

a. The two auxiliary boilers are designed to burn only No. 2 fuel oil and cannot be converted to burn coal or lignite. Reconstruction would involve scrapping the oil-fired auxiliary boilers, foundations, piping, etc. and ordering lignite-fired auxiliary boilers with accompanying fuel and ash handling systems and flue gas cleaning systems. Several additional years would be required to get the lignite-fired auxiliary boilers into operation, thereby delaying the availability of a 545 MW lignite-fired under by that amount of time while creating an increased potential for reliability problems.

b. Since the plant layout for Sandow Unit 4 was not made with lignite-fired auxiliary boilers in mind, the lack of adequate space presents a problem. The only space that could be used for this purpose would entail the relocation of four office and warehouse buildings presently occupying the needed space.

c. If the operation of Sandow Unit 4 is delayed, replacement power will have to be provided by older, less efficient gas-fired generating units or by purchase from other utility companies. The result would be increased use of natural gas and possibly fuel oil.

d. Approximately 125 powerplant and 100 mine employees will be required when Sandow Unit 4 becomes operational. These personnel would not be needed if Sandow Unit 4 is not allowed to operate.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C., on March 17, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–8896 Filed 3–21–80; 8:45 am]

BILLING CODE 6450–01–M

Northeast Petroleum Industries, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and of Opportunity for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order.

DATE: February 4, 1980.

COMMENTS BY: April 23, 1980.

ADDRESS: Department of Energy, Office of Enforcement Northeast District, 1421 Cherry St., Philadelphia, Pa. 19102.

SUPPLEMENTARY INFORMATION: The Office of Enforcement of the ERA executed a proposed Consent Order with Northeast Petroleum Industries, Inc., of Chelsea, Massachusetts. Under 10 CFR Sec. 205.199J(b), a proposed Consent Order which involves a sum of

$500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Northeast Petroleum Industries, Inc., (Northeast) with its home office located in Chelsea, Massachusetts, is a firm engaged in the reselling and retailing of petroleum products and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211 and 212. To resolve certain disputes between the ERA and Northeast without resort to expensive and time consuming proceedings the ERA and Northeast entered into a Consent Order. The more important terms of the Consent Order are as follows:

1. The Consent Order settles all issues involving the price and allocation by Northeast of gasoline from April 30, 1974 through August 31, 1979.

2. The ERA contends that Northeast, in its sales of gasoline in 1979, recovered revenues in excess of those allowed by 10 CFR Section 212.93. Northeast contends that its revenues from its sales of gasoline did not exceed amounts allowed in accordance with the cited price rule.

3. Execution of the Consent Order constitutes neither a finding of any nature by the DOE nor an admission of any nature by Northeast with respect to price allocation of gasoline.

4. Northeast acknowledges that it has made two errors with respect to the allocation of gasoline. Northeast has taken appropriate action to correct one of these errors and agrees to take appropriate action to correct the other error, all as more fully described in the Consent Order.

5. In order to resolve its disputes with the ERA with respect to the pricing of gasoline, Northeast agrees to refund $840,000 plus interest either to the ERA or to the market place at the option of Northeast. A refund to the market place would be implemented by Northeast reducing its selling price for unbranded gasoline to levels $.02 to $.03 per gallon below its maximum lawful selling price or the prevailing market price, whichever is less. Northeast agrees to make its election between the refunding to ERA of the market place within ten (10) days after the effective date of the proposed revision of 10 CFR Sec. 212.93 as pertains to resellers of gasoline but in no event later than June 1, 1980. If Northeast initially elects a refund to the market place, the refund may be terminated by Northeast under certain circumstances described in the Consent Order, and the balance of the settlement amount refunded to the ERA. In addition, Northeast agrees to pay a civil penalty of $60,000.

6. The provisions of 10 CFR Sec. 205.199J are applicable to the Consent Order.

II. Disposition of any Amount Refunded to ERA

In the event that Northeast elects to refund to the ERA part or full settlement, such refund would be in the form of certified checks made payable to the United States Department of Energy and would be delivered to the Assistant Administrator for Enforcement of the ERA. These funds would remain in a suitable account pending the determination of their proper disposition.

III. Submission of Written Comments

Interested persons who believe that they have a claim to all or a portion of the refund amount should be advised that the Consent Order provides for the possibility that a refund to the general marketplace will be the exclusive remedy implemented. Direct claims for refunds under the Consent Order would not be permitted if Northeast elects to refund to the marketplace. Therefore, the ERA invites potential claimants or 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 the District Manager of Enforcement, Northeast District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Northeast Petroleum Industries, Inc., gasoline Consent Order." We will consider all comments we receive by 4:30 PM., local time, on

You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR Sec. 205.9(f).

Issued in Philadelphia on the 17th day of March, 1980.

Edward F. Momorella,

Acting District Manager of Enforcement.

L. Feldman,

Chief Enforcement Counsel.

[FR Doc. 80-8795 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-169]

Colorado Interstate Gas Co.; Petition To Amend

March 18, 1980.

Take notice that on March 10, 1980, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-169 a petition to amend the order issued February 21, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act, so as to authorize the filing of a 48-hour summary report as required by § 284.4(b) of the Commission's regulations without concurrently filing copies of all contracts applicable to transactions authorized by the certificate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the Commission's order in Docket No. CP80-169 granted Petitioner authorization for the transportation of natural gas on behalf of other interstate pipelines pursuant to § 284.221 of the Commission's regulations. It is further stated that the order requires, *inter alia*, that Applicant file with the Commission copies of all contracts applicable to transactions authorized by the subject certificate as part of the 48-hour report required by § 284.4(b) of the Commission's regulations. Petitioner states that contract amendments are to be filed within 48 hours of execution.

Petitioner requests that the Commission's order in Docket No. CP80-169 be amended to allow filing the 48-hour summary report required by § 284.4(b) of the Commission's regulations without concurrently filing copies of all contracts applicable to transactions authorized by the certificate. Petitioner proposes that the filing period for copies of the contracts or amendments thereto be extended to within 30 days after commencement of a transaction or amendment of the contract.

Any persons desiring to be heard or to make any protest with reference to said amendment should on or before April 9,

1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8847 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP72-157, etc.]

Consolidated Gas Supply Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

March 18, 1980.

Take notice that the pipelines listed in the Appendix below have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 1, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing Date	Company	Docket No.	Type Filing
3/5/80	Consolidated Gas Supply Corp.	RP72-157	Report.
3/5/80	U-T Offshore System	CP76-118	Report.
3/5/80	Transcontinental Gas Pipe Line Corp.	CP77-403	Report.

[FR Doc. 80-8848 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-37]

Consumers Power Co.; Application

March 18, 1980.

Take notice that Consumers Power Company ("Consumers") on March 11, 1980, filed an application for authority to issue securities under Section 204 of the Federal Power Act.

Consumers intends to enter into a Construction Financial Agreement (the "Financing Agreement") with a special purpose corporation (the "Company") for the purpose of financing Consumers' and Wolverine Electric Cooperative Inc.'s ("Wolverine") share of a 25 MWe woodburning demonstration power plant (the "Plant") located in Osceola County, Michigan. Concurrently with the execution of the Financing Agreement, the Company will enter into a credit agreement with Barclays Bank International Limited ("Barclays"). Pursuant to the Credit Agreement, Barclays will accept a note from the Company which in aggregate amount will not exceed $7,000,000. The commitment will be available to the Company until 360 days from the date of execution of the Financing Agreement.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with § 1.8 or § 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before April 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 80-8849 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-36]

El Paso Electric Co.; Application

March 18, 1980.

Take notice that on March 11, 1980, El Paso Electric Company (Applicant) filed and application with the Federal Energy Rgulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue Notes and Commercial Paper not to exceed, in the aggregate, $175,000,000 face value at any one time outstanding.

The Applicant is incorporated under the laws of the State of Texas, with its principal business office at El Paso, Texas, and is engaged in the electric utility business in the States of Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly form El Paso to the Caballo Dam in New Mexico and approximately 120 miles southeasterly from El Paso to Van Horn, Texas, with a population of approximately 536,000 of whom 400,000 reside in metropolitan El Paso.

The proceeds from the sale of the Notes and Commercial Paper will be used (i) to provide interim financing for Applicant's construction program contemplated and now in progress, (ii) to provide temporary financing of current transactions, to maintain cash working funds at normal levels, to carry accounts receivable, to provide for periodic large cash needs, such as tax payments, to supply temporary funds for unexpected cash requirements, and (iii) to provide for other types of current operational business requirements. Applicant's construction program for the years 1980 through 1983 has an estimated cost of approximately $418,500,000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before April 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8850 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER78-19, etc.]

Florida Power and Light Co.; Filing

March 18, 1980.

The filing company submits the following:

Take notice that on March 7, 1980, Florida Power and Light Company (FPL) submitted for filing its SR-2 and PR tariff sheets incorporating the revised availability clause.

This filing is pursuant to the Commission's letters of February 7, 1980 and of February 21, 1980. By making this filing, FPL does not waive its right to apply to the Commission to limit the availability of service in the future. Further, FPL does not waive any right it may have to seek appellate review of the Commission's opinions in this proceeding.

Copies of this filing have been served upon the affected parties.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in Accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before April 11, 1980. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8851 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP 80-277]

Honeoye Storage Corp.; Application

March 18, 1980.

Take notice that on March 7, 1980, Honeoye Storage Corporation (Applicant), 8 Arlington Street, Boston, Massachusetts 02116, filed in Docket No. CP 80-277 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional facilities and the expansion of annual storage service from the Honeoye Field, located in Ontario County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to drill five new injection-withdrawal wells into the Medina formation and two new observation wells. Applicants also propose to construct and operate 500 horsepower of additional compression at its existing compressor station and the necessary gathering lines to connect the new injection-withdrawal wells to its existing gathering system. It is stated that the construction and operation of these facilities would enable Applicant to increase the top storage capacity of the Honeoye gas storage field from 3,000,000 Mcf to 4,880,000 Mcf and to render a natual gas storage service to two new customers, Boston Gas Company (Boston Gas) and Gas Service, Inc. (GSI), beginning the 1980-81 winter heating season.

Applicant states it has entered into agreement with Boston Gas and GSI providing for annual storage service for Boston Gas in the amount of 533,000 Mcf for the 1980-81 winter heating season and 80,000 Mcf for the 1981-82 season, and storage service for GSI of 133,000 Mcf during the 1980-81 winter heating season and 203,000 Mcf beginning the 1981-82 winter heating season. It is stated that in order to satisfy Boston Gas' and GSI's requirements during the 1980-81 through 1982-83 winter heating seasons, the Brooklyn Union Gas Company (BUG), an existing storage customer, has agreed to relinquish temportarily a portion of its present annual storage entitlement during each of the three heating seasons, resulting in a corresponding reduction in charges to BUG.

Applicant additionally proposes to increase the maximum reservoir pressure of the Honeoye Field from 660 psia to 965 psia in annual increments not to exceed 65 psia during a six-year period ending in 1986.

The estimated cost of construction of the proposed facilities would be $2,084,400, which cost would be financed from funds generated from current operations and long-term notes. It is stated that there would be no increase in current rates to Applicant's new or existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8852 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-1-46; PGA80-1 & IPR80-1]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

March 18, 1980.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on Mar. 10, 1980, tendered for filing with the Commission its First Substitute Fourteenth Revised Sheet No. 27 and Original Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective January 1, 1980.

Kentucky West states that the revised tariff sheets are necessary to restate its rates to provide for a reduced PGA rate and for an incremental pricing surcharge for the four month PGA period ending April 30, 1980 in order that such rates be in compliance with the Commission's order dated February 27, 1980, at Docket No. TA80-1-46 (PGA 80-1a) and the Commission's order dated November 30, 1979, at Docket No. RP80-7.

Kentucky West requests an effective date of January 1, 1980 for its First Substitute Fourteenth Revised Sheet No. 27 and Original Sheet No. 27A of its FERC Gas Tariff and waiver of the 30-day notice requirement provided in Section 18.3 of its FERC Gas Tariff, First Revised Volume No. 1.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party on the service list of Docket No. RP80-7.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before April 4, 1980. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8853 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-281]

Montaup Electric Co.; Contract Amendment

March 18, 1980.

The filing Company submits the following:

Take notice that on March 13, 1980 Montaup Electric Company ("Montaup") tendered for filing an amendment dated February 12, 1980 to a contract under which the Town of Braintree Electric Light Department ("Braintree") purchases capacity and energy from Montaup's 50% ownership interest in the Canal No. 2 steam generating plant. The amendment would increase Braintree's purchase by 11,000 megawatts for the period February 18–29, 1980 and by 700 megawatts for the period March 1–31, 1980. Montaup states that the additional purchase became necessary because of failure of a Braintree generating unit. Montaup's filing indicates that service has been made on Braintree and on the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before April 10, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8854 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-38]

Pacific Power & Light Co.; Application

March 18, 1980.

Take notice that on March 11, 1980, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 304 of the Federal Power Act, seeking an order authorizing it to issue up to 2,000,000 shares of its no Par Serial Preferred Stock, with a stated value of $25 or up to 500,000 shares of its $100 Par Serial Preferred Stock, and exempting the issuance thereof from the competitive bidding requirements of § 34.1a of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to this application should, on or before April 11, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of Practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8855 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-273]

Panhandle Eastern Pipe Line Co.; Application

March 18, 1980.

Take notice that on March 6, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP80-273 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities in Weld and Boulder Counties, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it seeks authorization herein to construct and operate pipeline facilities in Weld and Boulder Counties, Colorado, which would allow it to connect to its Colorado pipeline system the new source of natural gas recently discovered in the Southwest Wattenberg Field. It is stated that Applicant has recently entered into a gas purchase and sales agreement with Martin Oil Service, Inc. (Martin), in which Martin has dedicated to Applicant natural gas to be produced by Martin in the Southwest Wattenburg Field.

In order for Applicant to receive the additional natural gas into its pipeline system, it proposes during the calendar years 1980 and 1981 to construct 23 miles of 4-inch pipeline, 11.1 miles of 6-inch pipeline, 17.5 miles of 8-inch pipeline, and 8.5 miles of 16-inch pipeline. It is stated that the cost of the proposed facilities would be $6,904,000, which cost would be financed from funds available to Applicant.

Applicant asserts that the Southwest Wattenberg Field has an estimated 69,000,000 Mcf of recoverable reserves with an anticipated production of 12,500 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8856 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER76-149, E-9537]

Public Service Company of Indiana; Filing

March 18, 1980.

The filing Company submits the following:

Take notice that on or about March 3, 1980, Public Service Company of Indiana (PSCI) filed two exhibits appertaining to the final refund, excluding the interest calculation, in the above-styled proceedings.

PSCI submits that these exhibits are being offered as examples of the computation of the final refund in the above-styled proceedings.

Copies of this filing have been served upon the affected parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before April 11, 1980. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8857 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-21]

Rochester Gas and Electric Corp., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corp., Niagara Mohawk Power Corp.; Request for Authorization

March 18, 1980.

Take notice that on March 7, 1980, Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, and Niagara Mohawk Power Corporation filed a petition with the Commission for an Order authorizing certain accounting for costs incurred in connection with the now cancelled Sterling Power Project Nuclear Unit No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10).

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8858 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-411]

Southwest Gas Corp.; Petition for Declaratory Order or in the Alternative Petition To Amend

March 18, 1980.

Take notice that on March 4, 1980, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP77-411 a petition pursuant to § 1.7(c) of the Commission's rules of practice and precedure (18 CFR 1.7(c)) for a declaratory order to remove the uncertainty of whether or not the amendment to its gas purchase agreement with El Paso Natural Gas Company (El Paso), filed January 15 1980, contemplated a change in the pricing mechanism rather than an expansion of service to El Paso, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Applicant states that prior to the advent of nationwide shortages of natural gas, it obtained its supply of gas for its southern system in Arizona and southern Nevada from El Paso. As the result of deep curtailments by El Paso and projections of future curtailments, Applicant embarked upon a "self-help" gas supply program to help alleviate the impact of the curtailments, it is stated.

Applicant states its "self-help" program entailed the acquisition of gas supplies which were economically available from sources other than its traditional sources. Applicant obtained supplies from seven wells in the San Juan Basin area of Colorado and New Mexico and made with El Paso arrangements to transport such gas to Applicant's southern system and an agreement to offer for sale to El Paso any excess supplies received from the seven wells.

Applicant asserts that the transportation agreement between it and El Paso was authorized by the Commission by orders issued August 29, 1977, in Docket Nos. CP77-408 and CP77-411. In said orders, Applicant was authorized to sell to El Paso excess gas from the seven wells only, on a take-or-pay basis, and at a price equal to the price paid by Applicant, it is asserted.

It is stated that Applicant subsequently gained access to an additional "self-help" gas supply and Applicant and El Paso entered into an excess natural gas purchase agreement under which El Paso would transport the additional gas supplies and Applicant was required to offer for sale to El Paso volumes in excess of Applicant's requirements on any day. This agreement was approved by the Commission by orders issued December 21, 1978, in Docket Nos. CP77-408 and CP77-411.

Applicant states that as a result of the passage of the Natural Gas Policy Act of 1978 (NGPA), it is paying widely divergent prices for its gas supplies. Consequently, on certain days it is not economically feasible for Applicant to purchase gas at a price higher than its system-wide weighted average cost, although El Paso may have a need for such supply, it is asserted. To correct this situation, Applicant and El Paso filed on January 15, 1980, an amendment to the excess natural gas purchase agreement so as to provide a limited change in the pricing mechanism, to be effective June 1, 1979, the date of the amendment.

By letter of February 27, 1980, the Commission advised Applicant that its filing was being held in abeyance pending receipt of the necessary certificate authorization because the filing was interpreted as an amendment to expand service for which authorization had not been granted, it is stated.

Accordingly, Applicant submits that its January 15, 1980, tariff filing does not reflect an expansion of service, but an addition to an existing service which has been authorized by the Commission. Applicant states that it interprets its certificate as authorizing it to sell to El Paso only gas for which Applicant has contracted but does not need on a particular day. Applicant states it does not believe it is authorized to contract for gas supplies in order to sell the same to El Paso and does not intend to do so.

In the alternative, Applicant requests that its authorization be amended so as to allow its January 15, 1980, tariff filing to become effective June 1, 1979.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 9, 1980, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8859 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CI69-177, etc.]

Sun Oil Co., et. al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

March 18, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission' rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI69-177 (G-17015), 12/17/79 [1]	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Cimarron Transmission Company, Enville Field, Love County, Oklahoma.	([2])	14.65
CI80-19, C, 3/11/80	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Natural Gas Pipeline Company of America, OCS-G-2831 No. 2 Well in West Cameron, Block 181 (W ½), Offshore Louisiana.	([3])	15.025
CI80-236, A, 3/10/80	Mesa Petroleum Co., One Mesa Square, P.O. Box 20009, Amarillo, Texas 79189.	Transcontinental Gas Pipe Line Corporation, Vermilion Area, Block 310, Offshore Louisiana.	([4])	15.025
CI80-237, A, 3/11/80	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Grand Isle Block 16 Field, Offshore Louisiana.	([5])	15.025
CI80-238, A, 3/11/80	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Trunkline Gas Company, Vermilion Block 14 Field, Offshore Louisiana.	([6])	15.025
CI80-239, B, 3/11/80	Tom Brown, Inc., 315 Midland Tower Building, P.O. Box 5766, Midland, Texas 79701.	Producer's Gas Company, Eldorado, Southwest Depleted (Strawn) Field, Schleicher County, Texas.		

[1] Applicant is filing to continue the sale of its own interest now covered by a certificate issued to Texaco, Inc. in Docket No. G-17015.
[2] Applicant is filing under Contract dated 10-28-79.
[3] Applicant is willing to accept a certificate at the rates prescribed by the NGPA of 1978.
[4] Applicant is willing to accept the applicable rate under Section 104 of the NGPA of 1978.
[5] Applicant is willing to accept a permanent Certificate of Public Convenience and Necessity conditioned in accordance with the NGPA of 1978 and the Commission's Regulations under said Act.
[6] Applicant is willing to accept a certificate at an initial rate of the maximum lawful price as prescribed in subsection 104(b) of the NGPA of 1978.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-8860 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-270]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

March 18, 1980.

Take notice that on March 5, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-270 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 750 Mcf of natural gas per day on an interruptible basis for Michigan Wisconsin Pipe Line Company (Mich Wisc), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization for the transportation of natural gas for Mich Wisc from an existing point of interconnection between Applicant's pipeline facilities and the outlet of Shell Oil Company's East Bay Central Facilities in the South Pass Block 24 Field, offshore Plaquemines Parish, Louisiana, to the existing Yscloskey

Processing Plant located in St. Bernard Parish, Louisiana, and the subsequent redelivery by displacement of equivalent volumes of natural gas to Mich Wisc at an existing interconnection between the systems of Applicant and Mich Wisc located at the tailgate of Superior Oil Company's processing plant located in Jefferson Davis Parish, Louisiana.

It is stated that the gas proposed herein to be transported and exchanged is gas which is to be produced and sold to Mich Wisc by Murphy Oil Corporation, Ocean Oil and Gas Corporation and Ocean Production Company pursuant to a gas purchase agreement dated September 19, 1979, from their joint 2.363 percent interest in the reserves in the Mississippi Canyon Area, Blocks 150, 151, 194 and 195, offshore Louisiana (Mississippi Canyon Block 194 Field).

Applicant states that it is presently anticipated that Mich Wisc would take receipt of its gas in the manner proposed herein through the year 1981; whereafter, it is expected that Shell's two-phase pipeline would be required exclusively to transport oil produced from the Mississippi Canyon Block 194 Field and that transportation of the gas purchased by Mich Wisc, as well as others, from the field would be effectuated through new pipeline facilities to be installed by Southern Natural Gas Company (Southern).

Thus, the proposed transportation and exchange service would, it is stated, enable Mich Wisc to take into its system initial volumes of gas from supplies available to it from the Mississippi Canyon Block 194 Field through the utilization of the existing facilities described hereinabove, prior to the time when the new offshore pipeline facilities to be constructed by Southern would be available for the transportation of such gas.

The gas transportation and exchange agreement between the parties dated January 17, 1980, provides that the proposed daily volume would be up to 750 Mcf of natural gas, to the extent that Applicant's operative conditions permit, less a volume of 1.2 percent required for fuel and use requirements and that the monthly charge would be 2.91 cents per Mcf of natural gas transported, with provision for a minimum bill based on transportation quantity.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein; if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8861 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC79-8]

Transcontinental Gas Pipe Line Corp.; Denial of Certification

March 12, 1980.

Take notice that the Commission agreed at its meeting of March 12, 1980, to take no action on the presiding judge's order of February 14, 1980, certifying to the Commission a question pertaining to the scheduling of the above-captioned proceeding. The judge's certification was treated by the Commission as a referral, pursuant to § 1.28(a) of the rules of practice and procedure, of the judge's procedural order issued in this proceeding on January 17, 1980. The Commission determined that no extraordinary circumstances had been shown warranting the Commission's consideration of the question referred or of the judge's procedural order of January 17.

Accordingly, the judge's proposed certification is denied pursuant to § 128.(c) of the Commission's rules of practice and procedure. (18 CFR 1.28(c)).

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8862 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-280]

Virginia Electric and Power Co.; Tendered Revised Contract Supplement

March 18, 1980.

The filing Company submits the following:

Take notice that on March 13, 1980, Virginia Electric and Power Company (VEPCO) tendered for filing revised supplements to the contract between VEPCO and Albemarle Electric Membership Corporation. VEPCO states that the revised contract supplements reflect corrections due to changes made in the past as indicated below:

Present FERC No.	Proposed FERC No.	Item corrected
88-5	88-31	1,5(3), 10, 11
89-9	88-32	1,5(3), 10, 11

VEPCO states that the revised contract supplements are intended to supersede the listed FERC Rate Schedules and request that the revised supplements be allowed to become effective on February 22, 1980.

Any persons desiring to be heard or to make any protest with reference to said application should on or before April 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8863 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-269]

Arkansas Oklahoma Gas Corp.; Application

March 18, 1980.

Take notice that on March 4, 1980, Arkansas Oklahoma Gas Corporation (Applicant), P.O. Box 2406, Fort Smith, Arkansa 72902, filed in Docket No. CP80-269 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from the interstate pipelines' own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $500,000, with the cost of any single project not to exceed $125,000. It is stated that the cost would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8846 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-85-M

Southwestern Power Administration

Final Power Allocations (1980-1988)

AGENCY: Department of Energy, Southwestern Power Administration.

ACTION: Notice of Final Power Allocations (1980-1988), after Public Review and Comment.

SUMMARY The Administrator, Southwestern Power Administration (SWPA), has made Final Power Allocations to preference customers for the years 1980 through 1988. These Final Power Allocations were developed after extensive public participation in the review and comment on the Preliminary Power Allocations and accompanying Environmental Assessment. The Preliminary Power Allocations and Environmental Assessment were made public by **Federal Register** Notice (44 FR 45468) dated August 2, 1979. Written comments were invited by September 14, 1979, and Public Review Forums were held in Baton Rouge, Louisiana; Kansas City, Missouri; and Tulsa, Oklahoma; on August 21, 23, and 28, 1979, respectively.

Many comments on the Preliminary Power Allocations were received orally during the forums and in writing during the comment period. No comments were received on the Environmental Assessment. All comments received were considered.

The criteria developed, after consideration of all comments, and the assumptions adopted are included with these allocations. In the event any assumption prove invalid, such as the preference customer (allottee) failing to have adequate transmission or supplemental power source under contract by January 1 of the year the allotee is scheduled to receive power, SWPA will notify the allottee that such allocation is withdrawn and cite the reasons therefor. Such capacity then available for allocation will be redistributed among those requesting SWPA power on the basis of these allocation criteria without further public announcement.

FOR FURTHER INFORMATION CONTACT: Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101 (918) 581-7529.

SUPPLEMENTARY INFORMATION: The SWPA markets hydroelectric generated power from 21 operating multiple-purpose reservior projects constructed and operated by the U. S. Corps of Engineers in the states of Arkansas, Oklahoma, Missouri, and Texas. Two of these operating projects are isloated from transmission facilities available to SWPA and currently each is marketed to preference customers at the dams. SWPA has the responsiblity to market this power to customers in a marketing area generally covering the states of Arkansas, Kansas, Louisiana, Missouri, and Oklahoma, and a portion of the state of Texas. Section 5 of the Flood Control Act of 1944 (58 Stat. 890, 16 U.S.C.A. 825s), the statutory authority for SWPA's activities, provides, among other things, that the power and energy be transmitted and disposed on in such manner to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. It requires that preference in the sale of such power and energy be given to public bodies and cooperatives. The construction or acquisition of transmission facilities is authorized to make such power and energy available in wholesale quantities to facilities owned by the Federal Government, public bodies, cooperatives, and privately-owned companies. Two additional projects are nearing completion in Missouri, and limited quantities of power are expected to be available from these for preference customers beginning in 1980 with full capability expected to be available by 1985.

The product of the projects under SWPA's marketing responsibility is primarily low-plant factor peaking power which means that available water permits the hydraulic turbines to operate only a portion of the time needed to supply normal load factor loads. The hydroelectric production must be supplemented, particularly in below average rainfall periods, by purchased energy from other suppliers under non-firm contracts generally negotiated from time to time as required from suppliers willing to sell this product to the Government and at varying prices.

SWPA commenced marketing power in 1945 and currently supplies peaking and/or firm power service to 55 customers. During this 36-year period, many contracts have been executed for the sale of power. Many expired by their terms and were renewed oft times modified with sales made to the existing customers or with new customers. There have been periods of time when SWPA was unable to market some of the available power and energy. At present, demands from existing or prospective customers for the power which may be available far exceed the supply. SWPA will experience the termination of a number of firm and peaking power sales contracts in the near future and also will have available a limited quantity of new hydroelectric capacity from the two multiple-purpose reservoir projects under construction to be operative in 1980 and 1982. These Final Power Allocations have been developed in order that the most equitable distribution to present and new preference customers in the six-state marketing area can be made for the period through 1988.

SWPA prepared an Environmental Assessment concerning proposed allocations of power. Based on this Environemental Assessment, SWPA and DOE made the finding that the proposed allocations of power will not have a significant effect upon the quality of the human environment. The Final Power Allocations are not changed sufficiently to alter this finding. Copies of this assessment are available by writing to the Administrator, Southwestern Power Administration, U. S. Department of Energy, P. O. Box 1619, Tulsa, Oklahoma 74101.

Copies of the Final Power Allocations contained in this announcement will be mailed to all SWPA customers, prospective customers, and others who have expressed an interest in the subject.

Issued in Tulsa, Oklahoma, March 12, 1980.

James B. Hammett,

Administrator.

Southwestern Power Administration (Final Power Allocations, 1980–88)

Introduction

The Southwestern Power Administration (SWPA) will have a limited quantity of peaking capacity available for sale as a number of firm and peaking power sales contracts terminate in the future and as new hydro capacity from two multiple-purpose projects under construction become operable in 1980 and 1982. SWPA has received requests for power from current and potential preference customers in amounts which far exceed the amounts becoming available. It is, therefore, important that an allocation of that power to become available be made so that SWPA's customers can properly plan a reliable power supply. It is also important that the public be given an opportunity to participate in the development of such an allocation. Accordingly, Preliminary Power Allocations were announced by **Federal Register** Notice (44 FR 45468) dated August 2, 1979.

After announcing the Preliminary Power Allocations and initiating the public participation process, SWPA was informed by the Corps of Engineers of the need for restricted operations at the Harry S Truman Project for an interim period until improvements could be completed downstream to prevent damages from power operations. It was estimated that the earliest such improvement could be completed was 1985. During this interim period, only two of the six generating units at Harry S Truman are assumed to be available for allocation.

The attached Final Power Allocations were prepared with the benefit of the comments received during the public participation process and after adjusting for the limited operation of the Harry S Truman Project prior to 1985.

Public Participation

The SWPA, by **Federal Register** Notice (44 FR 45468) dated August 2, 1979, and by mail to known interested parties, set forth its proposed method of allocation and identified its Preliminary Power Allocations for the period 1980–1988. Public participation in the development of a method of allocation and the Final Power Allocations for this period was invited. Three Public Review Forums were held to encourage public participation on August 21, 23, and 28, 1979, in Baton Rouge, Louisiana; Kansas City, Missouri; and Tulsa, Oklahoma; respectively. Those who wished to submit written comments were provided an opportunity to do so by September 14, 1979.

Comments on Preliminary Power Allocations

All of the comments received were considered. The major comments, by categories, and SWPA's response thereto, included the following:

A. Preference customer load is not appropriate basis to distribute capacity.

1. *Comment.* "Load alone does not meet the Flood Control Act's 'most widespread use' standard since load does not measure number of customers but, instead, is related to size of customers * * * The number of customers served, however, does meet the Act's mandate."

Response. There is a relationship between the number of customers and the total load. This relationship averages 4.6 kW/customer, ranging from 3.8 kW/customer in Oklahoma to 5.0 kW/customer in Kansas.

In comparing both methods of allocating the small amount of new capacity available to SWPA, we find the kW/customer relationship sufficiently stable that the total allocation to and among the states would not significantly change. For example, under either method, only the states of Kansas, Louisiana, and the non-interconnected portion of Texas would receive allocations of new power to become available. SWPA's ability to allocate to the non-interconnected portion of Texas is limited to transferring the 35 MW North Denison Unit to Texas operations. The balance of the power to be allocated is then to be distributed between Kansas and Louisiana. The different criteria used would make a slight difference in the total amount allocated, but as explained below, it is SWPA's opinion that a distribution based upon load will distribute the benefits of federal power most equitably. A comparison of the states' fair share of SWPA capacity, and the resulting allocation recognizing amounts already under contract, as determined assuming various distribution methods, is shown in Table 1.

Prorating the power to be allocated based upon the number of customers served by a city or cooperative would make a difference in the allocation among the preference customers within each state. Differences would also be achieved by prorating the power to be allocated using other bases, such as population, or number of kWh's, or a combination of these bases. Under any of these methods, the widespread use principle, as set forth in Section 5 of the

Flood Control Act of 1944, would be achieved.

The next determination would be the means to most equitably distribute the power allocated to a state among those to receive an allocation. After examining alternate methods of distribution, it is concluded that the benefits would be most equitably distributed on a ratio of load basis. This conclusion is based on certain premises. First, rates to ultimate customers on the distribution level are based primarily on the load (kW and kWh) the customer imposes on the supplying system, and have no relationship to the number of customers served. Second, it is assumed the benefits received from federal power will be reflected equitably across the customers' rate base, and that the benefits are measurable by the effect on the rate. From these premises we have also concluded that to use a ratio of number of customers, population, or other method, would result in an inequitable distribution of benefits.

For example:

Allottee A has 2500 customers with load of, 10 MW; assume $100,000 cost with rate at $10/kW; allottee B has *5000* customers with load of, 10 MW; assume $100,000 cost with rate of $10/kW; total 7500 customers, 20 MW.

Capacity to be allocated = 2 MW.

Benefits by Ratio of Load

Allocation to allottee A = 2 MW × 10/20 = 1 MW; benefit to allottee A = 1 MW/10 MW × $10/kW = $1/kW.

Allocation to allottee B = 2 MW × 10/20 = 1 MW; benefit to allottee B = 1 MW/10 MW × $10/kW = $1/kW.

Benefits by Ratio of Number of Customers

Allocation to Allottee A = 2 MW × 2500/7500 = .67 MW; benefit to allottee A = .67 MW/10 MW × $10/kW = $0.67/kW.

Allocation to allottee B = 2 MW × 5000/7500 = 1.33 MW; benefit to allottee B = 1.33 MW/10 MW × $10/kW = $1.33/kW.

The above example is exaggerated for purposes of illustration, but does demonstrate that the benefits are distributed more equitably by allotting in proportion to load. The alternate methods were, therefore, not adopted.

2. *Comment.* "The only allocation criterion which meets the Act's mandate is the number of residential customers served by the preference customers." The allocation distribution calculated by the author of the comment was based upon the total number of customers of current preference customers and some of those that have requested power.

Response. As indicated in the response to Comment No. 1, the use of number of customers instead of the total load does not significantly affect the allocation of power between states. Nor does limiting the total number of customers, or the total preference load considered in a state to current customers of SWPA, or to those that have requested SWPA power, significantly affect the allocation of power between the states (see Table 1). The distribution of each state's fair share would be distorted by increasing the distribution to states that already receive a large proportion of SWPA power and by excluding from consideration those that for some reason failed to file a request for power. Because of this distortion, the proposal in this comment was not adopted.

B. Allocation of new resources should be made to Texas.

1. *Comment.* "The Texas preference customers are entitled to allocations of the new resources."

Response. SWPA agrees with this comment and has allocated 35 MW to Texas preference customers.

Such allocation, however, is predicated on the condition that satisfactory contractual arrangements can be developed to provide adequate reserves and reliably integrate the operation of the Whitney and Denison Dam projects. For rate purposes, SWPA proposes to continue to use system rates even though the Whitney and Denison projects will no longer be interconnected with the SWPA integrated system. Special approval for the application of system rates in these circumstances may need to be obtained.

In developing this allocation to Texas preference customers, SWPA recognized the special operating conditions in Texas which prevent SWPA's interconnected system from operating with the Texas utilities system. Accordingly, SWPA determined the preference customer load and SWPA's contract obligations in the interconnected portion of Texas that operates in parallel with SWPA's interconnected system and the preference customer load and SWPA's contract obligations in the non-interconnected portion of Texas which is isolated from SWPA's interconnected system. It was determined that the interconnected portion of Texas received more than its proportion of the benefits of federal power, but the non-interconnected portion of Texas was deficient in this regard. SWPA is limited in the amount of additional capacity that it can deliver to the non-interconnected Texas system to the capacity of the North generating unit at the Denison Dam project. It was concluded that 35 MW of the new capacity becoming available would be displaced to the non-interconnected Texas system by delivering the North Denison unit into the Texas Power and Light Company's system.

C. Allocation of new resources should be made to Kansas municipals.

1. *Comment.* "Under the proposed Preliminary Power Allocations (1980–1988) plan by SWPA, no additional hydro peaking power is allotted to Kansas municipal electric generating systems, * * * Yet the rural electric cooperatives of this state have under contract 90 MW of hydro peaking power from SWPA in 1980, with an additional 85 MW proposed to be allocated in 1984 * * * Ask that the municipal electric systems in Kansas be given more consideration regarding allocation of power from the Southwestern Power Administration."

Response. SWPA has reviewed the Kansas municipals request for power and agrees the municipals should receive a share of the federal hydroelectric power allocated to the state of Kansas. In these Final Power Allocations, 44 MW has been allocated to the municipal preference customers in Kansas.

D. Allocation based upon "state goal" is not proper.

1. *Comment.* The establishment of goals for allocation by state is not a proper approach.

Response. The use of the word "goal" in the Preliminary Power Allocations has caused some misunderstanding. "Fair share" is more descriptive of what we are attempting to accomplish. There are many potential methods to allocate the power SWPA has to market which are fair and reasonable. Each method has certain advantages to some potential customers and disadvantages to others. While we recognize that the method of allocating sales to the various states on a "state fair share" basis is not perfect in every regard, as mentioned in this comment, we feel it provides an equitable distribution of federal resources to the area which these resources are intended to serve. We are attempting to equalize the benefits, which have accrued almost entirely to the four states of Arkansas, Missouri, Oklahoma, and Texas in the past, among all the states served by SWPA. This "state fair share" approach will accomplish this purpose and has received favorable comments from others.

E. Allocate to each State on basis of project's location.

1. *Comment:* "* * * SWPA must consider the location of projects in any distribution between states, as well as the amount of preference customer load in each state." The author of this comment proposed that 75% of the capacity to be marketed be sold in

proportion to the hydroelectric generating capacity in each state and the remaining 25% be sold in proportion to the total preference customer load in each state. In support of this proposal, it was contended that the people living within the states where the projects are located faced hardships when the dams were constructed, that some of the richest agricultural farmland was inundated, that hundreds of acres were removed from production, and farm income and income from taxes have been reduced.

Response. The projects from which SWPA markets hydroelectric power are multiple-purpose projects of which the generation of hydroelectric power is only one of the project purposes. Other purposes include flood control, navigation, water supply, recreation, etc. Before a project is initiated, the benefit to the area is determined to be greater that the cost of the project or it would not proceed to construction. Citizens whose land was inundated, or otherwise affected, were to be adequately and fairly compensated by the Corps of Engineers for any loss incurred. Those who believe they have not been properly compensated have legal recourse.

The selection of such a 75%–25% distribution as a basis for allocation is without justifying support and defeats the objective of widespread use. (See Table 1 for the allocation that would result from this method.)

The hydroelectric generating projects are interconnected through federal transmission facilities and through interconnections with neighboring systems and are, therefore, operated as an integrated system rather than individual projects. Power from any one project could be going to any state subject to the hydraulic and electrical conditions at the time.

2. *Comment.* "* * * of the preliminary power allocation for 1980, the bulk of which will be supplied by Truman facilities, only 1 MW of 160 MW will be marketed to Missouri consumers. We believe strongly that Missouri deserves special consideration in the allocation process for power produced at the Truman Dam * * *"

Response. As mentioned in the response to Comment No. 1, above, the hydroelectric generating projects are operated as one system through SWPA's transmission facilities and through interconnections with neighboring systems. As such, each project is not subject to being marketed in its immediate locale if the widespread distribution of federal power, as directed by the Flood Control Act of 1944, is to be accomplished. In this case, the state of Missouri is already receiving more federal power that is produced in the state. After the Harry S Truman and Clarence Cannon projects become operational, the state will be producing less than 70% of the federal power it receives.

F. Opposition to reallocation of 150 MW sold to Arkansas Power & Light Company.

1. *Comment.* The Arkansas Power & Light Company (AP&L) and Reynolds Metals Company (Reynolds) oppose SWPA's reallocation of 150 MW to preference customers because of serious economic impact.

Response. While we recognize the potential impacts mentioned in this comment, SWPA must, under the mandate of the Flood Control Act of 1944, give preference in the sale of power and energy generated at the Corps of Engineers projects for which it has marketing authority to public bodies and cooperatives. Neither AP&L nor Reynolds is a preference customer and a significant preference customer market now exists. Accordingly, this power must be allocated to preference customers upon expiration of the AP&L/Reynolds contract.

G. Irrational results and erroneous data.

1. *Comment.* "The proposed allocations produce irrational results."

Response. The author of this comment bases his comment on increases shown in the August 2, 1979, **Federal Register** announcement for certain preference customers, to wit; Oklahoma municipalities as a group plus Duncan, Fort Sill, and Skiatook, Oklahoma; Piggott and Clarksville, Arkansas; and Carthage, Missouri; particularly. The increased capacity shown for these customers in the **Federal Register** announcement was misunderstood by several commentors as part of the allocation of the new power becoming available. This is not the case. The increased amounts shown for these customers were already under contract. Therefore, they cannot be compared as part of the allocation of new capacity.

2. *Comment.* "SWPA's load data is erroneous."

(a) The loads used by SWPA in Texas and Louisiana for the Tex-La and Sam Rayburn cooperatives were in error.

Response. This was called to SWPA's attention during the Public Review Forums and has been corrected using data furnished by the customer.

(b) There was also criticism that the loads of preference customers served in the interconnected and noninterconnected portion of Texas should be combined.

Response. See response to Comment No. B.1.

(c) SWPA used load data of all preference entities as a basis for allocation, even though it was impossible for some such entities to receive hydro power.

Response. The number of such preference customers in today's interconnected system operation probably would be extremely small and would not significantly affect the allocation results when used in the loads. It is appropriate to assume the preference customers can obtain transmission rights over neighboring utility transmission systems. It may be that an allocation would have to be withdrawn if transmission rights cannot be developed in time to assure SWPA a timely market.

H. Too much capacity held in reserve and not allocated.

1. *Comment.* It has been suggested that because of the high reliability of hydroelectric generating units, the amount SWPA sets aside for reserve might be reduced, thus making more capacity available for allocation.

Response. SWPA is in the process of selecting an engineering firm to evaluate the capacity held in reserve and make a recommendation on our reserve requirement. If it is determined that additional capacity is available for sale, it will be allocated at that time.

I. Allocate to displace oil and gas.

1. *Comment.* SWPA should investigate and adopt a method to allocate excess energy and interruptible capacity to preference customers who are dependent on oil or gas-fired generation.

Response. This comment is in keeping with the national conservation efforts. It is more applicable to the sale of energy than capacity. SWPA will give priority to displacing oil and gas in the sale of excess energy and interruptible capacity, where possible. We do not, however, see a need or the practicality of developing formal allocations of excess energy and interruptible capacity.

Allocation Criteria

After considering the comments, suggestions, and criticism from interested parties in the public participation process, the allocation criteria adopted in these Final Power Allocations include the following:

1. *Continue sales to present customers.* SWPA will not withdraw any capacity now under contract to a preference customer in order to sell the capacity to another preference customer. As contracts expire, SWPA will offer to enter into peaking contracts for the sale of a like amount of capacity

with 1200 kWh/kW/yr of associated energy.

In the case of isolated project contracts, such as Narrows and Sam Rayburn, the SWPA will negotiate new contract arrangements for each project's production with the preference customer then receiving the benefit of such federal project.

2. *Distribution among and within states.* Capacity available to SWPA to allocate to new or existing preference customers shall be done in such a manner so as to achieve as nearly as practical a reasonable and fair distribution among states. Since a portion of Texas is not interconnected with SWPA's transmission system, capacity is allocated separately to that portion of Texas which is interconnected and that portion which is not.

After the capacity is allocated among the states, it will then be allocated among those new or existing preference customers that have requested SWPA power within each state. In order to arrive at reasonable and fair allocations for each of the states (five states of Arkansas, Kansas, Louisiana, Missouri, and Oklahoma; plus the Texas interconnected area and the Texas non-interconnected area), the ration of each state's, or area's, total existing and potential preference customer load to the total such load in SWPA's marketing area will be used as a guide to determine the capacity to be allocated to each state, or area. In order to arrive at reasonable and fair allocations within the states, or areas, the ratio of each existing or potential preference customer's load within that state, or area, that has requested SWPA power to the total such loads in the state, or area, will be used as a guide to determine the total capacity allocated or sold to such customers. Such preference customer's ration will be multiplied by the state's total fair share to determine the preference customer's fair share. The quantity of capacity to be allocated within a state will then be distributed in accordance with the ratio that each preference customer's fair share, after adjusting for federal power under contract, bears to the state's total fair share.

3. *Hardship.* SWPA will consider hardship cases. Financial losses, however, are not generally considered a hardship for this purpose.

4. *Priority among customers.* Any power sold to non-preference customers shall be recovered for allocation to preference customers as soon as possible. There shall be no priority between preference customers based upon preference customer class.

5. *Allocation of power from Harry S Truman.* The Harry S Truman Project has six generating units with a total installed capacity of 160 MW operating in a power between elevations 704.2 and 706.0 ft. Each generating unit is reversible and can operate as a pump. All of these units are expected to be completed and ready for operation in 1980.

There are, however, some discharge limitations to protect the downstream environment that severely reduces the capacity that can be depended upon from this project, and the Attorney General of Missouri has filed a lawsuit to prevent the Corps of Engineers from operating the hydroelectirc generating facilities that have been installed, in accordance with their design.

The Corps of Engineers estimates that the improvements needed to alleviate the downstream problems may be completed by 1985 after which time, subject to the resolution of the lawsuit, the full capability of the project will be available. Until these improvements can be completed, the maximum dependable capacity would be limited to 61 MW and no pumping would be available. The capability of four units (107 MW) could be made available if pumping were permitted or additional power storage were made available in the reservoir. For purposes of this allocation criteria, SWPA will assume only two generating units available.

6. *Allocation of power to Texas.* As discussed in response to Comment No. B.1, it was concluded that power should be allocated to the non-interconnected portion of Texas, and the only way to do this was to displace power from SWPA's system by disconnecting the north unit at the Denison Dam and connecting that unit to the Texas Power and Light Company system for delivery through the company's system to the preference customer. Such a change creates some major problems. For example:

(a) The Dension-Whitney projects, with the ability to move the north unit at Denison to the Texas Power and Light Company system or the SWPA system, as needed, now support the sale of approximately 100 MW with 1200 kWh/kW/yr of energy. The Denison-Whitney projects will now need to do this without the support of the SWPA system for reserves and hydraulic diversity that is achieved by the ability to switch one Denison unit north or south.

(b) Power sold from Denison and Whitney is now sold under the SWPA's system peaking power rate. Contracts for the sale of this power provide for changes in SWPA's system peaking rates as required from time to time, but do not provide for a change from such system rates to isolated project rates. The Department of Energy Order No. RA 6120.2 on Power Marketing Administration Financial Reporting defines a power system for repayment purposes to include projects hydraulically or electrically integrated. Denison and Whitney can be considered a power system for repayment purposes and separate rates developed, but they cannot be considered a part of SWPA's interconnected system for repayment purposes and use interconnected system rates without Departmental approval.

For purposes of this allocation criteria, SWPA will assume that adequate contract arrangements will be developed to provide the flexibility required in the operation of Denison and Whitney to assure reliable peaking sales of approximately 100 MW with 1200 kWh/kW/yr of energy. SWPA will further assume that approval can be obtained to continue to include Denison and Whitney under SWPA's integrated system rate schedules.

Final Power Allocations

Table 2, entitled "Final Power Allocations Summary," presents the distribution by state of the 1979 contract demands and the increases in contract demands in 1980 and 1981. Also shown are the power allocations by state for 1980–1988. No new capacity is scheduled to become available for allocation after 1985. Capacity that becomes available with the expiration of a preference customer contract is to be used for continued service to that preference customer and is, therefore, not available for allocation to others and is not shown on these allocation charts.

Tables 3 through 8 set forth in detail the Final Power Allocations by customer for each state through 1988. The capacity under contract, and the new capacity allocated to preference customers, is shown for each state.

These Final Power Allocations are subject to the availability of the Harry S Truman Project, and are predicated on the following:

1. Two generating units at the Harry S Truman Project will be declared by SWPA to be in commerical operation prior to June 1980.

2. The final four units at the Harry S Truman Project will be declared by SWPA to be in commerical operation in 1985. Contracts for the sale of power allocated in 1985 will be contingent upon all six units at the Harry S Truman Project being declared in commerical operation at full capacity by SWPA.

3. The Denison and Whitney Dam Projects will be integrated for reliable

operations and adequate rates can be placed into effect to recover costs.

4. The power allottee will accept the amounts allocated with its attendent terms.

5. Transmission facilities will be available to move this power to load centers.

In the event the assumptions set forth above prove invalid, or the preference customer (allottee) does not have adequate wheeling or supplemental power sources under contract by January 1 of the year the allottee is scheduled to receive power, SWPA will notify the allottee that such allocation is withdrawn and cite the reasons therefore. Such capacity then available for allocation will be redistributed among those requesting SWPA power on the basis of the foregoing allocation criteria without further public announcement.

Table 1.—*Final Power Allocations*

[Comparison of distribution methods (MW)]

	Arkansas	Kansas	Louisiana	Missouri	Oklahoma	Texas			
						Noninterest	Interest	Total	Total
Final Allocation	[1]376	177	178	[1]676	[1]408	115	[1]178	293	2,108
Fair Share & Allocation by Various Methods:									
1. Total Pref Load:									
Fair Share	232	274	274	443	295	485	105	590	2,108
Allocation	[1]376	177	178	[1]676	[1]408	115	[1]178	293	2,108
2. Total No. Consumers:									
Fair Share	253	232	253	464	316	485	105	590	2,108
Allocation	[1]376	170	185	[1]676	[1]408	115	[1]178	293	2,108
3. Load Under Contract and Requested:									
Fair Share	274	337	274	590	359	169	105	274	2,108
Allocation	[1]376	196	159	[1]676	[1]408	115	[1]178	293	2,108
4. No. Customers Under Contract & Requested:									
Fair Share	281	283	245	561	396	212	130	342	2,108
Allocation	[1]376	190	165	[1]676	[1]408	115	[1]178	293	2,108
5. Gen-Load Ratio 75%/25%:									
Fair Share	784	67	67	449	519	165	57	222	2,108
Allocation	568	[1]115	48	[1]676	[1]408	115	[1]178	293	2,108
6. Gen-Load Ratio 25%/75%:									
Fair Share	412	201	201	439	396	372	87	459	2,108
Allocation	[1]376	178	178	[1]676	[1]408	115	[1]178	293	2,108

[1] This amount currently under contract. Amount under contract not to be reduced.

Table 2.—*Final Power Allocations Summary*

[Two units at Harry S Truman until 1985 (MW)]

	Arkansas	Kansas	Louisiana	Missouri	Oklahoma	Texas			
						Noninterest	Interest	Total	Total
1979 Contract Demand	521	25	17	711	375	80	178	258	1,907
Contract Increases:									
1980	3	60	0	[1]−44	23	0	0	0	42
1981	2	0	0	1	10	0	0	0	13
1985	0	30	0	0	0	0	0	0	30
Subtotal	5	90	0	−43	33	0	0	0	85
Allocations:									
1980	0	0	0	[2]3	0	0	0	0	3
1982	0	0	53	0	0	0	0	0	53
1984	−150	38	72	[2]5	0	35	0	35	[3]0
1985–1988	0	[4]24	[4]36	0	0	0	0	0	[4]60
Subtotal	−150	62	161	[2]8	0	0	0	35	[3]116
Total Additional Cap	−145	152	161	−35	33	35	0	35	[5]201
Grand Total	376	177	178	676	408	115	178	293	[6]2,108
State Share [7]	232	274	274	443	295	485	105	590	2,108
Ratio of Total to share(%)	162	[8]65	[8]65	153	138	[8]24	170	50	100

[1] Net Increase = 1MW (rounded) increase less 45 MW reduction in sales to Empire.
[2] Prior commitments.
[3] Net Allocation—150 MW allocation less 150 MW reduction in sales to AP&L.
[4] To be available for contract after all units at Harry S Truman are in commercial operation at full capacity.
[5] Net additional capacity.
[6] Capacity for sale—from Page 31 of SWPA Power Repayment Study, November 1978.
[7] On basis of total redistribution of SWPA capacity by state in proportion to preference customer load.
[8] Ability to allocate 100% of share limited because of small amount of capacity available to allocate and existing contracted amounts.

Table 3.—*Final Power Allocations*

Arkansas—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities:							
Augusta	3.7	3.7	3.7	3.7	3.7	3.7	3.7
Bentonville	18.0	18.0	18.0	18.0	18.0	18.0	18.0
Clarksville	15.9	17.5	19.1	19.1	19.1	19.1	19.1
Jonesboro	80.0	80.0	80.0	80.0	80.0	80.0	80.0
Paragould	50.5	50.5	50.5	50.5	50.5	50.5	50.5
Paris	9.3	10.0	10.8	10.8	10.8	10.8	10.8
Piggott	4.9	4.9	4.9	4.9	4.9	4.9	4.9
Subtotal	182.3	184.6	187.0	187.0	187.0	187.0	187.0
Cooperatives: Arkansas Elec. Co-op	189.0	189.0	189.0	189.0	189.0	189.0	189.0
Industrial: AP&L-Reynolds	150.0	150.0	150.0	150.0	150.0	0	0
Total Contracts	521.3	523.6	526.0	526.0	526.0	376.0	376.0
Allocations: None	0	0	0	0	0	0	0
Grand Total	521.3	523.6	526.0	526.0	526.0	376.0	376.0

[1] Capacity not withdrawn at contract expiration.

Table 4.—*Final Power Allocations*

Kansas—Contracts and Allocations

[Two units at Harry S. Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities: Kansas City	25.0	25.0	25.0	25.0	25.0	25.0	25.0
Cooperatives: Kansas Elec. Pwr	0	60.0	60.0	60.0	60.0	60.0	90.0
Total Contracts	25.0	85.0	85.0	85.0	85.0	85.0	115.0
Allocations:							
Municipalities:							
Anthony	0	0	0	0	0	.3	.6
Augusta	0	0	0	0	0	.5	.8
Baldwin City	0	0	0	0	0	.1	.2
Chanute	0	0	0	0	0	1.1	1.8
Clay Center	0	0	0	0	0	.5	.8
Coffeyville	0	0	0	0	0	1.9	3.0
Colby	0	0	0	0	0	.5	.9
Ellis	0	0	0	0	0	.1	.2
Garnett	0	0	0	0	0	.3	.6
Goodland	0	0	0	0	0	.6	1.1
Herrington	0	0	0	0	0	.3	.4
Holton	0	0	0	0	0	.3	.6
Horton	0	0	0	0	0	.2	.3
Iola	0	0	0	0	0	.8	1.4
Kansas City	0	0	0	0	0	13.1	21.8
LaCrosse	0	0	0	0	0	.2	.3
Linsborg	0	0	0	0	0	.3	.4
Mulvane	0	0	0	0	0	.3	.6
Neodesha	0	0	0	0	0	.4	.6
Norton	0	0	0	0	0	.3	.6
Oakley	0	0	0	0	0	.2	.3
Oberlin	0	0	0	0	0	.2	.3
Osawatomie	0	0	0	0	0	.3	.4
Ottawa	0	0	0	0	0	.8	1.4
Sabetha	0	0	0	0	0	.3	.4
Saint Francis	0	0	0	0	0	.1	.2
Sharon Springs	0	0	0	0	0	.1	.1
Wamego	0	0	0	0	0	.3	.6
Wellington	0	0	0	0	0	1.0	1.7
Winfield	0	0	0	0	0	1.6	2.6
Subtotal	0	0	0	0	0	27.0	45.0
Cooperatives:							
Kaw Valley Elec	0	0	0	0	0	1.0	1.0
Kansas Elec. Pwr	0	0	0	0	0	10.0	15.0
Nemaha-Marshall Elec	0	0	0	0	0	0	1.0
Subtotal	0	0	0	0	0	11.0	17.0
Total Allocation	0	0	0	0	0	38.0	[2]62.0
Grand Total	25.0	85.0	85.0	85.0	85.0	123.0	177.0

[1] Capacity not withdrawn at contract expiration.

[2] Increase above 1984 allocation to be available for contract after all units at Harry S. Truman are in commercial operation at full capacity.

Table 5.—*Final Power Allocations*

Louisiana—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts:[1]							
Municipalities: None[2]	0	0	0	0	0	0	0
Cooperatives:							
Tex-La System	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Sam Rayburn[2]	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Total contracts	17.0	17.0	17.0	17.0	17.0	17.0	17.0
Allocations:							
Municipalities:							
Alexandria	0	0	0	4.4	4.4	10.4	13.4
Houma	0	0	0	2.0	2.0	4.5	5.8
Jonesville	0	0	0	.2	.2	.5	.7
Lafayette	0	0	0	7.7	7.7	18.0	23.2
Minden	0	0	0	1.0	1.0	2.3	2.9
Morgan City	0	0	0	1.4	1.4	3.1	4.0
Natchitoches	0	0	0	1.1	1.1	2.5	3.3
Plaquemine	0	0	0	1.0	1.0	2.4	3.2
Rayne	0	0	0	.3	.3	.6	.8
Ruston	0	0	0	2.0	2.0	4.7	6.0
Vidalia	0	0	0	.4	.4	.9	1.2
Winnfield	0	0	0	.5	.5	1.1	1.5
Subtotal	0	0	0	22.0	22.0	51.0	66.0
Cooperatives: Cajun Elec. Pwr				31.0	31.0	74.0	95.0
Total Allocation	0	0	0	53.0	563.0	125.0	[3]161.0
Grand Total	17.0	17.0	17.0	70.0	70.0	142.0	178.0

[1] Capacity not withdrawn at contract expiration.
[2] Vinton, Louisiana, served by Sam Rayburn..
[3] Increase above 1984 allocation to be available for contract after all units at Harry S Truman are in commercial operation at full capacity.

Table 6.—*Final Power Allocations*

Missouri—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities:							
Carthage	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Fulton	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Hermann	5.8	5.8	5.8	5.8	5.8	5.8	5.8
Kennett	11.0	11.0	11.0	11.0	11.0	11.0	11.0
Lamar	11.0	11.0	12.0	12.0	12.0	12.0	12.0
New Madrid	4.5	4.5	4.5	4.5	4.5	4.5	4.5
Nixa	4.7	5.3	5.3	5.3	5.3	5.3	5.3
Poplar Bluff	39.5	39.5	39.5	39.5	39.5	39.5	39.5
Sikeston	33.8	33.8	33.8	33.8	33.8	33.8	33.8
Springfield	50.0	50.0	50.0	50.0	50.0	50.0	50.0
Thayer	2.8	2.8	2.8	2.8	2.8	2.8	2.8
West Plains	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Subtotal	188.1	188.7	189.7	189.7	189.7	189.7	189.7
Cooperatives: Associated Elec	478.0	478.0	478.0	478.0	478.0	478.0	478.0
Private Utilities: Empire Dist. Elec. Co	45.0	0	0	0	0	0	0
Total Contracts	711.1	666.7	667.7	667.7	667.7	667.7	667.7
Prior Commitments: [2]							
Higginsville	0	3.0	3.0	3.0	3.0	3.0	3.0
Malden	0	0	0	0	0	5.0	5.0
Total Prior Commitments	0	3.0	3.0	3.0	3.0	8.0	8.0
Allocations: None	0	0	0	0	0	0	0
Grand Total	711.1	669.7	670.7	670.7	670.7	675.7	675.7

[1] Capacity not withdrawn at contract expiration.
[2] Committed prior to formal allocation process.

Table 7.—*Final Power Allocations*

Oklahoma—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities:							
Comanche	3.6	3.9	4.2	4.2	4.2	4.2	4.2
Copan	1.9	2.2	2.5	2.5	2.5	2.5	2.5
Duncan	27.5	29.9	32.5	32.5	32.5	32.5	32.5
Eldorado	1.1	1.2	1.3	1.3	1.3	1.3	1.3
Goltry	.8	.8	.9	.9	.9	.9	.9
Granite	1.9	2.1	2.3	2.3	2.3	2.3	2.3
Hominy	8.4	9.1	10.0	10.0	10.0	10.0	10.0
Lexington	3.2	3.6	4.1	4.1	4.1	4.1	4.1
Manitou	.5	.5	.6	.6	.6	.6	.6
Olustee	.7	.7	.7	.7	.7	.7	.7
Purcell	12.2	13.3	14.5	14.5	14.5	14.5	14.5
Ryan	1.7	1.8	1.9	1.9	1.9	1.9	1.9
Skiatook	9.0	10.0	11.0	11.0	11.0	11.0	11.0
Spiro	3.4	3.7	4.0	4.0	4.0	4.0	4.0
Walters	5.6	6.0	6.4	6.4	6.4	6.4	6.4
Wetumka	2.4	2.5	2.6	2.6	2.6	2.6	2.6
Yale	3.0	3.3	3.7	3.7	3.7	3.7	3.7
Subtotal	86.9	94.6	103.2	103.2	103.2	103.2	103.2
Cooperatives: Western Farmers Elec	260.0	260.0	260.0	260.0	260.0	260.0	260.0
Military Installations:							
Vance AFB	5.9	5.9	5.9	5.9	5.9	5.9	5.9
Ft. Sill	19.8	35.2	36.7	36.7	36.7	36.7	36.7
McAlester Ammo	2.7	2.7	2.7	2.7	2.7	2.7	2.7
Subtotal	28.4	43.8	45.3	45.3	45.3	45.3	45.3
Total Contracts	375.3	398.7	408.5	408.5	408.5	408.5	408.5
Allocations: None	0	0	0	0	0	0	0
Grand Total	375.3	398.7	408.5	408.5	408.5	408.5	408.5

[1] Capacity not withdrawn at contract expiration.

Table 8.—*Final Power Allocations*

Texas (Interconnected)—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities: None [2]	0	0	0	0	0	0	0
Cooperatives:							
Tex-La—Narrows	25.5	25.5	25.5	25.5	25.5	25.5	25.5
Tex-La—System	102.0	102.0	102.0	102.0	102.0	102.0	102.0
Sam Rayburn [2]	50.0	50.0	50.0	50.0	50.0	50.0	50.0
Subtotal	177.5	177.5	177.5	177.5	177.5	177.5	177.5
Total Contracts	177.5	177.5	177.5	177.5	177.5	177.5	177.5
Allocations: None	0	0	0	0	0	0	0
Grand Total	177.5	177.5	177.5	177.5	177.5	177.5	177.5

[1] Capacity not withdrawn at contract expiration.
[2] Jasper, Liberty, and Livingston, Texas, served by Sam Rayburn.

Texas (Non-Interconnected)—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Present Contracts: [1]							
Municipalities: None	0	0	0	0	0	0	0
Cooperatives:							
Tex-La—Denison	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Brazos Elec. Pwr	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Subtotal	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Private Utilities: Texas Power & Light [2]	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Total Contracts	80.0	80.0	80.0	80.0	80.0	80.0	80.0

Table 8.—*Final Power Allocations—Continued*

Texas (Non-Interconnected)—Contracts and Allocations

[Two units at Harry S Truman until 1985 (MW)]

	1979	1980	1981	1982	1983	1984	1985–88
Allocations:							
Municipalities: None	0	0	0	0	0	0	0
Cooperatives: Tex-La—Denison	0	0	0	0	0	[3]35.0	[3]35.0
Total Allocation	0	0	0	0	0	[3]35.0	[3]35.0
Grand Total	80.0	80.0	80.0	80.0	80.0	115.0	115.0

[1] Capacity not withdrawn at contract expiration.
[2] This contract serves Tex-La—Denison Contract.
[3] This amount may be reduced to provide reserves for Denison-Whitney sales.

[FR Doc. 80-8406 Filed 3-21-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1449-1]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of March 10, 1980 to March 14, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from March 21, 1980 and will end on May 5, 1980. The 30-day review period for final EIS's as calculated from March 21, 1980 will end on April 21, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

FOR HARD COPY REPRODUCTION: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, DC 20036.

FOR HARD COPY REPRODUCTION OR MICROFICHE: Information Resources Press, 2100 M Street, NW., Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of March 10, 1980 to March 14, 1980 the 30-day review period will be calculated from March 21, 1980. The review period will end on April 21, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of March 10, 1980 to March 14, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: March 19, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

APPENDIX I

EIS's Filed With EPA During the Week of March 10 Through 14, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Draft

Competing Vegetation, Management Methods, Several Programmatic, March 11: Proposed is the management of competing vegetation on National Forest lands throughout Oregon and Washington and in Siskiyou and Del Norte Counties, California. In addition to no action, chemical, mechanical, biological, manual and thermal management methods are considered. This is a programmatic statement for which site-specific environmental analysis will be prepared. (EIS Order No. 800172.)

Final

1980 Maine Cooperative Spruce Budworm Suppression, several counties in Maine, March 14: Proposed is the 1980 Cooperative Spruce Budworm Suppression Program for the State of Maine. The Counties involved are Aroostook, Piscataquis, Somerset, Penobscot, Washington, Franklin, Oxford and Hancock. The alternatives consider: 1) biological insecticide treatment on 1.66 million acres, 2) small landowner management assistance, 3)

chemical and biological insecticide treatment on 3.5 million acres, 4) chemical and biological insecticide treatment on 1.66 million acres with protection management, 5) biological insecticide treatment on 250,000 acres with protection management, and 6) no Federal assistance. Alternative six has been chosen as the recommended plan (USDA–FS–80–01). Comments made by: HUD, USDA, DOI, HEW, State and local agencies, groups and businesses. (EIS Order No. 800185.)

Soil Conservation Service

Final

Middle Creek Watershed Project, Multipurpose, Snyder, Mifflin, and Union Counties, Pa., March 10: Proposed is the installation of remaining works of the Middle Creek Watershed Project located in Snyder, Mifflin and Union Counties, Pennsylvania. The remaining works are: accelerated land treatment measures, a multipurpose dam containing floodwater retarding storage, a recreation pool, and basic recreation facilities; multipurpose dam containing floodwater retarding storage and municipal water supply, a floodway at Beaver Springs; a dike at Middleburg; and additional basic recreation facilities. The alternatives considered include: floodwater retarding dams, channel modification, floodway, nonstructural measures, and no project (USDA–SCS–EIS–WS–(ADM)–80–1–(F)–PA). Comments made by: COE, FERC, USDA, DOC, HEW, DOI, EPA, State and local agencies. (EIS Order No. 800177.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Below Red River Flood Control, Avoyelles County, La., March 12: Proposed is a flood control plan for Below Red River in Avoyelles Parish, Louisiana. The recommended plan includes construction of a levee along with a pumping plant and drainage outlet to the Red River through the oxbow lake that will be created by Lock and Dam No. 1 on the Red River. The levee will be 10.4 miles in length. In addition improvements will be made to the existing Moncla to Lake Long levee and 2 miles of interior channel will be constructed to route drainage to the outlet (Vicksburg District). (EIS Order No. 800181.)

Final

Flood Control on Cayuga Creek, Cheektowaga, Erie County, N.Y., March 12: Proposed is a flood control plan for Cayuga Creek in Erie County, New York. The improvements would be limited to the reach from Union Road Bridge to 1,400 feet upstream. The plan includes: 1) modification of width from 105 to 115 feet, 2) construction of a concrete T-wall from the bridge to 600 feet upstream, 3) construction of an earth mound levee, 4) construction of a transverse levee, and 5) clearing and seeding. Several structural and nonstructural alternatives are considered (Buffalo District). Comments made by: AHP, HUD, USDA, DOT, EPA DOI, State and local agencies. (EIS Order No. 800179.)

Draft supplement

Chena River Lakes Flood Control, Alaska, March 14: Proposed is a flood control plan for the Chena River Lakes near Fairbanks, Alaska. This statement supplements a final EIS, #721088, filed 10–27–71. Plan 1 consists of a levee crossing a major channel of the Tanana River protected by three L-shaped groins requiring a pilot channel. Plan 2 also consists of a levee, protected by four L-shaped groins requiring the pilot channel. Plans 4 and 5 consisting of an on-land levee alignment requiring either a pumping plant or excavation of additional interior drainage channels (Alaska District). (EIS Order No. 800191.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

Economic Development Administration

Final

Port of Camas-Washougal Industrial Park, Expansion, Clark County, Wash., March 12: Proposed is the renovation of the Port of Camas-Washougal Marina and construction of an office building in the City of Washougal, Clark County, Washington. The original proposal was expansion of the existing Port of Camas-Washougal Industrial Park. Funding was not approved for that proposal. The plan proposed for funding includes the following improvements to the marina: 1) replacement of the existing wooden slips, 2) relocation of thirty-five slips, and 3) provision of water and electricity to each slip. Comments made by: COE, DOC, DOE, SFW, HEW, HCR, HUD, DOI, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800180.)

National Oceanic and Atmospheric Administration

Draft

Reef Fish Resources of the Gulf of Mexico, Gulf of Mexico, March 13: Proposed is a management plan for the reef fish fishery of the Gulf of Mexico. The alternatives consider the following in conjunction with more restrictive and less restrictive components: 1) gear restrictions, 2) habitat, 3) reporting system, 4) harvest practices, and 5) area closures. The objectives of the plan are to rebuild declining stock, establish a fishery reporting system, conserve habitat, and minimize conflicts between user groups. (EIS Order No. 800184.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Draft

Southwyck Subdivision, Mortgage Insurance, Brazoria County, Tex., March 11: Proposed is the issuance of HUD home mortgage insurance for the Southwyck Subdivision in Brazoria County, Texas. The development would encompass 1,863 acres and would include construction of primarily single-family dwellings. Also included would be commercial reserves, apartments, school sites, and amenity areas with greenbelts and open spaces (HUD–R06–EIS–80–1D). (EIS Order No. 800174.)

Creekside and River Hill Villages, Montgomery County, Tex., March 10: Proposed is the issuance of HUD home mortgage insurance for the River Hills Village and Creekside Village Subdivisions in Montgomery County, Texas. When completed, these subdivisions, which encompass approximately 431.51 acres, are expected to consist of approximately 1,693 single-family dwelling units (HUD–R06–EIS–80–2D). (EIS Order No. 800176.)

Final

Lake Mandarin Subdivision, Jacksonville, Duval County, Fla., March 11: Proposed is the issuance of HUD home mortgage insurance for the Lake Mandarin Subdivision located in Jacksonville, Duval County, Florida. The project encompasses 260 acres of land. Included in the subdivision will be: single family detached homes, patio homes, multi-family attached housing, a model center, an amenities center, and a commercial area. The plan also includes a 30.4 acre lake for recreation and stormwater retention and 27 acres of open space (HUD–R04–EIS–77–08). Comments made by: USDA, DOD, DLAB, DOC, DOE, HEW, DOI, DOT, EPA, GSA, VA, State and local agencies, groups. (EIS Order No. 800175.)

Final

Landing Subdivision, League City, Galveston County, Tex., March 12: Proposed is the issuance of HUD home mortgage insurance for the Landing Subdivision located in Galveston County, Texas. The subdivision will encompass 751.4 acres and will contain approximately 2,664 residences, schools, shopping and recreational facilities (HUD–R06–EIS–80–2F). Comments made by: EPA, HEW, DOI, USA, DOE, DOT, AHP, State and local agencies. (EIS Order No. 800183.)

The following are community development block grant statements prepared and circulated directly by applicant pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Mid Valley Industrial Park, UDAG, Lackawanna County, Pa., March 11: Proposed is the awarding of a UDAG for the construction of the Mid Valley Industrial Park complex to be located in the Boroughs of Jessup, Olyphant and Throop, Lackawanna County, Pennsylvania. The area, which encompasses 483 acres, has been divided into 33 parcels. The alternatives considered include: (1) no action, (2) residential

development, (3) shopping center, and (4) public recreation. (EIS Order No. 800173.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft

Coso Known Geothermal Resource Area, Lease, Inyo County, Calif., March 14: Proposed is the issuance of competitive and non-competitive leases on a major portion of the Coso Known Geothermal Resource Area in Inyo County, California. The Coso Geothermal Study Area (CGSA) covers 72,640 acres centered on public land and lands within the western side of the China Lake Naval Weapons Center. It is assumed that the geothermal potential within the CGSA is 600 MW along with a development model of eleven 50 MW generating stations, plus probably 50 MW plant to be installed under the Navy's geothermal development program (DES–80–12). (EIS Order No. 800189.)

Bannock-Onedia Grazing Management Plan, several counties in Idaho, March 14: Proposed is grazing management for the Bannock-Oneida Area in Cassia, Oneida, Power and Bannock Counties, Idaho. The area encompasses 431,508 acres of public land. The alternatives considered are: (1) a balanced mix of uses while ensuring a sustained yield from the rangeland ecosystem, (2) maximize livestock use of the inventoried vegatative resource, (3) no livestock grazing, (4) decreased livestock grazing, and (5) no action (DES–80–11). (EIS Order No. 800187.)

WATER AND POWER RESOURCES SERVICE

Final

Upalco Final Unit Irrigation, Lake Fork River, Ashley National Forest, Duchesne County, Utah, March 12: Proposed is an irragation and water supply project for the Upalco Unit of the Central Utah Project located at Duchesne County, Utah. The Project plan includes the construction of Taskeech Reservoir on the Lake Fork River and 2 auxillary canals, modification of 14 high country lakes in the Ashley National Forest, and rehabilitation of about 10.7 miles of existing canals. The main purpose of the project is to provide supplemental irrigation on a total of 42,610 acres of land; in addition water would be supplied to the Town of Roosevelt for municipal and industrial use. Flood control would be provided on the Lake Fork River. (FES–80–10). Comments made by: EPA, DOI, HEW, HUD, COE, DOE, AHP, FSDA, State and local agencies, Groups, Individuals, and Businesses. (EIS Order No. 800182.)

Heritage Conservation and Recreation Service

Draft

Alaskan Rivers protection, Alaska, March 11: Proposed is the protection of eleven river corridors in Alaska. The corridors would be four miles wide. The alternatives considered are: 1) designation of seven rivers as components of the National Wild and Scenic Rivers System, and study of four rivers for inclusion; 2) administrative withdrawal of the corridors under the public land laws; and 3) no action (DES–80–10). (EIS Order No. 800171.)

Fish and Wildlife Service

Draft

Alaska Peninsula, National Wildlife Refuge, Alaska, March 11: Proposed is the designation of approximately 3.5 million acres of federal lands on the Alaska Peninsula, Alaska as a National Wildlife Refuge. The alternatives considered include: 1) no action, 2) designation of all or a portion of the area as a Congressionally established wilderness, 3) establishment of a National Wildlife Monument by Presidential Proclamation, 4) establishment of a refuge by Secretarial withdrawal, and 5) increasing or decreasing the size of the area (DES–80–8). (EIS Order No. 800169.)

Draft supplement

Iliamna National Wildlife Refuge, Alaska, March 11: This statement supplements a final EIS, #750088, filed 1–16–75, concerning the Iliamna National Resource Range in Alaska. This supplement addresses alternatives for the protection and management of the natural resources on 5.7 million acres of federal lands in the Iliamna area. The alternatives considered are: 1) no action, 2) withdrawal of the area with administration by DOI/FWS, and 3) creation of a National Monument with administration by the FWS (DES–80–9). (EIS Order No. 800170.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Nathaniel Cohen, Director, Management Support Office (LB–4), National Aeronautics and Space Administration, 400 Maryland Avenue, SW., Washington, D.C. 20546, (202) 755–8384.

Final

Kennedy Space Center, Operation, Brevard County, Fla., March 14: Proposed are ongoing operational activities at the Kennedy Space Center (KSC) located in Brevard County, Florida. Described is the ongoing operation of KSC for expendable launch vehicles and automated spacecraft, continued development of facility capabilities, and the approved follow-on operations of the Space Transportation System (STS) and associated payloads. This EIS supersedes and updates the two past final EISs, #20927, filed 9–29–71 and #31474, filed 9–7–73. Comments made by: USAF, HEW, HUD, FERC, DOC, NSF, USDA, EPA, DOI, DOT, TREA, State and local agencies. (EIS Order No. 800188.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555, (301) 492–8446.

Draft

Surry Power Station Unit #1, Steam Generating Repa, Surry County, Va., March 14: Proposed is the repair of the steam generators for Unit 1 of the Surry Power Station, Surry County, Virginia. The method of repair involves removing all fuel from one generator at a time and cutting it out of the reactor system. The lower and upper assemblies would be cut in half. The lower assembly would be replaced and the upper asembly welded back on along with the cut piping. The alternatives involve: 1) decontamination, 2) retubing of existing generators, 3) replacement of the entire steam generator, and 4) alternate disposal methods (NUREG–0663). (EIS Order No. 800186.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft supplement

I–505, NW Nicolai Street to I–405, Portland, Multnomah County, Oreg., March 10: This statement supplements a final EIS, #770901, filed 7–25–77 concerning the construction of I–505 in the City of Portland, Multnomah County, Oregon. The decision has been made not to build I–505. This statement proposes a freeway connection between I–405 and the intersection of Nicolai Street and Yeon Avenue. From that intersection US 30 traffic would use Yeon Avenue which would be widened to five lanes. The number of rail crossings on Yeon Avenue would be reduced to one. Major improvements would occur on St. Helens Road, Wardway, Vaughn Street and Nicolai Street (FHWA–OR–EIS–8–0–02–S). (EIS Order No. 800178.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler, Director, Office of Environmental Activities (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–2526.

Draft

National Memorial Cemetery of the Pacific (RD), Honolulu County, Hawaii, March 14: Proposed is a master plan for the National VA Memorial Cemetery of the Pacific located in the Punchbowl Crater, Honolulu City and County, Hawaii. Major development elements of the plan include a visitor center/administration building and parking facility, an addition to the maintenance facility, columbaria facilities, and major improvement to the overlook. The plan would expand burial capacity of the Cemetery and improve its overall operations and appearance. This revised draft EIS replaces the original draft, #790896, filed 8–21–79. (EIS Order No. 800190.)

EIS' Filed During the Week of March 10 Through March 14, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Programmatic		Draft	Competing Vegetation, Management Methods	800172	Mar. 11, 1980	USDA
Alaska		Draft	Alaska Peninsula, National Wildlife Refuge	800169	Mar. 11, 1980	DOI
		Draft	Alaskan Rivers Protection	800171	Mar. 11, 1980	DOI
		Supple	Iliamna National Wildlife Refuge	800170	Mar. 11, 1980	DOI
		Supple	Chena River Lakes Flood Control	800191	Mar. 14, 1980	DOE
California	Inyo	Draft	Coso Known Geothermal Resource Area, Lease	800189	Mar. 14, 1980	DOI
Florida	Brevard	Final	Kennedy Space Center, Operation	800188	Mar. 14, 1980	NASA
	Duval	Final	Lake Mandarin Subdivision, Jacksonville	800175	Mar. 11, 1980	HUD
Gulf of Mexico		Draft	Reef Fish Resources of the Gulf of Mexico	800184	Mar. 13, 1980	DOC
Hawaii	Honolulu	Draft	National Memorial Cemetery of the Pacific (RD)	800190	Mar. 14, 1980	VA
Idaho	Several	Draft	Barnock-Onedia Grazing Management Plan	800187	Mar. 14, 1980	DOI
Louisiana	Avoyelles	Draft	Below Red River Flood Control	800181	Mar. 12, 1980	COE
Maine	Several	Final	1980 Maine Cooperative Spruce Budworn Suppression.	800185	Mar. 14, 1980	USDA
New York	Erie	Final	Flood Control on Cayuga Creek, Cheektowaga	800179	Mar. 12, 1980	COE
Oregon	Multnomah	Supple	I-505, NW Nicolai Street to I-405, Portland	800178	Mar. 10, 1980	DOT
Pennsylvania	Lackawanna	Draft	Mid Valley Industrial Park, UDAG	800173	Mar. 11, 1980	HUD
	Mifflin	Final	Middle Creek Watershed Project, Multipurpose	800177	Mar. 12, 1980	USDA
	Snyder	Final	Middle Creek Watershed Project, Multipurpose	800177	Mar. 12, 1980	USDA
	Union	Final	Middle Creek Watershed Project, Multipurpose	800177	Mar. 12, 1980	USDA
Texas	Brezoria	Draft	Southwyck Subdivision, Mortgage Insurance	800174	Mar. 11, 1980	HUD
	Galveston	Final	Landing Subdivision, League City	800183	Mar. 12, 1980	HUD
	Montgomery	Draft	Creekside and River Hill Villages	800176	Mar. 10, 1980	HUD
Utah	Duchesne	Final	Upalco Unit Irrigation, Lake Fork River, Ashley NF	800182	Mar. 12, 1980	DOI
Virginia	Surry	Draft	Surry Power Station Unit #1, Steam Generating Repa.	800186	Mar. 14, 1980	NRC
Washington	Clark	Final	Port of Camas-Washougal Industrial Park, Expansion.	800180	Mar. 12, 1980	DOC

Appendix II.—*Extension/Waiver of Review Periods on EIS' Filed With EPA*

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	Cowhead/Massacre Planning Unit Grazing Management Plan, Washoe County, Nev., and Modoc County, Calif.	Draft 800140	Mar. 7, 1980	Extension	May 4, 1980.
	COSO known Geothermal resource area, Inyo County, Calif.	Draft 800189	Mar. 22, 1980 (see appendix I).	Extension	May 12, 1980.

Appendix III.—*EIS' Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS' Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.	Southborough 8, Pinehurst Planned Developments, El Paso County, Colorado.	Mar. 10, 1980	800192

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Transportation Efficiency Act of 1980.	Draft 800163	Mar. 14, 1980	The EIS was incorrectly transmitted to and published by EPA as a draft statement. The status in final. The comment period began on March 14, 1980 and will terminate on April 14, 1980.

[FR Doc. 80-8930 Filed 3-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1443-1; 80P-41]

Bayvet; Voluntary Cancellation of Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Bayvet, Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201, has requested voluntary cancellation of registration of their pesticide product ANTHON HORSE WORMER (EPA Reg. No. 11556-5).

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by Bayvet, Division of Cutter Laboratories, Inc., P.O. Box 390 Shawnee, KS 66201 of their desire to voluntarily cancel registration of the product ANTHON HORSE WORMER (EPA Reg. No. 11556-5). The pesticide was registered on December 29, 1971.

The Agency has agreed that such cancellation shall be effective April 23, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrant was notified by certified mail of this action.

The Agency has determined that the sale and distribution of this product produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of this product is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of this product as a pesticide formulation after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of this product be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[80P-41]". Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday though Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, (89 Stat. 751, 7 U.S.C. 136))

Dated: March 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-8834 filed 3-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1443-2; 80P-42]

Bayvet; Voluntary Cancellation of Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Bayvet, Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201 has requested voluntary cancellation of registration of their pesticide product COMBOT EQUINE ANTHELMENTIC (EPA Reg. No. 11556-67).

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202-426-8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by Bayvet, Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201 of their desire to voluntarily cancel registration of the product COMBOT EQUINE ANTHELMENTIC (EPA Reg. No. 11556-67). The pesticide was registered on March 17, 1977.

The Agency has agreed that such cancellation shall be effective April 23, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrant was notified by certified mail of this action.

The Agency has determined that the sale and distribution of this product produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of this product is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of this product as a pesticide formulation after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of this product be continued, may be submitted

in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[80P–42]". Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136)).

Dated: March 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–8835 Filed 3–21–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1443–4; 80P–44]

Chemical Specialties Co., Inc.; Voluntary Cancellation of Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Chemical Specialties Co., Inc. 51–55 Nassau Avenue, Brooklyn, NY 11222, has requested voluntary cancellation of registration of their pesticide product VAMO KILLS MICE–RATS (EPA Reg. No. 1660–15).

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS–767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the Chemical Specialties Co., Inc. of their desire to voluntarily cancel registration of the product VAMO KILLS MICE–RATS (EPA Reg. No. 1660–15). The pesticide was registered on December 28, 1950.

The Agency has agreed that such cancellation shall be effective April 23, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrant was notified by certified mail of this action.

The Agency has determined that the sale and distribution of this product produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of this product is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of this product as a pesticide formulation after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of this product be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[80P–44]". Any comments filed regarding this notice will be available for public inspection in the Office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of the FIFRA as amended 86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136)).

Dated: March 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–8837 Filed 3–21–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1443–5; 80P–45]

Glacier Ice, Inc.; Voluntary Cancellation of Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Glacier Ice, Inc. 1518 East North Avenue, Milwaukee, WI 53202, has requested voluntary cancellation of registration of their pesticide product LIFE-PRE-CRABGRASS KILLER W/TURF FOOD (EPA Reg. No. 9348–6).

EFFECTIVE DATE: APRIL 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS–767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the Glacier Ice, Inc. 1518 East North Avenue, Milwaukee, WI 53202 of their desire to voluntarily cancel registration of the product LIFE-PRE-CRABGRASS-KILLER W/TURF FOOD (EPA Reg. No. 9348–6). The pesticide was registered on May 23, 1967.

The Agency has agreed that such cancellation shall be effective April 23, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrant was notified by certified mail of this action.

The Agency has determined that the sale and distribution of this product produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of this product is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of this product as a pesticide formulation after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of this product be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[80P–45]". Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4 p.m. Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136.)

Dated: March 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–8838 Filed 3–21–80 8:45 am]

BILLING CODE 6560–01–M

[FRL 1442–7]

North Carolina; Water Programs; Determination of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95–190 (amending 42 U.S.C. 300f *et seq.*), and 40 C.F.R. 142.10, published at 41 F.R. 2918 (January 20, 1976).

A submission, dated August 14, 1979, has been received from the Secretary of the Department of Human Resources requesting a determination that the State of North Carolina has met requirements for primary enforcement responsibility for public water systems in the State of North Carolina in accordance with the provisions of this Act. Supplementing the application there has also been received: (1) an opinion from the North Carolina Attorney General, dated December 14, 1979, clarifying the meaning of Section 130–166.54(a) of the North Carolina Drinking Water Act (Ch. 788 Sess. Laws 1979); (2) a letter from North Carolina Governor James B. Hunt, Jr., dated December 17, 1979, supporting the December 14 opinion of the Attorney General; and (3) a letter from Sarah T. Morrow, Secretary of the North Carolina Department of Human Resources, dated December 19, 1979, submitting required revisions to the State's primacy application.

In response, the previous Regional Administrator determined on January 14, 1980, that the North Carolina Department of Human resources had met all the conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of North Carolina. The State:

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations; and

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

A copy of the previous Regional Administrator's preliminary determination was published in the Federal Register on January 17, 1980. At that time he asked for public comment and scheduled a public hearing to consider this application. The hearing was held on March 4, 1980. No comments adverse to his preliminary decision have been received, either during the public comment period or at the public hearing.

Therefore, I am affirming the previous Regional Administrator's determination that the North Carolina Department of Human Resources has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of North Carolina.

Dated: March 14, 1980.

Rebecca W. Hanmer,

Regional Administrator, Region IV, Environmental Protection Agency.

[FR Doc. 80-8833 Filed 3-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1443-6]

Science Advisory Board, Executive Committee; Open Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9:15 am, April 9, and 10, 1980, in Room 1101, West Tower of EPA Headquarters, 401 M Street, SW, Washington, D.C.

The agenda includes a discussion of Science Advisory Board committee activities by the chairpersons; a report on hazardous waste monitoring at the Las Vegas laboratory by the Environmental Measurements Committee; a report by the Technology Committee on EPA's research related to control technology for hazardous and toxic wastes; a briefing/discussion with the Pesticide Research Committee; a discussion of health research and information needs for pesticides; a report of the Water Quality Criteria Subcommittee; and a discussion of radiation program activities.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Richard M. Dowd at (202) 755–0263, or Terry Yosie at (202) 755–0533 before close of business April 2, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

March 18, 1980.

[FR Doc. 80-8840 Filed 3-21-80; 8:45am]

BILLING CODE 6560-01-M

[FRL 1442-8]

Security Manual—Part III—Document Security

AGENCY: Environmental Protection Agency.

ACTION: Notice of Security Manual revision.

SUMMARY: In accordance with Executive Order 12065 and Directive No. 1, Information Security Oversight Office, the EPA Security Manual must be revised to be consistent with the Executive Order. The revisions relate to the classification, downgrading, and declassification of national security information, with the objective of limiting classification of documents while providing protection against unauthorized disclosure. The Security Manual, Part III, consists of 13 chapters, four of which may be of interest to the public. The other nine pertain to internal functions of the Agency and are not being published but may be obtained upon request.

DATE: The effective date of these changes was December 1, 1978.

FOR FURTHER INFORMATION CONTACT: Robert M. Felmley, Chief, Security Branch, Environmental Protection Agency, Washington, D.C. Phone (202) 245–3068.

ENVIRONMENTAL PROTECTION AGENCY

Security Manual—Update

Part III—Document Security

Part III—Document Security

Part III—Document Security

Part III—Document Security

Chapter 1—Purpose, Authority, and Access to Classified Information

Chapter 1. Purpose, Authority, and Access to Classified Information

1–1. Purpose

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information which, because it bears directly on the effectiveness of our national security and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against unauthorized access, it is essential that such official information be given limited dissemination.

To ensure that such information is protected, but only to the extent and for such period as is necessary, Part III of this manual identifies the information to be protected, and prescribes classification, downgrading, declassification and safeguarding procedures to be followed.

1–2. Authority

a. Executive Order 12065, entitled, "National Security Information".

b. Information Security Oversight Office; Directive No. 1 concerning National Security Information.

1–3. General Access Requirements

Access to classified information shall be granted in accordance with the following:

a. *Determination of Trustworthiness.* No person shall be given access to classified information unless a favorable determination has been made as to his or her trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigation as the head of the Agency may require in accordance with the applicable standards and criteria of E.O. 10450, entitled, "Security Requirements For Government Employment".

b. *Determination of Need-to-Know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his or her official duties or contractual obligations. The determination of that need shall be made by officials who have authorized possession, knowledge, or control of the classified information to be released.

c. *Administrative Withdrawal of Security Clearance.* The Agency shall administratively withdraw the security clearance of any person who no longer requires access to classified information in connection with the performance of his or her official duties. Likewise, when a person no longer needs access to a particular security classification designation, the security clearance shall be adjusted to the classification designation still required for the performance of his or her duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

Part III—Document Security

Chapter 2—Responsibility for Safeguarding Classified Information

Chapter 2. Responsibility for Safeguarding Classified Information

2–1. Security Responsibility

Title 18 U.S.C. (1964 edition) 793(f), as amended, states: "Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of his trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer . . . Shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

Accordingly, each person employed by or serving in an official capacity with the Environmental Protection Agency who has occasion to come into possession of classified information, is individually responsible for exercising vigilance and discretion in conforming with the Act and Executive Order 12065, and in applying the appropriate security regulations governing the use, handling, and safekeeping of classified information and material.

2–2. Organizational Heads

All Assistant Administrators, Office Heads, Regional Administrators and Laboratory Directors shall be responsible for safeguarding all classified information coming within the custody or control of their organizations, maintaining a high degree of security conscientiousness among their employees and assuring compliance with Part III of the Manual. The head of each organization may delegate any or all of the responsibilities to qualified and responsible persons in the organization.

2–3. Deputy Assistant Administrator for Management and Agency Services Responsibilities

The Deputy Assistant Administrator for Management and Agency Services has overall responsibility for promulgating and administering policies, standards, and procedures that insure effective compliance with and implementation of Executive Order 12065 and this Manual. The Deputy Assistant Administrator will:

a. Chair a committee, if deemed appropriate, with authority to act on all suggestions and complaints with respect to the Agency's administration of the information security program.

b. Insure that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and which ensures that the number of people granted access to classified information is reduced to and maintained at the minimum number that is consistent with operational requirements and needs.

c. Establish and maintain procedures which will enable the prompt identification of any existing practice or condition which fails to afford adequate safeguarding of all classified information in the possession of the Agency and take prompt and effective action to correct any deficiency noted or reported.

d. Promptly and fully determine the circumstances of any loss or subjection to compromise of classified information and take all appropriate action in connection therewith, including advice to the originating department or agency.

e. Approve the modification or substitution of any standard procedure, specification or guide set forth in the Manual, based on his or her specific determination that such modification or substitution provides protection for classified information at least equal to that prescribed herein.

f. Establish more rigid standards, procedures, specifications, or guidelines

than are prescribed in this Manual whenever: (1) The overall accumulation of Confidential or Secret information warrants the protection afforded information of a higher catergory of security classification, or (2) Other conditions or circumstances arise which indicate that increased safeguards are necessary in the interests of national security.

g. Insure that all employees responsible for the handling of classified information receive an initial briefing on their security responsibilities and sign a briefing statement before being given access to classified information. In addition, upon termination of employment, employees shall complete a debriefing statement and each will be reminded of the provisions of the Criminal Codes and other applicable provisions of law relating to penalties for unauthorized disclosure. The Chief, Security Branch will be responsible for briefing and debriefing all Headquarters employees. The Security Representatives will perform these functions in the Regions and in the national laboratories.

h. Insure that safeguarding practices are continuously reviewed and eliminate those which are duplicative or unnecessary.

2–4. EPA Employee Responsibilities

a. *Reporting Violation.* Each EPA employee who has reason to believe that:

(1) A practice or condition exists which fails to provide for the adequate safeguarding of any classified information will report the circumstances promptly to his or her immediate supervisor.

(2) Classified information may have been lost or subjected to compromise will promptly report the circumstances directly to the Chief, Security Branch.

b. *Care of Information.* Each EPA employee to whom classified information is entrusted or becomes accessible will, prior to giving a prospective recipient access to classified information, insure that he or she has both:

(1) A security clearance to at least the same category of classification of the information involved, and

(2) A valid need to know the information in connection with his or her official duties.

c. *Supervisors.* Each EPA supervisor entrusted with classified information will be responsible for insuring that:

(1) All such information is provided adequate safeguarding at all times and under all circumstances.

(2) Each EPA employee under his or her supervision is adequately instructed in, and fully complies with all provisions of Part III of this Manual.

d. *Challenges to Classification.* Agency personnel are encouraged to challenge in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. Request should be sent to the Deputy Assistant Administrator for Management and Agency Services who will, within 30 days, resolve the question of classification with the original classification authority and provide notification to the challenger of the results.

Part III—Document Security

Chapter 4—Derivative Classification and Marking

Chapter 4. Derivative Classifiation and Marking

4–1. Definition

"Derivative classification" as used in Executive Order 12065 and this Manual means a determination that information is in substance the same as information that is currently classified, and a designation of the level of classification. EPA has only "Derivative Classification" authority.

4–2. Assignment of Derivative Classification

(Figure III–4–2)

a. The Chief, Security Branch will be responsible for the assignment of all derivative classifications and markings in the Agency.

b. Information originated in this Agency appearing to require classification under one of the designations set forth in Chapter 3, shall be protected according to the procedures outlined for that designation and shall be handcarried to the Chief, Security Branch who will resolve the question, if any, of classification with the department or agency which has a direct official interest in the document and has the authority to classify such documents. See exception 4–2c. below.

c. EPA employees generating documents which include classified extracts from another Agency's document, shall identify the new document with the classification markings to the level of the classified information that was extracted and shall enter it into the document control system, as appropriate.

4–3. Marking Derivatively Classified Documents

Derivatively classified documents shall be marked at the time of origination as follows:

a. The classification authority shall be shown on a "classified by" line, e.g., "Classified by *(Insert identity of classification guide)*" or "Classified by *(Insert source of original classification)*." If the classification is derived from more than one source, the single phrase "Multiple sources" may be shown, provided that identification of each such source is maintained with the file or record copy of the document.

b. The identity of the office originating the derivatively classified document shall be shown on the face of the document.

c. Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information.

d. The classification marking provisions of Chapter 3, paragraph 3–5, g. through i. are also applicable to derivatively classified documents.

Part III—Document Security

Chapter 5—Declassification and Downgrading

Chapter 5. Declassification and Downgrading

5–1. Authority.

The Agency does not have the authority to declassify or downgrade information classified under Executive Order 12065 or prior orders. Such authority may be exercised only by individuals or positions designated as declassification authorities pursuant to Section 3–1 of Executive Order 12065.

5–2. Declassification Policy

a. Declassification of classified information shall be given emphasis comparable to that accorded classification. Information classified pursuant to Executive Order 12065 and prior Orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the

loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

b. When information is reviewed for declassification pursuant to Executive Order 12065 or the Freedom of Information Act, it shall be declassified unless the declassification authority determines that the information continues to meet the classification requirements prescribed in Section 1–3 of Executive Order 12065 despite the passage of time.

c. It is presumed that information which continued to meet the classification requirements, requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of information, and in these cases the information should be declassified. When such questions arise, they should be referred to the Chief, Security Branch who will contact the original classification authority. That official will determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. The Chief, Security Branch will, upon receipt of information from the original classification authority, advise the requester.

5–3. Mandatory Review for Declassification

a. Requests by a member of the public, by a Government employee or by an agency to declassify and release information shall be forwarded to the Deputy Assistant Administrator for Management and Agency Services. The Deputy Assistant Administrator will forward the request to the original classification authority for review, together with a copy of the document containing the information requested where practicable, and with a recommendation, to withhold any of the information where appropriate.

b. Unless the agency that classified the information objects on the grounds that its association with the information requires protection, the Deputy Assistant Administrator for Management and Agency Services shall also notify the requester of the referral.

c. The agency that classified the information shall determine within sixty days whether, under the declassification policy of Section 3–3 of Executive Order 12065, the requested information may be declassified and, if so, shall make such information available to the requestor, unless withholding is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to a designated agency appellate authority (including name, title, and address of such authority), and a notice that such an appeal may be filed with the agency within thirty days in order to be considered. If requested, the agency shall also communicate its determination to the Deputy Assistant Administrator for Management and Agency Services.

5–4. Downgrading

The Deputy Assistant Administrator for Management and Agency Services or his/her designee shall maintain a continuous review of all classified information in the Agency and will downgrade all classified information that is marked for automatic downgrading and upon notification form the original classification authority assign a lower classification designation when such downgrading is appropriate.

Edward J. Hanley,

Deputy Assistant Administrator for Management & Agency Services.

March 7, 1980.

[FR Doc. 80–8832 Filed 3–21–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1443–3; 80P–43]

Southern Imperial Coatings Corp.; Voluntary Cancellation of Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Southern Imperial Coatings Corp., P.O. Box 29077, New Orleans, LA 70189 has requested voluntary cancellation of registration of their pesticide product VITRON ANTI-FOULING MASTIC BASE ANTI-FOULING MASTIC CURING AGENT (EPA Reg. No. 11553–1).

EFFECTIVE DATE: April 23, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Lela Sykes, Process Coordination Branch (TS–767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the Southern Imperial Coatings Corp., P.O. Box 29077, New Orleans, LA 70189 of their desire to voluntarily cancel registration of the product Vitron Anti-Fouling Mastic Base Anti-Fouling Mastic Curing Agent (EPA Reg. No. 11553–1). The pesticide was registered on September 7, 1973.

The Agency has agreed that such cancellation shall be effective April 23, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrant was notified by certified mail of this action.

The Agency has determined that the sale and distribution of this product produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of this product is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of this product as a pesticide formulation after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of this product be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[80P–43]". Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136))

Dated: March 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–8836 Filed 3–21–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street,

N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by April 13, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and the foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3759-2.

Filing party: Lynne R. Feldman, Assistant City Attorney, City of Richmond, Richmond, California 94804.

Summary: Agreement No. T-3759-2 between the City of Richmond, Surplus Property Authority of the City of Richmond, and Canal Industrial Park, Inc. (Canal) modifies the parties' basic agreement covering the assignment and lease of certain terminal property at Shipyard Three, Richmond, California. The modification provides for the deletion of 1.27 acres from the southerly portion of Canal's "Assigned Area" and the addition of 4 acres of land surrounding an administration building to Canal's "Assigned Area."

Agreement No.: T-3825-1.

Filing party: William E. Daily, Chief Counsel-Staff, Offices of the Attorney General, State of Indiana, 219 State House, Indianapolis, Indiana 46204.

Summary: Agreement No. T-3825-1, between Cargill and the Indiana Port Commission, modifies the basic lease agreement to correct typos, redefine improvements as facilities, update reference to 1979 bonds to 1980 bonds and delete section 10.09 (concerning certain termination provisions) from the original lease.

Agreement No.: 6190-33.

Filing party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 6190-33 amends the basic agreement by (1) changing the name of United States Atlantic & Gulf/Venezuela and Netherlands Antilles Conference to that of the United States Atlantic & Gulf/Venezuela Conference and (2) reduces the geographic scope thereof by deleting the Netherlands Antilles and specifically the Islands of Curacao, Aruba and Bonaire, Netherlands Antilles wherever it appears in the agreement.

Agreement No.: 10384.

Filing party: William St. John, Jr., Senior Vice President, W. R. Zanes & Co., of La., Inc., P.O. Box 2330, New Orleans, Louisiana 70176.

Summary: Agreement No. 10384, between Southern States Forwarding, Inc., (SSF) (FMC Freight Forwarder License No. 1610) and W. R. Zanes & Co., of La., Inc. (Zanes) (FMC Freight Forwarder License No. 752) provides that Zanes will act as SSF's authorized agent in connection with the handling of cotton exports from Louisiana, Texas and Alabama to ports worldwide for account of various exporters who place business with SSF. Both parties will perform certain freight forwarder services as enumerated in the agreement. The term of the agreement is 99 years.

By Order of the Federal Martime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-8906 Filed 3-21-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Aurora Bancshares Corp.; Formation of Bank Holding Company

Aurora Bancshares Corporation, Aurora, Illinois, 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 100 percent of the voting shares of Aurora National Bank, Aurora, Illinois. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 17, 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, March 17, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-8911 Filed 3-21-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; de Novo Nonbank Activities

The bank holding company listed in this notice 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)(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 this 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.

This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 14, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (financing, servicing, and insurance activities; Kansas and Missouri): to continue to engage, through its subsidiary, FinanceAmerica Corporation, a Kansas corporation, in making or acquiring for its own account loans and other

extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans secured by real and personal property; and the offering of credit related life insurance, credit related accident and health insurance, and credit related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. These activities would be conducted from an office in Overland Park, Kansas, serving the states of Kansas and Missouri. This application is for the relocation of an office presently located in Kansas City, Kansas.

B. *Other Federal Reserve Banks;* None.

Board of Governors of the Federal Reserve System, March 14, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-8912 Filed 3-21-80; 8:45 am]

BILLING CODE 6210-01-M

CB&T Bancshares, Inc., Acquisition of Bank

CB&T Bancshares, Inc., Columbus, Georgia, 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 51 per cent or more of the voting shares of Sumter County Bank, Americus, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 17, 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, March 17, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-8913 Filed 3-21-80; 8:45 am]

BILLING CODE 6210-01-M

NBA Bankshares, Inc.; Formation of Bank Holding Company

NBA Bankshares, Inc., Salina, Kansas, 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 84.42 per cent or more of the voting shares of the National Bank of America at Salina, Salina, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 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, March 14, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-8914 Filed 3-21-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Board of Scientific Counselors, NIA; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 22-23, 1980, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. to adjournment on Thursday, May 22, and from 9:00 a.m. until 1:30 p.m. on Friday, May 22. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 23, from 1:30 p.m. until adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 5C-05, National Institutes of Health, Bethesda, Maryland, 20205 (telephone: 301/496-5345) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore Maryland, 21224, will furnish substantive program information.

Dated: March 17, 1980.

Suzanne L. Fremeau,

Committee Management Office, National Institutes of Health.

[FR Doc. 80-8811 Filed 3-21-80; 8:45 am]

BILLING CODE 4110-08-M

National Institute of Arthritis, Metabolism, and Digestive Diseases, Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, May 2-3, 1980, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:30 a.m. to 4:30 p.m. on May 2, and from 9:00-11:00 a.m. on May 3, and will be devoted to scientific presentations by various laboratories of the NIAMDD intramural research program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4:30 p.m. to closing on May 2, and from 11:00 a.m. to adjournment on May 3, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Arthritis,

Metabolism, and Digestive Diseases, Building 31, Room 9A46, Bethesda, Maryland 20205. Further information concerning the meeting may be obtained by contacting the office of Dr. J. E. Rall, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20205, (301) 496–4128.

Dated: March 17, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80–8810 Filed 3–21–80; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice regarding HMO qualifications review procedures.

SUMMARY: The Office of Health Maintenance Organizations (OHMO) withdraws two notices concerning the review of applications by entities for Federal qualifications as health maintenance organizations (HMOs) under section 1310(d) of the Public Health Service Act and its implementing regulations at 42 CFR Part 110, Subpart F. These notices, which set out detailed qualification review procedures, were published to expedite processing of a backlog of qualification applications. However, since there is no longer a backlog of applications, OHMO is (1) withdrawing these notices and (2) revising the qualification review procedures. The revised procedures, which are summarized below, are available to interested persons upon request.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: In order to become a federally qualified HMO under section 1310(d) of the Public Health Service Act and its implementing regulations at 42 CFR Part 110, Subpart F, an applicant is required to submit an application to the Secretary who will then evaluate and make the qualification determination (see 42 CFR §§ 110.604 and 110.605). During the initial years of the Federal qualification process, the Department received a large number of applications. In order to expedite the processing of the backlog of applications that accumulated, the Department issued detailed qualification review procedures. These procedures were published in two separate **Federal Register** notices on February 3, 1977 (42 FR 6640) and March 22, 1977 (42 FR 15472–3). Since there no longer is a backlog of qualification applications, the procedures are now out of date and have been revised. The Department notes, however, that while the review procedures used by OHMO to administer the qualification process have been revised, the qualification requirements set by section 1310(d) and its implementing regulations are not changed.

Summary of Revised Qualification Review Procedures

The revised procedures which have been developed by OHMO consist of the following steps: (1) completeness screen, (2) desk review, (3) site visit, (4) post-site visit analysis, (5) determination of eligibility for qualification, and (6) acceptance of qualification assurances. Each application is assigned to an OHMO staff member who has the primary responsibility for reviewing, managing and coordinating the qualification review process for that HMO.

OHMO has established a 120 day timetable for qualification reviews. This period begins when the applicant receives notice that its application is considered complete. If the application is incomplete, applicants are notified of the deficient areas and given 60 days to submit the additional information.

Prior to the qualification site visit, specialists in the fields of financing, marketing, law, health services and management, evaluate the application. After the site visit, the qualification determination is made by the Director of OHMO based on staff recommendations and supporting information.

The Director may (1) approve the application for qualification, in which case the applicant must sign, within 60 days, assurances that it meets and will continue to meet all applicable requirements (see 42 CFR § 110.603), (2) issue a notice of intent to deny qualification, in which case the applicant has 60 days to respond to the issues which were the basis for the determination, or (3) deny the application for qualification, in which case the applicant is given an opportunity to request reconsideration of the determination. OHMO has assigned each step within the 120 day timetable a standard number of days for completion. However, the amount of time allocated for any particular step in a given application is flexible.

The revised OHMO qualification review procedures will be provided to interested persons upon request to the Director, OHMO, at the address indicated above. Complete details of the review procedures are made available routinely to applicants for qualification, so that a separate request by the applicant is unnecessary.

Dated: March 13, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80–8794 Filed 3–21–80; 8:45 am]

BILLING CODE 4110–85–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–80–988]

Privacy Act of 1974; System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of system of records.

SUMMARY: The Department is giving notice of a system of records it maintains which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective without further notice on April 23, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605.

SUPPLEMENTARY INFORMATION: The system is Previous Participation Files (HUD/H–7) which contains information on principals (owners, general contractors, management agents, consultants and packagers) in HUD multifamily housing programs. A system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on Janaury 16, 1980. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 44 FR 72288 (December 13, 1979). Appendix A, which lists the addresses of HUD's offices was published at 44 FR 72288 (December 13, 1979) and supplemented at 45 FR 6479 (January 28, 1980).

HUD/H-7

SYSTEM NAME:

Previous Participation Files

SYSTEM LOCATION:

Headquarters

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principals (owners, general contractors, management agents, consultants and packagers) in HUD multifamily housing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning the Department's consideration/approval/disapproval of HUD multifamily housing program principals, including names and Social Security Numbers of principals; lists of prior HUD projects; summaries of financial, management, or operational difficulties with prior HUD projects (if any); indication of whether principals are or have been the subject of a government; investigation, other information relevant to the standards for previous participation approval; minutes of deliberative meetings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of HUD Act, 79 Stat. 670, (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: To state and local governments participating in HUD housing programs as co-insurers or finance agencies—to assist in project application reviews.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in filing cabinets.

RETRIEVABILITY:

Name of principal and HUD project case number.

SAFEGUARDS:

Files are kept in lockable cabinets. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active; disposal is in accordance with HUD Handbook.

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; HUD Field Offices; other governmental agencies.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., March 18, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-8893 Filed 3-21-80; 8:45 am]

BILLING CODE 4210-01-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition

Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Lost Treasure of the Concepcion" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a contract between the John G. Shedd Aquarium, Chicago, Ill., and the Comision de Rescate Arqueologico Submarino, Santo Domingo, Dominican Republic. I also determine that the temporary exhibition or display of the listed exhibit objects at the John G. Shedd Aquarium, Chicago, Ill., beginning on or about June 1, 1980, to on or about September 18, 1980; Dallas Health and Science Museum, Dallas, Tex., beginning on or about October 1, 1980, to on or about November 30, 1980; New England Aquarium, Boston, Mass., beginning on or about February 15, 1981, to on or about May 17, 1981; Hershey Museum of American Life, Hershey, Pa., beginning on or about June 7, 1981, to on or about August 9, 1981; and the County of Hillsborough, Department of Museums, Tampa, Fla., beginning on or about October 15, 1981, to on or about December 15, 1981, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Date: March 19, 1980.

John E. Reinhardt,

Director, International Communication Agency.

[FR Doc. 80-8891 Filed 3-21-80; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Idaho, North Idaho Livestock Grazing Management: Intent to Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Preparation of an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102 of the National Environmental Policy Act, the Department of the Interior, Bureau of Land Management (BLM), Coeur d'Alene District Office, will prepare an Environmental Impact Statement (EIS) concerning proposed livestock grazing management for the Coeur d'Alene District in northern Idaho. Portions of the District are within Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

DATES: The final EIS will be completed by September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Martin J. Zimmer, District Manager, Bureau of Land Management, P.O. Box 1889, Coeur d'Alene, Idaho 83814, Telephone: (208) 667-2561 ext. 356.

SUPPLEMENTARY INFORMATION: Initially, grazing management is proposed for 118,878 acres of public land in the district. This constitutes approximately 1 percent of all the Federal, State and privately owned lands within the district boundaries. There are an additional 156,157 acres of public land in the district on which no livestock grazing is currently authorized or proposed for the future. No grazing has occurred or is proposed, on these lands because they are heavily forested and/or permission to graze domestic livestock has never been sought and/or other resource uses have been given precedence over livestock grazing.

The statement will identify the impacts that can be expected from implementation of the proposed program or any of the alternatives discussed and will be used as an analytical tool to assist in making final grazing management decisions for the District.

The proposed grazing management program has been developed using the Bureau's land use planning system. Management practices and controls that may be used under the proposed action and alternatives include: forage allocation for livestock and wildlife use and watershed protection, implementation of properly timed grazing use, fence construction, water development, vegetation manipulation, and implementation of increased monitoring and supervision of grazing use.

The proposed action is an attempt to be as responsive as possible to demand projections, basic and supplemental Bureau and State Office guidance, and opportunities identified through public input. Under the proposed action, 118,878 acres would initially be leased for domestic livestock grazing, and 53,829 of these acres would be intensively managed. Fifteen allotments would be intensively managed under allotment management plans (AMPs) cooperatively developed by the BLM, the lessee, and one or more of the following agencies: The U.S. Forest Service, the Idaho Department of Lands, the Idaho Department of Fish and Game, and the U.S. Soil Conservation Service. Sixty-six animal unit months (AUMs) of forage would be initially allocated for wildlife use and 6,580 AUMs of forage would be initially allocated for domestic livestock use.

An alternative of no change from the current grazing program is required and will be covered in the EIS. Currently, 119,472 acres are leased for domestic livestock grazing and 1,120 acres are intensively managed. One allotment is intensively managed under an AMP. No AUMs have been formally allocated for wildlife use and 7,255 AUMs are allocated for domestic livestock use.

A second alternative which emphasizes the protection and enhancement of the natural environment will be analyzed. Under this alternative, 116,066 acres would initially be leased for domestic livestock grazing and 52,769 of these acres would be intensively managed.

Fifteen allotments would be intensively managed as under the proposed action. One hundred and fifty AUMs of forage would be initially allocated for wildlife use and 5,530 AUMs of forage would be initially allocated for domestic livestock use. This alternative stresses changing seasons of use and implementing specific grazing systems by and for domestic livestock to emphasize management for wildlife habitat values.

A third alternative which emphasizes the production of tangible goods will be analyzed. This alternative would give priority to those land uses which would generate the greatest volume of economic activity. Under this alternative, 119,273 acres would initially be leased for domestic livestock grazing and 87,181 of these acres would be intensively managed. Fifty allotments would be intensively managed as under the proposed action. Sixty-six AUMs of forage would be initially allocated for wildlife use and 7,701 AUMs of forage would be initially allocated for domestic livestock use.

A fourth alternative covering no livestock grazing will also be covered in the EIS.

The Couer d'Alene District Multiple Use Advisory Council and interested individuals, organizations, and agencies identified during the development of land use plans will be contacted personally and through the mail to help determine the significant issues to be emphasized in the EIS.

Notices in the media will be used to solicit input from other interested publics. In addition, grazing permittees will be contacted using individual meetings or through the mail to discuss the proposed grazing management program to aid in identifying significant issues to be emphasized in the EIS.

Dated: March 14, 1980.

Martin J. Zimmer,

District Manager.

[FR Doc. 80-8708 Filed 3-21-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

[Int. DES 80-13]

Shiloh National Military Park, Tennessee; Availability of Draft Environmental Statement and Notice of Public Meeting on Proposed General Management Plan and Development Concept Plan

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan and Development Concept Plan for Shiloh National Military Park, Tennessee.

The statement discusses proposals for the management, development, and operation of the Shiloh National Military Park.

Written comments on the Environmental Statement are invited and will be accepted until 30 days following the public meeting on May 1. Comments should be addressed to the Regional Director, Southeast Region, or to the Superintendent, Shiloh National Military Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Regional Director, Southeast Region, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303

Superintendent, Shiloh National Military Park, Shiloh, Tennessee 38376

Superintendent, Stones River National Battlefield and Cemetery, Route 10, Box 401, Old Nashville Highway, Murfreesboro, Tennessee 37120

A public meeting on the proposals contained in this statement and the associated General Management Plan and Development Concept Plan will be held on May 1 at 7 p.m. in the auditorium in the Visitor Center at Shiloh National Military Park.

Comments on this statement can be submitted at this meeting, as well as being submitted in writing to the above addresses.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 17, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-8793 Filed 3-21-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 76F)]

Burlington Northern, Inc. Abandonment Near Fort Madison and Stockport, Ia; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided February 6, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91(1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Fort Madison to Stockport, IA, line extending from railroad milepost 0.00 near Fort Madison and railroad milepost 34.90 near Stockport, a distance of 34.90 miles, including a 2.68 mile spur which intersects the line at the station of Mertensville Junction between Houghton and Hamill, a total distance of 37.58 miles, in Lee, Henry and Van Buren Counties, IA. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 8, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication (May 8, 1980).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-8867 filed 3-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29275]

Consolidated Rail Corp. and Grand Trunk Western Railroad Co.—Acquisition of Trackage Rights in Battle Creek, MI

Consolidated Rail Corporation (Conrail), Six Penn Center Plaza, Philadelphia, PA 19104 and Grand Trunk Western Railroad Company (Grand Trunk), 131 West Lafayette Boulevard, Detroit, MI 48226, represented by Charles E. Mechem, Commerce Counsel, Consolidated Rail Corporation, 1138 Six Penn Center Plaza, Philadelphia, PA 19104 and Mary P. Sclawy, Attorney, Grand Trunk Western Railroad Company, 131 West Lafayette Boulevard, Detroit, MI 48226, hereby gives notice that on the 6th day of March, 1980, they filed with the Interstate Commerce Commission at Washington, DC, a joint application pursuant to 49 U.S.C. 11343 for joint use of trackage rights over approximately 1.8 miles of track in Battle Creek, MI. Conrail seeks trackage rights over a line of railroad owned by the Grand Trunk extending from M.P. 175.29 east of Kendall Street to M.P. 176.91 east of Elm Street, Battle Creek, MI., a distance of 1.62 miles. Grand Trunk seeks trackage rights over 750 feet of Conrail's Main Line located from Kendall Street to Washington Avenue, Battle Creek, MI.

Presently both railroads operate through Battle Creek, MI over parallel main line trackage. Conrail's track runs through downtown Battle Creek causing highway/rail congestion and interference with city's effort to revitalize its central business district. Therefore, what the city suggested and what Conrail's and Grand Trunk's application proposes is that Conrail continue its service through Battle Creek over the Grand Trunk track, which is south of the downtown area.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4),. *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. *See Implementation—Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29275 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than 45 days after the date notice of the filing of the application is published in the **Federal Register.** Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may filed such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-8869 Filed 3-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 36F)]

Seaboard Coast Line Railroad Co. Abandonment Near Catawba and Great Falls, SC; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decision February 19, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Catawba Subdivision, extending from railroad milepost SGA-331.83 near Catawba, SC, to milepost SGA-351.68 at Great Falls, SC, a distance of 19.85 miles, in York and Chester Counties, SC. A certificate

of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 8, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication (May 8, 1980).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-8868 Filed 3-21-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under 49 U.S.C. 10928 of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provides that an original and two (2) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-11]

The following applications were filed in Region 1. Send protests to: Complaint/Authority Center, I.C.C., 150 Causeway Street, Room 501, Boston, MA 02114.

MC 150069 (Sub-1-3TA), filed March 5, 1980. Applicant: RARITAN TRANSPORTATION SERVICES, INC., P.O. Box 1152, Nixon Station, Edison, NJ 08817. Representative: D. J. Tononi (same as above applicant). *Iron or steel articles,* from the facilities of Raritan River Steel Company, Perth Amboy, NJ to points in and east of MN, IA, NE, KS, OK and TX. Supporting shipper: Raritan River Steel Co., Perth Amboy, NJ.

MC 140869 (Sub-1-1TA), filed March 12, 1980. Applicant: KERRI TRUCKING, INC., 240 South River Street, Hackensack, New Jersey 07601. Representative: David Olsen, 116 Williams Avenue, Old Tappan, New Jersey 07675. *Contract carrier,* irregular routes, *cleaning compounds* from the Pluto Corporation located in the commercial zone of French Lick, Indiana to the facilities of the Clorox Company located at Houston, Texas. Supporting shipper: Clorox Corporation, 1221 Broadway, Oakland, CA. 94612.

MC 113784 (Sub-1-1TA), filed March 12, 1980. Applicant: LAIDLAW TRANSPORT, LIMITED, P.O. Box 3020, Station B, Hamilton, Ontario, Canada. Representative: Douglas R. Gowland, President (same as above applicant). *Salt and Salt Products,* from ports of entry on the international boundary line between the United States and Canada located in MI, and NY to points in PA, OH, IN, WV and MI. Supporting shipper: Morton Salt, Chicago, IL.

MC 78687 (Sub-1-3TA), filed March 11, 1980. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, Moravia, N.Y. 13118. Representative: Dwight L. Koerber, Jr., Suite 805, 666 Eleventh St., N.W., Washington, D.C. 20001. *Refractory brick and refractory products* from York, PA to points in NY, VA, and WV, restricted against foreign commerce for 180 days. Supporting shipper(s): Dolomite Brick Corporation of America, 225 N. Emig Mill Rd., West Manchester Township, York County, PA.

MC 141932 (Sub-1-3TA), filed March 11, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner, 176 King Street, Hanover, MA 02339. Carbon, Charcoal, and other Articles, Viz: Advertising Matter (See Note 1), Carbon, Carbon wood products, Charcoal, Charcoal briquets, Charcoal brix, Chips, hickory, Equipment, materials and supplies used in the distribution or manufacture of charcoal and charcoal briquets, Fluid, lighter (See Note 1), from the facilities of Husky Industries, Inc., at Scotia and Stamford, NY to points in CT, DE, MD, ME, MA, NH, NJ, OH, PA, RI, VT, VA, WV and DC. Supporting shipper: Husky Industries, Inc.

Note 1.—The total weight of commodites referring hereto may not comprise more than 20% of the total weight of the shipment.

MC 146440 (Sub-1-9 TA), filed March 11, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02148. *General Commodities,* with the usual exceptions, from points in Norfolk County, MA to points in AL, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: Belle Shippers Association, c/o Mr. James A. Feinberg, 220 Lowell St, Peabody, MA. 00960.

MC 146440 (Sub-1-8 TA), filed March 11, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02148. *Paper Products* from St. Albans, VT to points in AR, CA, CT, DE, ID, MD, MA, ME, NH, NJ, NY, OR, PA, RI, UT, VA, and WA. Supporting shipper: Fonda Royal Lace Group, division of Saxon Industries, Inc., P.O. Drawer 631, St. Albans, VT 05478.

MC 146440 (Sub-1-7 TA), filed March 11, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02148. *General Commodities,* with the usual exceptions, from points in Clinton County, NY, and from points in Franklin County,

Vermont, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: Champlain Valley International Shippers and Receivers Association, Inc., Box 277, Rouses Point, N.Y. 12979.

MC 150254 (Sub-1–1 TA), filed March 10, 1980. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 210 Beacham Street, Everett, MA 02149. Representative: Raymond P. Keigher, 1400 Gerard Street, Rockville, MD 20850. *Lumber and lumber products,* between Union City, PA, Providence, RI, and points in MA, NC, NH, NY, TN, VT, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rossco Forest Products, P.O. Box 2068, So. Burlington, VT 05401.

MC 1756 (Sub-1–1TA), filed March 11, 1980. Applicant: PEOPLES EXPRESS COMPANY, 497 Raymond Boulevard, Newark, NJ 07105. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Containers and ends,* from Williamsburg, VA to Merrimack, NH. Supporting shipper(s): Ball Corporation, 345 South High Street, Muncie, IN 47302.

MC 145301 (Sub-1–1TA), filed March 11, 1980. Applicant: R.E.M. TRANSPORT CO., INC., Raritan Center, Edison, NJ 08817. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 367, Arlington, Virginia 22201. Automotive parts, materials, supplies, equipment and related articles used in the manufacture, production, and assembly of motor vehicles, from Detroit, MI and Cleveland, OH, to Kansas City, MO and Kansas City, KS, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper: General Motors Corporation, Suite 300, Top of Troy, 755 W. Big Beaver Rd., Troy, MI 48084.

MC 16513 (Sub-1–2TA), filed March 11, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, New Jersey 08110. Representative: Jeffrey A. Vogleman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, Virginia 22312. (1) *Corrugated Fiberboard or Pulpboard Boxes,* from Meriden, CT to Albany, NY, Milton, NY, New York, NY, Rensselaer, NY, and points in Nassau and Suffolk Counties, NY for 180 days. Supporting shipper: Westvaco Corporation, Empire Avenue, Meriden, Connecticut 06450.

MC 124328 (Sub-1–4TA), filed March 11, 1980. Applicant: BRINK'S INCORPORATED, Thorndal Circle, Darien, Connecticut 06820. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street, N.W., Washington, D.C. 20006. Contract, irregular, *retort bullion and precious metals* from Herculaneum, Missouri to all points in the United States under continuing contract with St. Joe Lead Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Lead Company, 7733 Forsyth Blvd., Clayton, MO 62105.

MC 148292 (Sub-1–1TA), filed March 10, 1980. Applicant: J. POSA, INC., One North First Street, Fulton, NY 13069. Representative: Arthur J. Piken, Esq., Piken & Piken, 95–25 Queens Boulevard, Rego Park, NY 11374. Malt beverages, related advertising materials, supplies, material and equipment used in the manufacture, sales and distribution of malt beverages, including empty containers and returned malt beverages. Between Forsythe and Rockingham Counties, NC on the one hand, and on the other, Philadelphia, PA and points in its commercial zone and points in NJ and NY. Supporting shipper: Certo Bros. Distributing Co., 5540 Porter Road, Niagara Falls, NY 14302.

MC 19306 (Sub-1–1TA), filed March 11, 1980. Applicant: R. J. TAYLOR AND G. G. TAYLOR CO., 180 Jefferson Boulevard, Warwick, Rhode Island 02888. Representative: Charles Ephraim, Esq., Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. *Contract Carrier:* irregular routes: *General Commodities,* except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Cumberland and/or East Providence, RI, on the one hand, and, on the other, North Bergen, NJ, (Restriction: The service to be performed by the above-named carrier is limited to a service in which said carrier leases trucks with drivers to the shipper for the transportation of such shipper's property): Supporting shipper: Ann & Hope, Mill Street, Cumberland, RI 02864.

MC 125724 (Sub-1–1TA), filed March 10, 1980. Applicant: SINGER TRANSPORT, INC., S–3030 Baker Road, Orchard Park, NY 14127. Representative: William J. Hirsch, Attorney at Law, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier,* irregular routes, *Anti-friction devices; articles used in the manufacture, distribution and handling of anti-friction devices and parts thereof; raw materials, tools (hand and power), equipment and supplies, and machinery; office supplies, furniture, equipment and records,* under contract with TRW Inc., and subsidiaries thereof, between all points in CT, GA, IL, IN, MD, MA, MI, NJ, NY, NC, OH, PA, SC, TN, VA, and WV. Supporting shipper: TRW Bearings, Jamestown, NY.

MC 57315 (Sub-1–1TA), filed March 10, 1980. Applicant: TRI–STATE TRANSPORT, INC., 140 Wales Avenue, Avon, MA 02322. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Frozen foods,* from Dedham, MA to Cumberland and East Providence, RI. Supporting shipper(s): General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 142999 (Sub-1–1), filed March 7, 1980. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Esq., Suite 501, 1730 M Street, NW., Washington, DC 20036. *Contract carrier,* irregular routes: *Paper* and *paper products,* from Miquon, PA, to points in AL, AZ, CA, CO, FL, GA, ID, IL, IN, LA, MI, MO, MS, NC, NM, NV, OR, SC, TX, UT, WA, and WI. *Paper* and *paper products,* and *material, equipment* and *supplies* used in the manufacture and distribution of paper and paper products, from CA, CT, IL, IN, MI, OR, and WA, to PA. Restriction: The operations authorized herein are to be limited to a transportation service to be performed under a continuing contract or contracts, with Simpson Paper Company. Supporting shipper: Simpson Paper Company, Migvon, PA 19452.

MC 139349 (Sub-1–1TA), filed March 10, 1980. Applicant: E Z FREIGHT LINES, Gould and E. 16th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08901. *Contract carrier,* irregular routes: *Lighting fixtures and lamps, and equipment, materials and supplies used in the manufacture and sale of lighting fixtures and lamps, except commodities in bulk* between East Brunswick and Finderne, NJ, and Jessup, MD, on the one hand, and, on the other, points in the United States west of the Mississippi River except AK, HI, LA, MN, and TX under continuing contract or contracts with Action Tungsram, Inc. Supporting shipper: Action Tungsram, Inc., 11 Elkins Avenue, East Brunswick, NJ.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 115601 (Sub-II–2), filed March 10, 1980. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 E. 35th St., Wilmington, DE 19802. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. Contract carrier: Irregular routes:

Silver coins and silver bars, between Wilmington, DE and Amarillo, TX, on the one hand, and, on the other, Amarillo, TX and Newark, NJ pursuant to a continuing contract(s) with Philipp Brothers for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Philipp Brothers, 1221 Avenue of the Americas, New York, NY 10020.

MC 2202 (Sub-2–2), filed March 10, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Common; regular: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Oceanside, Camp Pendleton, and Temecula, CA and points in their commercial zones as off-route points in connection with applicant's regular routes to and from San Diego, CA for 180 days. Applicant intends to tack the authority sought herein with that held under MC 2202 and subs thereto. Applicant intends to interline with other carriers at all points of interchange. Supporting shipper(s): There are nine supporting shippers. Their statements may be examined at the office listed below.

MC 150253 (Sub-2–1), filed March 11, 1980. Applicant: FRED MATTERN, d.b.a. A B E LIMO–BUS SERVICE, Front and Allen Sts., Allentown, PA 18102. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Passengers and their baggage in the same vehicle in door to door non-scheduled service, limited to the transportation of no more than eleven (11) passengers in any one vehicle, (not including the drivers thereof and not including children under ten (10) years of age who do not occupy a seat or seats). In special and charter operations, between Lehigh and Northampton Counties, Pa., on the one hand, and, on the other, Newark Airport, N.J.; LaGuardia Airport; J. F. Kennedy International Airport; Steamship Piers, N.Y. and Atlantic City, N.J. for 180 days. Supporting shipper(s): There are nine supporting shippers. Their statements may be examined at the office listed below.

MC 120116 (Sub-2–1), filed March 11, 1980. Applicant: J. W. HUMBERT, INC., Kansas St., Green Springs, OH 44836. Representative: Keith D. Warner, 420 Security Bldg., Toledo, OH 43604. *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points and places in OH, on the one hand, and on the other, points in PA on the west of U.S. Hwy 219; and points and places in WV and north of U.S. Hwy 50 for 80 days. Supporting shipper(s): There are 15 supporting shippers. Their statements may be examined at the office listed below.

MC 148187 (Sub-2–1), filed March 10, 1980. Applicant: VIERON, INC., 5236 Wasena Ave., Baltimore, MD 21225. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910. *Contract; irregular: fuel oils* from Claymont, DE to Harrisburg International Airport, Middletown, PA, New Cumberland Army Depot, New Cumberland, PA, Letterkenny Army Depot, Culbertson, PA and Ft. Detrick, Frederick, MD under a continuing contract with Pedroni Fuel Co. for 180 days. Supporting shipper(s): Pedroni Fuel Co., Wheat Rd., Vineland, NJ 08360.

MC 128313 (Sub-2–1), filed March 10, 1980. Applicant: TEMPO TRUCKING, INC., 2101 Kenskill Ave., R.F.D. #5, Washington C.H., OH 43160. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: (1) Meats, meat products and meat by-products as described in Section A of Appendix 1 to the Report in Descriptions in Motor Carrier Certificate, 61 MCC 209 and 766, and pork skins and (2) materials, equipment and supplies used in the processing and distribution of the commodities in (1) above (except commodities in bulk)* between Middlesboro, KY, on the one hand, and, on the other, points in AL, AZ, CA, FL, GA, IA, IL, IN, KS, KY, LA, MI, MS, NJ, NM, NY, OH, PA, TN, TX, UT, and WV, for the account of Cumberland Gap Provision Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cumberland Gap Provision Co., P.O. Box 429, Middlesboro, KY 40965.

MC 14215 (Sub-2–4TA), filed March 10, 1980. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Used carbon blocks and carbon dust,* in dump trucks, from the facilities of Eastalco Aluminum Company at or near Buckeystown, MD to Hannibal, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Eastalco Aluminum Co., 5601 Manor Woods Rd., Frederick, MD 21701.

MC 149108 (Sub-2–1TA), filed March 10, 1980. Applicant: R. REED TRUCKING, INC., 8383 Croton Rd., Johnstown, OH 43031. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular.* (1) *Rods and wire products,* from the facilities of Robertson Wire Products Company at or near Batavia and Mt. Sterling, OH to points in the U.S. (except AK and HI), and (2) *materials and supplies* used in the manufacture of rods and wire products (except in bulk), from points in the U.S. (except AK and HI) to the facilities of Robertson Wire Products Company at or near Batavia and Mt. Sterling, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Robertson Wire Products Company, 700 Kent Rd., Batavia, OH 45103.

MC 63416 (Sub-2–4), filed February 19, 1980. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *Metal ductwork, fittings, duct heaters, and materials and supplies used in the installation of heating and cooling sytems* from the facilities of the Holbrook Company, Inc., at or near Kaysville, UT to points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holbrook Company, Inc., 151 N. 700 W., P.O. Box 226, Kaysville, UT 84037.

MC 117344 (Sub-2–1), filed February 15, 1980. Applicant: THE MAXWELL CO., 10380 Evendale Dr., Cincinnati, OH 45215. Representative: John C. Spencer (same as applicant). *Iron Oxide,* in bulk, in tank vehicles, from Ashland, KY to Marengo, IL and Sevierville, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arnold Engineering Co., 300 W. St., Marengo, IL 60152.

MC 124821 (Sub-2–3TA), filed February 16, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Foodstuffs (except in bulk), and materials, supplies and equipment used in the manufacture, sale or distribution thereof,* between points in the U.S. (except AK and HI) and the plant sites and facilities of Ragu' Foods, Inc., for 180 days. An underlying ETA supports 90 days authority. Supporting shipper: Ragu' Foods, Inc., 33 Benedict Place, Greenwich, CT 06830.

MC 61825 (Sub-2–1TA), filed February 28, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Dr.,

P.O. Box 385, Collingsville, VA 24078. Representative: John D. Stone (same address as applicant). (1) *Film or sheeting, plastic and other than plastic,* (2) *Plastic, synthetic, other than liquid,* from Clinton, IA to points in CT, DE, FL, GA, MD, MA, NJ, NY, NC, OH, PA, RI, SC, VA, WV and DC, for 180 days. Transportation of commodities in (1) above restricted to shipments originating at facilities of E. I. du Pont de Nemours & Co. near Clinton, IA and transportation of commodities in (2) above restricted to shipments originating at facilities of Chemplex Co. near Clinton, IA. Supporting shipper(s): E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898; Chemplex Co., 3100 Golf Rd., Rolling Meadows, IL 60008.

MC 146704 (Sub-2–1TA), filed February 7, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). *Contract carrier:* Irregular routes: *Containers, fiberboard, paper, plastic or metal and accessories, materials and supplies used in the manufacture of such commodities* between plantsite of Ohio Paper Products Co. at Massillon, OH on the one hand, and, on the other, points in IL, NJ, PA; Albany, Dansville, Oneida and New York, NY; St. Louis and St. Peters, MO; and Petersburg and Richmond, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Paper Products Co., 2101 9th St., SW., Massillon, OH 44646.

MC 119631 (Sub-2–1TA), filed February 28, 1980. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 3315, Mt. Union Station, Alliance, OH 44601. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. *Bagged clay,* from Mayfield, KY; Gleason and Whitlock, TN; and Sledge, MS to points in CT, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, WV and WI for 180 days. Supporting shipper(s): Kentucky-Tennessee Clay Co., Rear 2320 S. Union St., P.O. Box 3546, Alliance, OH 44601.

MC 123744 (Sub-2–2TA), filed February 15, 1980. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. *Iron and steel articles, and materials, equipment and supplies* used in the manufacture or distribution of iron and steel articles, between Monroe, MI, on the one hand, and, on the other, points in the United States in and east of IL, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: North Star Steel, 2901 Metro Drive, Minneapolis, MN 55420

MC 148747 (Sub-2–1TA), filed February 29, 1980. Applicant: D & E TRANSPORT, INC., 570 Dunks Ferry Rd., Bensalem, PA 19020. Representative: Richard Rueda, Esq., 133 N. 4th St., Philadelphia, PA 19106. *Chemicals and cleaning compounds* (except in bulk, in tank vehicles) from the facilities of Concord Chemical Co., Inc., at Camden, NJ to Chicago, IL; Delaware, OH; Wyandotte, MI; and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Concord Chemical Co, Inc., 17th & Federal Sts., Camden, NJ 08105.

MC 65658 (Sub-2–1), filed March 11, 1980. Applicant: H. E. WAMSLEY TRUCKING, INC., 16600 Jefferson Davis Hwy., Colonial Heights, VA 23834. Representative: Donald M. Schubert, 200 W. Grace St., Richmond, VA 23220. *Contract; irregular: Fabricated structural steel, paint and miscellaneous iron and steel articles* between Chester, VA on the one hand and on the other, Glen Burnie, MD for 180 days. Supporting shipper(s): Mack's Iron Co., Inc., 3233 Boulevard, Colonial Heights, VA 23834.

MC 110563 (Sub-No.2–1TA), filed March 10, 1980. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N., Sidney, OH 45365. Representative: Victor J. Tambascia (same address as applicant). *Charcoal Briquettes and related items,* (A) From Salem, MO to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, NE, NH, ND, OH, OK, PA, RI, SD, TN, TX, and VT. (B) From Kenbridge, VA to points in AL, CT, DE, DC, FL, GA, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SD, TN, and VT, for 180 days. Supporting shipper(s): Cupples Company Manufactures, 1034 S. Brentwood Blvd., St. Louis, MO 63117.

MC 134183 (Sub-2–2TA), filed March 10, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. SUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Contract; irregular:* (1) *Carpet strip and adhesives,* from Asheville, NC, to points in and east of MT, WY, CO, and NM, and (2) *nails,* from Savannah, GA, to Asheville, NC. Supporting shipper(s): Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749.

MC 146691 (Sub-2–1TA), filed March 10, 1980. Applicant: JED, INC., P.O. Box 123, Milton, DE 19968. Representative: Wayne D. Hudson (same address as applicant). *Railroad Cross Ties,* from Salisbury, MD, Greenwood and Farmington, DE, and Tasley and Nassawadox, VA to the Montgomery, PA area, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219.

MC 143656 (Sub-2–1TA), filed: March 10, 1980. Applicant: GOLD LEAF TRUCKING COMPANY, 2927 Retnag Road, Petersburg, VA 23803. Representative: William H. Robinson, Jr., 1400 Ross Building, Richmond, VA 23219. *Contract; irregular: accessories necessary to assemble silos, including but not limited to silo staves, steel bands and pipes* over irregular routes, from Petersburg, VA to points in DE, MD, NC, TN, WV, PA, and VA. Supporting shipper: Southeastern Silo Company of Virginia, Inc., 530 Squaw Alley, P.O. Box 2228, Petersburg, VA 23803

MC 140294 (Sub-2–1TA), filed: February 29, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. *Cranes, parts, materials and supplies* (except in bulk) used in the manufacture thereof, between the facilities of Grove Manufacturing, Inc., at or near Shady Grove, PA, on the one hand, and, on the other, Baltimore, MD, and Hagerstown, MD, and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Grove Manufacturing Inc., P.O. Box 21, Shady Grove, PA 17256.

MC 135741 (Sub-2–1TA), filed: February 29, 1980. Applicant: EARL R. MARTIN, INC., P.O. Box 3, East Earl, PA 17519. Representative: J. Bruce Walter, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. *Ammonium sulfate fertilizer,* in bulk, in dump vehicles, from the facilities of Allied Chemical Corporation at Wilmington, DE to points in MD, DE, NJ, NY, and PA, restricted to shipments originating at the indicated origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001.

MC 118899 (Sub-2–3TA), filed: February 29, 1980. Applicant: BALTIMORE TANK LINES, INC., 180 Eighth Ave., Glen Burnie, MD 21061. Representative: Lawrence E. Lindeman, 425 13th St., N.W. Suite 1032, Washington, DC 20004. *Petroleum and*

petroleum products, in bulk, in tank vehicles, from Manassas, VA to Washington, DC and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corp., 150 E. 42nd St., New York, NY 10017.

MC 150081 (Sub-2–2TA), filed: February 21, 1980. Applicant: LINDEN L. MESSICK, INC., 504 Chestnut St., Milton, DE 19968. Representative: Linden L. Messick (same as applicant). *Canned clams,* from Cannon, DE to points in OH, MI, IN, IL, WI, MN, ID, WA, and OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Original Corp., 215 High St., Seaford, DE 19975.

MC 107403 (Sub-2–4TA), filed February 29, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Aviation Jet Fuel, in bulk, in tank vehicles,* from Mt. Vernon, IN to Owensboro, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texas Gas Transmission Corp., 3800 Frederica St., Owensboro, KY 42301.

MC 138197 (Sub-2–1TA), filed February 29, 1980. Applicant: L. SURRATT TRUCKING, INC., 7900 Old Rockside Rd., Cleveland, OH 44131. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. *Contract carrier:* Irregular routes: (1) *Prefabricated masonry panels, and* (2) *equipment, machinery, materials, and supplies used in the manufacturing of the commodities in (1) above* between the facilities of Vetovitz Bros., Inc. located at or near Brunswick, OH on the one hand, and, on the other, points in IL, IN, KY, MI, NY, PA, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vetovitz Bros., Inc., 2786 Center St., Brunswick, OH 44212.

MC 138000 (Sub-2–1TA), filed February 28, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21704. (1) *Malt beverages* (a) from Detroit, MI including its commercial zone, to points in GA; (b) from Toledo, OH including its commercial zone, to points in GA and Ronmey, Petersburg and Martinsburg, WV, including their respective commercial zones; (2) *Shrink or stretch wrapping* from Atlanta, GA, including its commercial zone to Detroit, MI, including its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Stroh Brewery Co., 909 E. Elizabeth, Detroit, MI 48226.

MC 64806 (Sub-2–1TA), filed February 20, 1980. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *New furniture* from the facilities of Hooker Furniture Corp. and Virginia Mirror Co., Inc. in Henry County, VA to points in AR, IA, LA, MN, MS, MO, OK, TX, and WI, and (2) *Materials, equipment, and supplies used in the manufacture of new furniture* from points in AR, IA, IL, LA, MN, MS, MO, NC, OK, TX and WI to the facilities of Hooker Furniture Corp. and Virginia Mirror Co. in Henry County, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hooker Furniture Corp. E. Church St., Martinsville, VA 24112; Virginia Mirror Co., Inc., 300 Moss St., Martinsville, VA 24112.

MC 9914 (Sub-2–3TA), filed March 11, 1980. Applicant: WARREN TRUCKING COMPANY, INC., P.O. Box 5224. Martinsville, VA 24112. Representative: Richard L. Hollow, P.O. Box 550, Knoxville, TN 37901. *New furniture* from points in Smyth and Henry Counties, VA to points in GA, OH, SC, AL, NY, and FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chatmoss Furniture Corporation, P.O. Box 4983, Martinsville, VA 24112; American Furniture Company, Inc., Martinsville, VA 24112; Hooker Furniture Company, Inc., E. Church St., Martinsville, VA 24112.

MC 116763 (Sub-2–2), filed March 10, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Foodstuffs (Except commodities in bulk, in tank vehicles),* from the facilities of Campbell Soup Co., at or near Paris, TX, to points in IL, KY, MO, and TN for 180 days. Restricted to traffic originating at the named origin and destined to the indicated destinations. Supporting shipper(s): Campbell Soup Co., P.O. Box 116, Paris, TX 75460.

Docket 119315 (Sub-2–1TA), filed March 11, 1980. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Cleaning products and related articles including ammonia, laundry bleach, laundry bluing, cleaning, scouring and washing compounds, cloths and scouring pads with or without soap, plastic mesh, pot scourers, fabric sizing, soap and soap powder, sodium, hypochlorite solution, textile softeners, steel wool and plastic bottles* between Bristol, PA, Salem and Roanoke, VA, Cornwell Heights, PA, New Castle, DE, Paterson, South Kearney, and Hackensack, NJ and Etowah, TN, on the one hand, and, on the other, Toledo, and Columbus, OH and Chicago, IL. (restricted to transportation from or to the plantsites of Purex Corporation), for 180 days. Applicant has also filed an ETA seeking up to ninety (90) days of operating authority. Supporting shipper: Purex Corporation, 1414 North Radcliffe St, Bristol, PA 19007.

MC 145773 (Sub-2–1TA), filed March 10, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Road, Sidney, Ohio 45365. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Contract, irregular; *Iron and steel articles and non-ferrous metals,* from the facilities of D.A.B. Industries, Inc. at Bellofontaine, OH to the facilities of D.A.B. Industries, Inc. at Gallatin, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: D.A.B. Industries, Inc., 466 Stephenson Hwy., Troy, MI 48084.

MC 142559 (Sub-2–9TA), filed March 6, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, Ohio 44114. Representative: David A. Turano, BAKER & HOSTETLER, 100 East Broad Street, Columbus, Ohio 43215. *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) from Boston, MA to Los Angeles, CA, Chicago, IL and Dallas, TX including points in their respective commercial zones for 180 days. Restricted to traffic moving on bills of lading of the Seacoast Shipper's Association. Supporting shipper: Seacoast Shipper's Association, 100 Western Avenue, Allston, Massachusetts 02134.

MC 107403 (Sub-2–10TA), filed March 12, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Pulp Mill Liquid, in bulk, in tank vehicles,* from Morrilton, AR to Jacksonville, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): SCM CORPORATION, P.O. Box 389, Jacksonville, FL 32201.

MC 142559 (Sub-2–10TA), filed March 12, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215.

Such commodities as are dealt in by the manufacturers and distributors of cleaning solutions, cleaning compounds and air fresheners (except commodities in bulk) from Los Angeles, CA and points in the Los Angeles, CA commercial zone to points in and east of WI, IL, KY, TN and MS, for 180 days. Supporting shipper(s): Blue Cross Laboratories, 7376 Greenbush Avenue, North Hollywood, CA 91605.

MC 148001 (Sub-2–2TA), filed March 12, 1980. Applicant: M. G. BROADDUS, III, Box 113 H. Route 1, Bowling Green, Virginia 22427. Representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, Virginia 23220. *Contract carrier: Irregular routes, lumber, plywood, shakes and shingles,* from Milford, VA to CO, DE, FL, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA, and WV. Supporting shipper(s): Hoover Universal, Inc., P.O. Box 290, Milford, VA 22514.

MC 44366 (Sub-II–1TA), filed March 12, 1980. Applicant: EUGENE LAVELLE AND EUGENE LAVELLE, JR., d.b.a. LAVELLES EXPRESS, 270 N. Sherman St., Wilkes-Barre, PA 18702. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Household Goods,* as defined by the Commission, including use of winch trucks and other equipment for placing in position at the consignee's premises, between Wilkes-Barre, PA and points in its commercial zone, on the one hand, and, on the other, points in Pennsylvania, having a prior or subsequent movement in interstate commerce, for 180 days. An underlying ETA supports 90 days authority. Supporting shipper(s): Folmer Trucking Company, 109 S. Diamond St., Wilkes-Barre, PA 18702. Harry Mahally, Jr., d.b.a. Mahally Trucking Service, 289 New Grant Ave., P.O. Box 294, Wilkes-Barre, PA 18703.

MC 106001 (Sub-2–1TA), filed February 29, 1980. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Phila., PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. (1) *Wire and wire products,* and (2) *Materials, equipment and supplies used in the production and distribution of wire and wire products* (except commodities in bulk and commodities the transportation of which because of size and weight, require the use of special equipment), between points in the United States in and east of WI, IL, KY, TN, MS and LA, restricted to the transportation of traffic originating at or destined to the facilities of National Wire Products Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) National Wire Products Corporation, Fisher Road and Penn Central R.R., Baltimore, MD 21222.

MC 149207 (Sub-II–1TA), filed January 21, 1980. Applicant: LOW–VOL FUELS, INC., P.O. Box 25, Boswell, PA 15531. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract carrier, irregular routes: Coal,* in bulk, in dump vehicles, from Jenner Township, Somerset County, PA to Front Royal, VA, restricted to a transportation service to be performed, under a continuing contract, or contracts, with H. D. Francis d.b.a. Low-Vol Fuels, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. D. Francis d.b.a. Low-Vol Fuels, P.O. Box 25, Boswell, PA 15531.

MC 146015 (Sub-2–6TA), filed January 7, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: E. J. Mumma Jr. (same address as applicant). *Contract carrier:* irregular routes: *Flat glass,* from the facilities of P.P.G. Industries, Inc., Mt. Holly Springs, PA and P.P.G. Inc., Cumberland, MD to all points in the states of New York, NY, NJ, CT, MA, ME, DE, RI, MD, NH and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 127579 (Sub-II–2TA), filed December 31, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). *Newsprint and groundwood papers, wastepaper and woodchips,* between shippers mill at or near Ashland, VA, on the one hand, and, on the other, points in DE, MD, NJ, NY, NC, PA, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bear Island Paper Co., 80 Field Point Rd., Greenwich, CT 06830.

MC 124821 (Sub-II–5TA), filed January 24, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Printed matter, and materials, supplies and equipment used in the manufacture, sale and distribution of printed matter* (except commodities in bulk), between points in CT, IL, IN, KY, MD, MA, ME, MI, MN, MO, NJ, NY, OH, PA, RI, TN, VT, and WI, restricted to shipments originating at or destined to facilities of Harper and Row Publishers, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harper & Row Publishers, Inc., Keystone Industrial Park, Scranton, PA 18512.

MC 124821 (Sub-II–4TA), filed January 28, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, Camp Hill, PA 17011. *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), 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 CA, OR, WA, CO, TX, MO, MN, IL, WI, MI, GA, FL, and OH, restricted to traffic originating at or destined to facilities utilized by Northeastern Pennyslvania Shippers Cooperative Association, Inc., for 180 days. Supporting shipper(s): Northeastern Pennsylvania Shippers Cooperative Association, Inc., Penn Park Bldg., Pittston, PA 18640.

MC 8535 (Sub-II–3TA), filed January 7, 1980. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: Henry J. Bouchat (same address as applicant). *Air conditioning and heating equipment, with or without fans or blowers,* from the facilities of Miller Picking Corp., at or near Davidsville, PA to points in IL, IN, and MI, for 180 days. Supporting shipper(s): Miller Picking Corp., Davidsville, PA 15928.

MC 13134 (Sub-II–3TA), filed January 10, 1980. Applicant: GRANT TRUCKING INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles,* from Huntington, WV to points in AZ, CA, CO, DE, DC, ID, IA, KY, ME, MD, MA, MN, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OR, RI, SD, UT, VT, VA, WA, WY, for 180 days. Supporting shipper(s) Conners Steel Company, P.O. Box 118, Huntington, WV 25706.

MC 125335 (Sub-II–2TA), filed December 6, 1979. Applicant: GOODWAY TRANSPORT, INC., York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale and retail discount stores (except commodities in bulk),* from points in Lackawanna and Luzerne Counties, PA to New Bremen, Elyria, and Eaton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Northeastern

Pennsylvania Shipper's Cooperative Ass., Inc., Penn Park Bldg., Suite 300, Pittston, PA 18640.

MC 8535 (Sub-2–2TA), filed December 20, 1979. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: Henry J. Bouchat (same address as applicant). *Iron and steel articles, except in dump vehicles,* from facilities of Raritan River Steel Company in Perth Amboy, NJ to points in and east of states of AR, IA, LA, MN, and MO (except DE, KY, MD, NJ, NY, OH, PA, VA, WV, and DC, for 180 days. Supporting shipper(s): Raritan River Steel Co., P.O. Box 309, Perth Amboy, NJ 08862.

MC 56388 (Sub-II–1TA), filed January 24, 1980. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Washington, DC 20014. *Petroleum and petroleum products,* in bulk, in tank vehicles, (1) from Baltimore, MD to points in DC, VA, and (2) from DC to points, in MD, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amerada Hess Corp., 1 Hess Plaza, Woodbridge, NJ 07095.

MC 127579 (Sub-2–1TA), filed January 4, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). *Such merchandise as is dealt in by a manufacturer and distributor of foodstuffs* between Cockeysville, MD, Springfield, MO, and Souderton, PA, on the one hand, and, on the other, points in MD, CT, MA, RI, NH, VT, ME, OH, PA, and WV, restricted to traffic originating at or destined to facilities utilized by R. T. French Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The R. T. French Co., 1 Mustard St., Rochester, NY 14692.

MC 56244 (Sub-II–3TA), filed January 23, 1980. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, P.O. Box 1146, 410 N. 3rd St., Harrisburg, PA 17108. *Such commodities as are dealt in by grocery and food business houses* (except in bulk), from Mt. Jackson, VA to points in IL, IN, IA, KY, MI, MO, OH, PA, and WV, restricted to transportation of shipments for the account of Musselman Fruit Products Division, Pet Inc., originating at the named origins and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Musselman Fruit Products Division, Pet Inc., Biglerville, PA 17037.

MC 4963 (Sub-2–6TA), filed January 21, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same address as applicant). *Lumber and lumber products group* between Tarboro, NC on the one hand, and, on the other MI, IN, IL, MO and WI, restriction: service at Tarboro, NC is restricted to the plantsites and facilities of Masonite Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corp., P.O. Box 310, Anaconda, Rd., Tarboro, NC 27886.

MC 141925 (Sub-II–1TA), filed January 10, 1980. Applicant: KOHN BEVERAGE, INC., 4850 Southway SW., Canton, OH 44706. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract carrier, irregular routes: Such commodities as are dealt in or used by printers (except commodities in bulk)* from facilities of Danner Press Corporation at or near Canton, OH to points in IL, IN, KY, MD, MI, NJ, NY, NC, PA, and WI, for 180 days, under continuing contract(s) with Danner Press Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Danner Press Corp., Box 8349, Canton, OH 44711.

MC 146656 (Sub-II–2TA), filed December 26, 1979. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as applicant). *Contract carrier, irregular routes: Alcoholic beverages* (except in bulk) from Dayton, NJ to Baltimore, MD and points within its commercial zone and Washington, DC and points within its commercial zone, under continuing contract(s) with McCarthy-Hicks, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCarthy-Hicks, Inc., 375 Padonia Rd. West, Timonium, MD 21093.

MC 145870 (Sub-II–1TA), filed January 18, 1980. Applicant: L–J–R HAULING, INC., P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, DC 20001. *Transformers,* between the facilities of Gould-Brown Boveri, at or near Bland, VA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould-Brown Boveri, P.O. Box 38, Bland, VA 24315.

MC 4963 (Sub-II–2TA), filed December 3, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Wm. H. Peiffer (same address as applicant). *Steel coils on skids,* between Lenoir City, TN, on the one hand, and, on the other, points in AL, TN, GA, NC, KY, IL, and OH, restricted to service at Lenoir City, TN being restricted to plantsites and other facilities of Sheffield Southern Steel, Lenoir City, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheffield Southern Steel, Bussell Ferry Rd., Lenoir City, TN 37771.

MC 143210 (Sub-II–1TA), filed January 16, 1980. Applicant: W. C. HALL GENERAL HAULING, INC, Callao, VA 22435. Representative: Calvin F. Major, 200 W. Grace, Richmond, VA 23220. *Canned goods and canning supplies* from the plantsites of Lake Packing Co., Inc., Northcumberland County, VA, and H. H. Perry Canning Co., Inc., Westmoreland County, VA, to the states of MD, NC, SC, and from the states of NC, SC, and MD, to the plantsites of Lake Packing Co., Inc., and H. H. Perry Canning Co., Inc., restricted to traffic originating at or destined to facilities used by Lake Packing Co., Inc., and H. H. Perry Canning Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Packing Co., Inc., Box 200, Lottsburg, VA 22511; H. H. Perry Canning Co., Inc., P.O. Box 66, Montross, VA 22520.

MC 114015 (Sub-II–1TA), filed January 4, 1980. Applicant: HUSS, INC., Hwy 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, 2 World Trade Center, New York, NY 10048. *Contract carrier, irregular routes: Strapping and strapping machines* (1) from New Britain, CT and Woodside, NY to points in MD, VA, AL, WV, KY, TN, NC, SC, GA, and FL; and (2) from New Britain, CT to Woodside, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delta Strapping Industries, Inc., 5850 52nd Ave., Woodside, NY 11377.

MC 149038 (Sub-II–1TA), filed December 12, 1979. Applicant: HAVRE de GRACE TRANSPORTATION CO., INC., 502 Warren St., Havre de Grace, MD 21078. Representative: Cornelius J. Smith (same address as applicant). Contract carrier, irregular routes: *Passengers and their baggage, consisting of train crews* between Perryville, MD, including the commercial zone thereof and Alexandria, VA including the commercial zone thereof, and Philadelphia, Harrisburg and Enola, PA, including the commercial zones thereof; between Edgemoor, DE, including the commercial zones thereof, and Perryville, Baltimore, Salisbury, Pokomoke City and Snow Hill, MD, including the commercial zones thereof;

and Philadelphia, Harrisburg and Enola, PA, including the commercial zones thereof; and Alexandria, VA, including the commercial zones thereof; between Harrington, DE, including the commercial zone thereof, and Berlin and Snow Hill, MD, including the commercial zones thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Rail Corp., Transportation Center, Edgemoor, DE 19801.

MC 109478 (Sub-2–1TA), filed January 17, 1980. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Road, North East, PA 16428. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Frozen bakery products,* from Traverse City, MI to Forest, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684.

MC 146361 (Sub-2–3TA), filed December 20, 1979. Applicant: WOLTER TRUCK LINES, INC., R.D. #1, Box 197, Greenwood, DE 19950. Representative: Chester A. Zyblut, 1030 Fifteenth St., Washington, DC 20005. *Soya bean meal, in bulk, in dump vehicles,* from Norfolk, VA to points in DE and MD located south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay and points in Lancaster and York Counties, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Haynie, Inc., Box 2502, Salisbury, MD 21811.

MC 129086 (Sub-2–2TA), filed January 11, 1980. Applicant: SPENCER TRUCKING CORP., Route 2, Box 254A, Keyser, WV 26726. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Aplite sand* from Beaver Dam, VA and its commercial zone to Keyser, WV and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chattanooga Glass Co., P.O. Box 968, Keyser, WV 26726.

MC 105632 (Sub-2–1TA), filed December 27, 1979. Applicant: SOUTHERN REGION MOTOR TRANSPORT, INC., 966 Bankhead Ave., Atlanta, GA 30318. Representative: David J. Kaufman, P.O. Box 1808, Washington, DC 20013. Common carrier, regular routes: *General commodities* (except explosives and commodities in bulk, in tank vehicles), with service restricted to the movement of trailer having a prior or subsequent rail haul, between Macon, Bibb County, GA T.O.F.C. ramps, on the one hand, and, on the other, (1) Swainsboro, GA via U.S. Hwy 80, serving the intermediate points of Dublin, GA and E. Dublin, GA; (2) Hazlehurst, GA, via GA State Hwy 247 to junction with U.S. Hwy 341, then over U.S. Hwy 341 to Hazlehurst, serving the intermediate points of Helena and McRae, GA; (3) Pelham, GA, via U.S. Hwy 41 to Tifton, GA, then via U.S. Hwy 319 to Moultrie, GA, then via GA State Hwy 37 to junction with U.S. Hwy 19, then via U.S. Hwy 19 to junction with GA State Hwy 93, then via GA State Hwy 93 to Pelham, serving the intermediate point of Ashburn, GA; (4) Bainbridge, GA via U.S. Hwy 41 to Tifton, GA, then via GA State Hwy 125 to Valdosta, GA, then via U.S. Hwy 84 to Bainbridge, serving the intermediate points of Ashburn, GA, Nashville, GA and Thomasville, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the ICC regional office in Phila., PA.

MC 135653 (Sub-2–1TA), filed December 3, 1979. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 W. Smith, Medina, OH 44256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Foodstuffs,* from Williamson, Holley and Hamlin, NY to points in OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Duffy-Mott Co., 370 Lexington Ave., New York 10017.

MC 113828 (Sub-2–1TA), filed December 21, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: Wm. P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Ferric chloride and ammonium sulfate* from Steubenville, OH to Centreville, VA and from Centreville, VA to Baltimore, MD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Abbit Enterprises, Inc., P.O. Box 149, Moorestown, NJ 08057.

MC 141160 (Sub-2–1TA), filed December 10, 1979. Applicant: NEWTON TRANSPORTATION, INC., R.D. #1, Orwigsburg, PA 17961. Representative: Joseph F. Hoary, 121 S. Main, Taylor, PA 18517. Contract carrier, irregular routes: *Cleaning and scouring compounds* from N. Hollywood, CA to points in that part of the U.S. east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundary of Itasca and Koochiching Counties, MN to the U.S.-Canada Boundary lne, for 180 days, under continuing contract(s) with Blue Cross Laboratories, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blue Cross Laboratories, Inc., 7376 Greenbush Ave., N. Hollywood, CA 91605.

MC 73533 (Sub-2–1TA), filed January 28, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as applicant). *General commodities (except those of unusual value, classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Westminster, MD, as an off-route point in connection with carriers authorized regular operations, for 180 days. An underlying ETA seeks 90 days authority. Note: Applicant intends to tack authority sought herein with authority held under MC–73533. Applicant intends to interline at all points where concurrences with other carriers are published in tariffs on file with the Commission. Supporting shipper(s): Random House, Inc., Westminster, MD 21157.

MC 148882 (Sub-2–1TA), filed December 3, 1979. Applicant: PETER HNATUSKO, R.D. #3, Moscow, PA 18444. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Elevators, freight and passenger, and elevator parts,* from Ft. Worth and Dallas, TX and Quincy, IL to Bridgeport, CT and New York, NY commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Elevator, 1225 Connecticut Ave., Bridgeport, CT 06607.

MC 146431 (Sub-2–1TA), filed January 17, 1980. Applicant: WILLIAM E. HILL, d.b.a. BILL HILL TRUCKING, Route 18 East, Hamler, OH 43256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Wheat middlings, in hopper vehicles,* from facilities of Nabisco Co., Toledo, OH, to points in KY, PA, IN, and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Nabisco Co., 2208 Central Station, Toledo, OH 43603.

MC 8535 (Sub-2–1TA), filed January 23, 1980. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: Henry J. Bouchat (same address as applicant). *Refractory products; viz., bricks, blocks, slabs, tiles, or related articles (except in dump vehicles)* from Grahn, KY to points in IL, IN, and MI, for 180 days. Supporting shipper(s): Louisville Fire Brick Works, P.O. Box 5, Grahn, KY 41142.

MC 143377 (Sub-2–1TA), filed January 25, 1980. Applicant: BARRY J. WEST, d.b.a. B.J.'s SERVICES, P.O. Box 154 Lititz, PA 17543. Representative: John W. Frame, Box 626, 2207 Old Gettysburg

Rd., Camp Hill, PA 17011. (1) *Printed matter,* (2) *proofs, cuts, copy, artwork, manuscripts, and related materials used by printing firms,* (3) *business reports and records,* and (4) *fabric samples,* between points in Lebanon County, PA, on the one hand, and, on the other, New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the ICC regional office in Phila., PA.

MC 109553 (Sub-2–2TA), filed January 28, 1980. Applicant: Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Ave., Richmond, VA 23224. Representative: E. T. Liipfert, 1660 L St., NW, Washington, DC 20036. C. H. Swanson (same address as applicant). *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Bridgeport, Cincinnati, Columbus, Dayton, Kanauga, Marietta and Portsmouth, OH and Richmond, IN, on the one hand, and, on the other points in the following counties in OH: Allen, Ashland, Ashtabula, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Erie, Fulton, Gallia, Geauga, Guernsey, Hancock, Hardin, Harrison, Henry, Hocking, Holmes, Huron, Jefferson, Knox, Lake, Lawrence, Logan, Lorain, Lucas, Mahoning, Medina, Meigs, Mercer, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Perry, Portage, Putnam, Richland, Sandusky, Scioto, Seneca, Shelby, Stark, Summit, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, Wood, Wyandot, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority sought with regular and irregular routes it is or may be authorized to serve. Applicant presently holds irregular route authority between Cincinnati, OH and the above counties in MC 109533 (Sub 71), and the purpose of this application is to add alternate gateways and eliminate a WV restriction in Sub 71. NOTE: Applicant intends to interline at Atlantic, GA, Indianapolis, IN, Jacksonville, FL, Louisville, KY, New Orleans, LA, Richmond, VA, St. Louis, MO, Baltimore, MD, Birmingham, AL and Houston, TX. Supporting shipper(s): There are 127 supporting shippers. Their statements may be examined at the I.C.C. regional office in Philadelphia, PA.

MC 115413 (Sub-2–2TA), filed January 7, 1980. Applicant: BLISSFIELD TRUCK LINES, INC., P.O. Box 245, 1–22155 SH2, Archbold, OH 43502. Representative: Jesse L. Short (same as applicant). *New Furniture, furniture parts and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk)* between Archbold, OH and GA, IL, IN, KY, MI, PA, TN, and St. Louis, MO and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sauder Woodworking Co., 502 Middle St., Archbold, OH 43502.

MC 119793 (Sub-II–1TA), filed December 28, 1979. Applicant: DEWEY L. WILFONG, d.b.a. D & W TRUCK LINES, 209 First St., Parsons, WV 26287. Representative: Dwight L. Koerber, 666 11th St., Washington, DC 20001. Contract carrier, irregular routes: *Charcoal briquettes* from the facilities of The Kinsford Co., at or near Burnside, KY; St. Louis, MO; Belle, MO; Columbus, and Cleveland, OH; Dothan, AL; Atlanta, GA; Charlotte, NC; and Chicago, IL to points in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with the Kingsford Co., Louisville, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Co., 1700 Commonwealth Bldg., Louisville KY 40202.

MC 147455 (Sub-2–1TA), filed January 10, 1980. Applicant: W. F. BROADWATER, d.b.a. W. F. BROADWATER TRUCKING CO., Route 2, Box 39D, Grantsville, MD 21536. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Firebrick, fireclay, refractory products and unfinished lumber* between points in Allegany County, MD and St. Charles, PA, on the ond hand, and on the other, points in DE, MD, NJ, NY, OH, PA, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mt. Savage Refractories Co., Inc., P.O. Box 576, Mt. Savage, MD 21545.

MC 150222 (Sub-II–1TA), filed January 17, 1980. VERNON J. HODGE, t/a, Applicant: DIXIE TRANSPORTATION AIDES, 11501 Allecingie Parkway, Richmond, VA 23235. Representative: Richard J. Lee, 700 E. Main St., Suite 1222, Richmond, VA 23219. Contract carrier, irregular routes: *Assemblies, smoke flue or chimney; doors; building construction wall sections, with insulation, and materials, supplies, and equipment used in the manufacture, distribution and installation thereof,* between facilities of General Products Co., Inc., at or near Fredericksburg, VA, on the one hand, and, on the other, Versailles, CT; Atlanta, GA; Chicago and Itasca, IL; Billerica, Boston, and Lawrence, MA; New York & Victor, NY; N. Wilksboro, NC; Cincinnati, Cleveland, Columbus, and Marietta, OH, Eighty Four, Philadelphia, Pittsburgh, and Wampum, PA; Knoxville, TN; Norfolk, VA; and Parkersburg, WV, for 180 days, under continuing contract(s) with General Products Co., Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Products Co., Inc., P.O. Box 887, Fredericksburg, VA 22401.

MC 115413 (Sub-2–1TA), filed January 7, 1980. Applicant: BLISSFIELD TRUCK LINES, INC., 1–22155 SH2 P.O. Box 245, Archbold, OH 43502. Representative: Jesse L. Short, P.O. Box 245, Archbold, OH 43502. *Ramps boarding, uncrated; stands, viz; baggage loading, uncrated; maintenance, uncrated; tubular steel scaffolding, uncrated; tubular steel scaffolding accessories and supplies used in the manufacture of scaffolding* between (1) Archbold, OH and IL, IN, KY, MI: St. Louis, MO and its commercial zone, and TN; (2) Erin, TN and IL, IN, KY, MI, OH and St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bil-Jax, Inc., E. Lugbill Rd., Archbold, OH 43502.

MC 88203 (Sub-II–1TA), filed November 30, 1979. Applicant: OTIS WRIGHT & SONS, INC., 700 E. Wayne St., P.O. Box 277, Lima, OH 45802. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. Contract carrier, irregular routes: *Auto parts, accessories, machinery, materials, and equipment necessary for the production of motor vehicles,* between points in OH, on the one hand, and, on the other, points in the states in or east of the Mississippi River, for 180 days, under continuing contract(s) with Sheller-Globe Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheller-Globe Corp., 1300 E. Kibby St., Lima, OH 45802.

MC 142703 (Sub-II–1TA), filed January 7, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., Post Office Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *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 Macon, GA, on the one hand, and, on the other, points in GA, restricted to transportation of shipments having a prior or subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sears, Roebuck & Co., Sears

Tower, Chicago, IL 60684. Ohio Valley Shippers Association, 1428 Dalton St., Cincinnati, OH 45214.

MC 4963 (Sub-II–3TA), filed November 21, 1979. Applicant JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same address as applicant). *Structural steel supplies and materials used in the manufacture of these commodities* between Nashville, TN, on the one hand, and, on the other, points in IA, MO, AL, GA, SC, NC, TN, WI, IL, IN, KY, MI, OH, WV, VA, PA, MD, DE, NJ, NY, VT, CT, RI, MA, NH, and ME for 180 days, with service at Nashville, TN being restricted to the plantsite and other facilities of Volunteer Structures, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Volunteer Structures, Inc., 4108 Dakota Ave., Nashville, TN.

MC 4963 (Sub-2–5TA), filed December 10, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Wm. H. Peiffer (same address as applicant). *Plastic pipe and fittings and iron or steel articles,* between points in MI, for 180 days. Restriction: Applicable from or to points east and south of the Ohio State Line. An underlying ETA seeks 90 days authority. NOTE: Applicant intends to tack authority sought herein with authority held under MC 4963. Supporting shipper(s): Jones Motor Co., Inc., Bridge St. & Schuylkill Rd., Spring City, PA 19475.

MC 107403 (Sub-II–8TA), filed January 25, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes (same address as applicant). *Synthetic resins, in bulk, in tank vehicles,* from Wilmington, DE to Mays Landing, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corp. of America, 1204 E. 12, Wilmington, DE 19899.

MC 107403 (Sub-II–6TA), filed December 20, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes (same address as applicant). *Wheat flour,* in bulk, in tank vehicles from Columbus, OH to points in IL, for 180 days. Supporting shipper(s): International Multifoods, 1200 Multifoods Bldg., Minneapolis, MN 55402.

MC 149288 (Sub-II–1TA), filed January 18, 1980. Applicant: TRIPLE A DELIVERY SERVICE, INC., 244 W. Main St., Groveport, OH 43125. Representative: Jerry Sellman, 50 W. Broad St., Columbus, OH 43215. (1) *Foodstuffs* from Columbus, OH to points in IN, KY, MI, PA, and WV, and (2) *commodities used in the manufacture, production, or distribution of foodstuffs* from points in IN, KY, PA, WV, and MI, to Columbus, OH, for 180 days, restricted to shipments originating at or destined to facilities of T. Marzetti Co., located in Columbus, OH. An underlying ETA seeks 90 days authority. Supporting shipper(s): T. Marzetti Co., Box 29163, Columbus, OH 43229.

MC 109533 (Sub-2–3TA), filed January 17, 1980. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Ave., Richmond, VA 23224. Representative: John C. Burton, Jr. (same address as applicant). Common carrier, regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Old Dominion Beef, Inc., at or near Jarratt, VA, as an off route point in connection with carriers existing regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under MC 109533 (Sub Numbers 42, 77, 78), MC–F–12822, and MC–F–12903. Applicant intends to interline at Atlanta, Memphis, Baltimore, Nashville, Louisville, Birmingham. Supporting shipper(s): Old Dominion Beef, Inc., 125 F & M Centers, Richmond, VA 23277.

MC 13569 (Sub-2–1TA), filed January 14, 1980. Applicant: LAKE SHORE MOTOR FREIGHT CO., INC., 1200 South State St., Girard, OH 44420. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. *Iron and steel and iron and steel articles,* from the facilities (facilities to include off-premise warehouses and processors stocking and/or acting as agent for United States Steel products) of the United States Steel Corporation, located in Cuyahoga, Lorain, Mahoning and Trumbull Counties, OH to all points in IL (on and north of Interstate 74), IN (on and north of U. S. Highway 40), MI and OH, for 180 days. Ohio shipments to be restricted to warehoused materials originating with United States Steel facilities located outside of Ohio. An underlying ETA seeks 30 days authority. Supporting shipper(s): United States Steel Corporation, Room 568–600 Grant St., Pittsburgh, PA 15230.

MC 113106 (Sub-2–1TA), filed January 21, 1980. Applicant: BLUE DIAMOND COMPANY, 4401 East Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 1030 Fifteenth St., NW., Suite 366, Washington, DC 20005. *Glass containers and accessories,* from Youngwood and South Connellsville, PA to Edenton, NC and Suffolk, VA, and points in their respective commercial zones, for 180 days. Supporting shipper(s): Anchor Hocking Corporation, 109 N. Broad St., Lancaster, OH 43130.

MC 63417 (Sub-2–6TA), filed January 14, 1980. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). *Cast iron articles* from Woodstock, IL, to the states of VA, NC, SC, TN, GA, AL and MS, for 180 days. Supporting shipper(s): Southern Alloy, Inc., Industrial Ave., Box 1596, Salisbury, NC 28144.

MC 149188 (Sub-2–1TA), filed January 28, 1980. Applicant: JANE M. POST, d.b.a. ADVENTURE TOURS, 4400 Heatherdowns Blvd., Toledo, OH 43614. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Passengers and their baggage,* in the same vehicle with passengers, in round-trip sightseeing and pleasure tours, in charter and special operations, beginning and ending at points in Allen, Ashland, Crawford, Defiance, Erie, Fulton, Hancock, Henry, Huron, Lorain, Lucas, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH and those in Lenawee, Monroe, Washtenaw and Wayne Counties, MI and extending to points in the US, including AK but excluding HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 11 supporting shippers' statements attached to this application that may be examined at the ICC regional office in Philadelphia, PA.

MC 56244 (Sub-II–4TA), filed January 10, 1980. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, Gardners, PA 17324. Representative: J. Bruce Walter, 410 N. 3rd St., Harrisburg, PA 17108. *Starch and chemicals* (except in bulk) from Indianapolis, IN to Points in DE, MD, NJ, VA, PA, and Washington, DC, restricted to transportation to and from facilities of National Starch and Chemical Corporation or for the account of National Starch and Chemical Corp., for 180 days. Supporting shipper(s): National Starch & Chemical Corp., P.O. Box 6500, Bridgewater, NJ.

MC 149376 (Sub-2–1TA), filed November 19, 1980. Applicant: BURKS TRUCKING, INC., P.O. Box 37, Old Fort, OH 44861. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017. Contract carrier, irregular routes: *Used mining and minerals processing equipment* between points in the U.S., for 180 days, under continuing contract(s) with Universal Equipment

Co. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Equipment Co., 325 E. Stahl Rd., Fremont, OH 43420.

MC 126255 (Sub-2–2TA), filed January 8, 1980. Applicant: BUTLER-JONES AIR FREIGHT, INC., P.O. Box 1964, Salisbury, MD 21801. Representative: Peter A. Greene, 900 17th St., N.W., Washington, D.C. 20006. *General commodities* (except those of unusual value, Classes A & B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment) between Phila. Internat'l Airport on the one hand and, on the other, points in Kent and Sussex Counties, DE. Restricted to the transportation of traffic having an immediate prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New Process Fibre, P.O. Box I, First St., Greenwood, DE 19950. Internat'l Playtex, Inc., P.O. Box 631, Dover, DE 19901; Consolidated Thermoplastics, Inc., P.O. Box 27, Harrington, DE 19952; NCR Corp., P.O. Box 607, Millsboro, DE 19966.

MC 144188 (Sub-2–3TA), filed January 21, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, Atty., 410 N. Third St., Harrisburg, PA 17101. *Reflective traffic control products, pavement marking compounds, and the equipment, machinery, materials and supplies used in the manufacture, distribution and installation of the aforementioned commodities* (except commodities in bulk), between points in Cobb County, GA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, restricted to traffic originating at or destined to the facilities utilized by Pave-Mark Corporation, for 180 days. Supporting shipper(s): Pave-Mark Corporation, 3141 NIFDA Blvd., Smyrna/Atlanta, GA 30081.

MC 136886 (Sub-2–1TA), filed January 2, 1980. Applicant: MASTERSON TRANSFER CO., INC., 3000 Pennsylvania Ave. W., Warren, PA 16365. Representative: Ronald W. Malin & Kenneth T. Johnson, Bankers Trust Bldg., Jamestown, NY 14701. Contract carrier, irregular routes: *Such merchandise as dealt in by mail order houses and such equipment, materials and supplies used in the conduct of such business (except commodities in bulk)* between points in the U.S. west of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in Warren County, PA, under continuing contract(s) with New Process Co., Warren County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New Process Co., 220 Hickory St., Warren, PA 16366.

MC 146015 (Sub-2–4TA), filed January 7, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: E. J. Mumma, Jr. (same address as applicant). Contract carrier-irregular routes: *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, and materials, ingredients and supplies used in the manufacture, distribution and sale of the products above;* no authority to transport commodities in bulk is being sought, from the plant sites and storage facilities of Ralston Purina Company at or near Hampden Township, Cumberland County, PA to points at or near Dunkirk and Buffalo, NY and Hampden Township, Cumberland County, PA, for 180 days. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 113828 (Sub-2–2TA), filed January 31, 1980. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Chemicals, in bulk,* from Norfolk, VA to points and places in VA, IL, IN, MI, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Virginia Chemicals Inc., 3340 W. Norfolk Rd., Portsmouth, VA 23703.

MC 112588 (Sub-2–1TA), filed January 24, 1980. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Rd., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Board St., Columbus, OH 43215. *Iron and steel and iron and steel articles,* between the facilities of Ellwood City Iron & Wire Co. at Ellwood City, PA, on the one hand, and, on the other, points in IL, IN, OH and MI, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Ellwood City Iron & Wire Co., P.O. Box 832, Ellwood City, PA 16117.

MC 4963 (Sub-2–4TA), filed January 9, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same address as applicant). *Iron or steel articles, metals and metal products,* between Marshville, NC and points in the states of WI, SC, IA, MI, AL, TN, IN, KY, WV, MO, IL, GA, PA, NY, ME, NH and MD, restricted to the plantsite and facilities of King Fifth Wheel, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): King Fifth Wheel, Box 279, Traywick Rd., Marshville, NC 28103.

MC 148469 (Sub-2–1TA), filed December 26, 1979. Applicant: VICTOR J. WILLIAMS, d.b.a. VJ's TOWING SERVICE, 10705 Fremont Pike, Perrysburg, OH 43551. Representative: Kevin R. Reichley, 50 W. Broad St., Columbus, OH 43215. *Wrecked and disabled motor vehicles and replacement vehicles for wrecked and disabled motor vehicles (except trailers designed to be drawn by passenger automobiles),* between points in OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, NY, PA, TN, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ruan Leasing Co., 4400 Martin Moline Rd., Millbury, OH 43447; Sentle Trucking Corp., P.O. Box 7850, Toledo, OH 43619.

MC 114569 (Sub-2–2TA), filed January 25, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Prefabricated metal fireplaces,* from Florence, AL to Mechanicsburg, PA and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Associated Building Products, Inc., 100 E. Allen St., Mechanicsburg, PA 17055.

MC 118899 (Sub-2–2TA), filed February 29, 1980. Applicant: BALTIMORE TANK LINES, INC., 180 8th Ave., Glen Burnie, MD 21061. Representative: Lawrence E. Lindeman, 425 13th St., NW, Suite 1032, Washington, DC 20004. *Petroleum and petroleum products,* in bulk, in tank vehicles, from Baltimore, MD and points in its commercial zone to Washington, DC; Alexandria, VA; and points in Arlington, Fairfax, Prince William, Loudoun, Fauquier, Stafford, Shenandoah, Rockingham, Culpeper, Clarke, Frederick, Warren, Page, Madison, Greene, Orange, Spotsylvania, Caroline, and King George Counties, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 8 statements in support attached to this application which may be examined at the office listed below.

MC 113499 (Sub-2–1TA), filed March 5, 1980. Applicant: EDWARD M. RUDE CARRIER CORP., R.F.D. No. 1, Falling Waters, WV 25419. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Glass and glassware* from Jeannette, PA to points in NJ, MD, VA, New York, NY, Cincinnati, OH, and DC for 180 days. Supporting shipper(s): General Glass

International Corp., 270 N. Avenue, New Rochelle, NY 10801.

MC 150174 (Sub-II-T-2), filed March 5, 1980. Applicant: HIVELY TRANSPORTATION, INC., 1100 Lafayette St., York, PA 17405. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Roofing, building and insulation materials,* between the facilities of the CertainTeed Corp. in York County, PA, on the one hand, and, on the other, the facilities of CertainTeed Corp., Erie County, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CERTAINTEED CORP., P.O. Box 860, Valley Forge, PA 19482.

MC 112304 (Sub-II-6TA), filed March 5, 1980. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Iron and steel articles,* between Darlington, SC, on the one hand, and, on the other, all points in and east of WI, IL, KY, TN, and MS. Supporting shipper(s): Oceana Corporation, Pawleys Island, SC 29585.

MC 140294 (Sub-2-3), filed March 5, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pk., Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Glassware, glass ceramic ware, laminated glassware, and electrical appliances, parts and accessories therefore,* between the facilities of Corning Glass Works at or near Greencastle, PA, and Hagerstown, MD, and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Corning Glass Works, Box 158, Corning, NY 14830.

MC 143394 (Sub-II-3-TA), filed March 3, 1980. Applicant: GENIE TRUCKING LINE, INC., P.O. Box 840, 70 Carlisle Springs Rd., Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) from the facilities of West Coast Shippers Assn., in Hoboken, NJ and the commercial zone to Atlanta, GA; Charlotte, NC; Birmingham, Mobile and Montgomery, AL; Jacksonville, Miami, Orlando and Tampa, FL and the commercial zones, and (2) from the facilities of West Coast Shippers Assn., Philadelphia, PA and the commercial zone to Charlotte, NC; Birmingham, Mobile and Montgomery, AL and the commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Coast Shippers Assn., 2000 S. 71st St., Philadelphia, PA 19142.

MC 114569 (Sub-2-10), filed March 7, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Printed matter and materials, equipment and supplies used in the manufacture, sale and distribution of printed matter (except commodities in bulk)* between the facilities of R.R. Donnelly & Sons Co, and its subsidaries at or near Gallatin, TN, Glascow, KY, and Lancaster, PA on the one hand and points in CA, CO, CT, DE, DC, FL, GA, IL, IN, KY, MD, MA, MI, MO, MN, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VA, WA, WV, and WI on the other, for 180 days. Supporting shipper(s): R.R. Donnelley & Sons Co., 2223 Martin Luther King Dr., Chicago, IL 60616.

MC 114569 (Sub-2-7), filed March 5, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Confectionary* from the facilities of Peter Paul Cadbury, Inc. at or near York, PA to Kansas City, MO; Dallas, TX; Denver, CO; and Memphis, TN and their commercial zones. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Paul Cadbury, Inc., New Haven Rd., Naugatuck, CT 06770.

MC 114569 (Sub-2-8), filed March 5, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of Peter Paul Cadbury, Inc. at or near Salinas, CA to Denver, CO; Kansas City, MO; Dallas, TX; Memphis, TN; York, PA; Frankfort, IN; Hazleton, PA; Chicago, IL; and Naugatuck, CT and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Paul Cadbury, Inc., New Haven Rd., Naugatuck, CT 06770.

MC 128371 (Sub-2-2TA), filed March 4, 1980. Applicant: BELLEVUE AGGREGATE HAULERS, INC., P.O. Box 296, Holland, OH 43528. Representative: Kevin R. Reichley, 50 West Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of metal containers, in flat bed equipment,* between the facilities of American Can Co. at or near Whitehouse, OH, on the one hand, and, on the other, East Chicago and Gary, IN, and Weirton, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Co., 915 Harger Rd., Oakbrook, IL 60521.

MC 146551 (Sub-II-1TA), filed March 3, 1980. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. *Scrap paper* from Napoleon and Wauseon, OH to The Union Camp Corporation's mill site at Monroe, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Rd., Wayne, NJ 07480.

MC 109553 (Sub-2-1), filed March 3, 1980. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Ave., Richmond, VA 23224. Representative: E. T. Liipfert, Suite 1000, 1660 L St., NW., Washington, DC 20036; C. H. Swanson (same as applicant). *Common; regular: General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* (1) Between Kansas City, KS and Houston, TX, serving no intermediate points: From Kansas City over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to junction Interstate Hwy 45 then over Interstate Hwy 45 to Houston and return over same route. (2) Between St. Louis, MO and Houston, TX serving no intermediate points: From St. Louis over Interstate Hwy 44 to junction Interstate Hwy 35 then over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to junction Interstate Hwy 45 then over Interstate Hwy 45 to Houston and return over same route. (3) Between Memphis, TN and Houston, TX, serving no intermediate points: From Memphis over Interstate Hwy 40 to junction Interstate Hwy 30 then over Interstate Hwy 30 to junction U.S. Hwy 59 then over U.S. Hwy 59 to Houston and return over same route. (4) Between Memphis, TN and New Orleans, LA serving no intermediate points: From Memphis, TN over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans and return over same route. (5) Between Memphis, TN and junction Interstate Hwy 55 and Interstate Hwy 12 serving no intermediate points: From Memphis over Interstate Hwy 55 to junction Interstate Hwy 12 and return over same route. (6) Between Birmingham, AL and junction Interstate Hwy 59 and Interstate Hwy 10, serving no intermediate points: From Birmingham over Interstate Hwy 59 to junction Interstate Hwy 10 and return over same route. (7) Between Birmingham, AL and

Pensacola, FL, serving no intermediate points: From Birmingham over Interstate Hwy 65 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola and return over same route. (8) Between Birmingham, AL and Mobile, AL, serving no intermediate points: From Birmingham over Interstate Hwy 65 to Mobile and return over same route. (9) Between Charleston, S.C. and Jacksonville, FL, serving no intermediate points: From Charleston over U.S. Hwy 17 to junction Interstate Hwy 95 then over Interstate Hwy 95 to Jacksonville and return over same route. (10) Between Albany, GA and Tallahassee, FL serving no intermediate points: From Albany over U.S. Hwy 19 to junction U.S. Hwy 319 then over U.S. Hwy 319 to Tallahassee and return over same route. (11) Between Kansas City, KS and Baton Rouge, LA, serving no intermediate points: From Kansas City over Interstate Hwy 70 to junction U.S. Hwy 65 then over U.S. Hwy 65 to Natchez, MS, then over U.S. Hwy 61 to Baton Rouge and return over same route. (12) Between Jefferson City, MO and Houston, TX serving no intermediate points: From Jefferson City over U.S. Hwy 54 to junction U.S. Hwy 65 then over U.S. Hwy 65 to junction Interstate Hwy 30, thence over Interstate Hwy 30 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston and return over same route. (13) Between Jefferson City, MO and Baton Rouge, LA, serving no intermediate points: From Jefferson City over U.S. Hwy 54 to junction U.S. Hwy 65 then over U.S. Hwy 65 to Natchez, MS, then over U.S. Hwy 61 to Baton Rouge, LA and return over same route. (14) Between Birmingham, AL and junction U.S. Hwy 231 and Interstate Hwy 10 serving no intermediate points: From Birmingham over Interstate Hwy 65 to junction U.S. Hwy 231 then over U.S. Hwy 231 to junction Interstate Hwy 10 and return over same route. Serving points in the commercial zones of the termini of routes (1) through (14) above. Tacking and interlining intended. *Docket number of authority to be tacked or joined:* MC 109533, Sub-36, MC 109533, Sub-67, MC–F–12903, Overnite Transportation Company—Purchase, Southern Forwarding Co. MC–F–13164, Overnite Transportation Company—Purchase, Bonifield Bros. Truck Line, Inc., MC–F–13400, Overnite Transportation Company—Purchase, St. Louis-Kansas City Express, Inc. Applicant intends to interline with other carriers at the following terminal points: Atlanta, GA, Baltimore, MD, Baton Rouge, LA, Birmingham, AL, Charleston, W. VA, Charlotte, N.C., Chattanooga, TN, Cincinnati, OH, Houston, TX, Jacksonville, FL, Kansas City, MO, Louisville, KY, Memphis, TN, Nashville, TN, New Orleans, LA, St. Louis, MO, Toledo, OH, Washington, Pa.

MC 110328 (Sub-2–2), filed March 4, 1980. Applicant: ROY A. LEIPHART TRUCKING CO., 1298 Toronita St., York, PA 17402. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Synthetic fibers and/or yarns,* (1) from Martinsville, Rocky Mount, and Waynesboro, VA to Carlisle, PA; and (2) from Salisbury, Shelby and Earl, NC to Carlisle, PA; and (3) from Spartanburg, SC to Carlisle, PA including their respective commercial zones. *Auto body panels, fiberboard, sound deadening materials, carpet padding; shoddy or lining,* from Marine City, MI and Franklin, OR and Norwalk, OH and Marion, IN including their respective commercial zones to Carlisle and Lewistown, PA, including their respective commercial zones. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. H. Masland & Sons, Box 40, 50 Spring Rd., Carlisle, PA 17013.

MC 64806 (Sub-2–2), filed March 4, 1980. Applicant: R. P. THOMAS TRUCKING CO., INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New furniture* from the facilities of Daystrom Furniture Inc. at or near South Boston, VA; the facilities of Stanley Furniture Interiors at or near West End, NC and Waynesboro, VA; the facilities of Vaughn Bassett Furniture Co., Inc. at or near Elkin, NC and Galax, VA; to points in CT, DE, MA, MD, ME, MI, NH, NJ, NY, PA, RI, and VT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Daystrom Furniture, Inc., Sinai Rd., South Boston, VA 24592. Stanley Furniture Interiors, Stanleytown, VA 24168; Vaughn Bassett Furniture Co., Inc. P.O. Box 779, Galax, VA 24333.

MC 143394 (Sub-2–1), filed March 3, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs, P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). *Contract; irregular: Foodstuffs, health & beauty aids, cleaning compounds, kitchen gadgets, dog food, coffee, milk, tea, candy, nuts, paper products and cheese (except in bulk in tank vehicles)* from the facilities of Topco Associates, Inc., in Skokie, IL and from Chicago, IL and Green Bay, Lena and Portage, WI to points in MS and AL and the commercial zones for 180 days. Supporting shipper(s): Topco Associates, Inc., 7711 Gross Point Rd., Skokie, IL 60077.

MC 150214 (Sub-2–2), filed March 5, 1980. Applicant: J. N. CARR TRANSPORT, INC., 351 Market St., Espy, PA 17815. Representative: Wilmer B. Hill, Suite 806, 666 Eleventh St., NW., Washington, DC 20001. *Dairy products* from Elmira, Horseheads, and Waverly, NY and South Waverly, PA to points in and east of MN, IA, KS, OK, and TX for 180 days. Supporting shipper(s): Leprino Foods, Inc., P.O. Box 8400, Denver, CO 80201.

MC 14203 (Sub-2–1), filed March 6, 1980. Applicant: APPLE HOUSE, INC., 3726 Birney Ave., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Animal feed and animal or poultry feed* from Limeridge, PA to Miami, FL; (2) *Plastic film or sheeting and plastic bags* from Pottsville, Norwegian Twp, PA to NC, FL and GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champion Valley Farms, Inc., 6770 Low St., Bloomsburg, PA 17815; Exxon Chemical G.V.S.A., P.O. Box 395, Pottsville, PA.

MC 117565 (Sub-2–1TA), filed March 6, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner, P.O. Box 448, Coshocton, OH 43812. *(1) Plastic Articles, (2) Accessories used in floral arrangements,* from the plantsite and warehouse facilities of Smithers Oasis, Kent, OH to points in New York, Kings, Queens, Bronx, Richmond, Nassau, and Suffolk Counties, NY; Philadelphia, PA, and points in its commercial zone; and those points in Bergen, Burlington, Camden, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union, and Warren Counties, NJ for 180 days. Supporting shipper(s): Smithers Oasis Div., The Smithers Co., 919 Marvin Ave., Kent, OH 44240.

MC 136343 (Sub-2–1TA), filed March 6, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Stan C. Geist, Milton Transportation, Inc., P.O. Box 355, Milton, PA 17847. *Such commodities as are dealt in or used by manufacturers and distributors of printed matter* (except commodities in bulk) Between the facilities of Fairfield Graphics, at or near Gettysburg, PA, on the one hand, and, on the other, those points in the US in and east of MS, TN, KY, IL, and WI, restricted to the transportation of traffic originating at or destined to the named points. An underlying ETA is pending. Supporting shipper: Fairfield Graphics, P.O. Drawer

AN, North Miller Street, Fairfield, PA 17320.

MC 2605 (Sub-2–1TA), filed March 6, 1980. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 E. Adams Ave., Philadelphia, PA 19124. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Chemicals and chemical products* (except in bulk) from the facilities of FMC Corp. located at Carteret, NJ, and Lyndhurst, NJ to points in OH, Chicago, IL, and Detroit, MI, and points in their commercial zones for 180 days. An underlying ETA seeking up to 90 days operating authority has been filed. Supporting shipper: FMC Corp., 200 Market St., Philadelphia, PA 19103.

MC 103937 (Sub-2–1), filed March 6, 1980. Applicant: ANTHRA-TRANS, INC., R.D. #3, Moscow, PA 18444. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Coal* from Ashley, Hazelton, Shenandoah, PA to CT, MA, and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lehigh Valley Coal Sales Co., P.O. Box 450, Pittston, PA 18640.

MC 148522 (Sub-2–4), filed March 6, 1980. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Cleaning compounds, household products, deodrants* from East Stroudsburg, PA to Elizabeth, NJ, Richmond, VA, Liverpool (Syracuse) NY and Saylesville, RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Drackett Co., 5020 Spring Grove Ave., Cincinnati, OH 45232.

MC 104896 (Sub-2–1), filed March 7, 1980. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Ralph C. Wilgus (same as applicant). *(1) Containers, container ends and closures. (2) commodities, manufactured or distributed by manufacturers and distributors of containers, and (3) material, equipment and supplies used in the manufacture and distribution of the commodities named in 1 and 2 above* between points in the states of CT, DE, IL, GA, IN, KY, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC for 180 days. Restricted (1) against the transportation of commodities in bulk in tank vehicles and (2) to the transportation of traffic originating at or destined to the facilities of Glass Containers Corp. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glass Containers Corp., Knox, PA 16232.

MC 146568 (Sub-2–1TA), filed March 7, 1980. Applicant: PHOENIX BIRD, INC., Suite 118, 1 Neshaminy Plaza, Street Road & Bristol Pike, Cornwells Heights, PA 19020. Representative: Ronald N. Cobert, 1730 M St. NW., Suite 501, Washington, DC 20036. *Contract; irregular: Drugs, medicines* and *chemicals* (except in bulk), from the facilities of Merck Sharp & Dohme, a division of Merck & Company, Inc., at or near West Point, PA to Atlanta, GA; Arlington, TX; Denver, CO; Overland Park, KS; Los Angeles, CA; Memphis, TN; Kenner, LA; Portland, OR and San Francisco, CA. Restriction: The authority sought herein is to be restricted to a transportation service to be performed under a continuing contract or contracts with Merck Sharp & Dohme, a division of Merck & Company, Inc. Supporting shipper(s): Merck Sharp & Dohme, a division of Merck & Co., Inc., West Point, PA 19486.

MC 8771 (Sub-2–2), filed March 7, 1980. Applicant: S M TRANSPORT, INC., 5000 Linker St., Hemlock Bldg., Mechanicsburg, PA 17055. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Road making machinery, machinery parts, contractor's equipment, commodities which because of size and weight require the use of special equipment and self-propelled vehicles weighing more than 15,000 pounds each,* from Mattoon, IL to points and places in AL, AR, AZ, CA, CO, FL, GA, NC, PA, ID, KS, LA, MS, NV, NM, OK, OR, SC, TN, TX, UT, MI, NY, MD, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blaw-Knox Construction Equipment Co., E. Rt. 16, Mattoon, IL 61938.

MC 63417 (Sub-2–8), filed March 7, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). *New furniture and furniture parts* from Galax, VA, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vaughan Furniture Co., Inc., P.O. Box 330, Galax, VA 24333.

MC 8958 (Sub-2–5TA), filed March 6, 1980. Applicant: YOUNGSTOWN CARTAGE CO., 825 W. Federal St., Youngstown, OH 44501. Representative: Philip J. Cianciolo (same address as applicant). *Racks, Pallet Storage, or Warehouse, consisting of unassembled members or members assembled in panels and material used in the manufacture and assembly of racks, pallet storage or warehouse* between the facilities of Lok-Rak at or near East Hartford, CT and points in FL, GA, IL, IN, KY, NC, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lok-Rak Corporation, East Hartford, CT 06108.

MC 136432 (Sub-2–1TA), filed March 7, 1980. Applicant: DAVID C. RICHARD, d.b.a. D & M EXPRESS, Route 19, Evans City, PA 16033. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. *Contract carrier: irregular routes: railway air brake equipment, and accessory parts and supplies,* from Wilmerding, PA to Alexandria and Roanoke, VA, under continuing contract with American Standard Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Standard Inc., P.O. Box 2003, New Brunswick, NJ 08903.

MC 149044 (Sub-2–1), filed March 10, 1980. Applicant: FRANK C. ANDREWS, d.b.a. JAFA ENTERPRISES, P.O. Box 713, Frazer, PA 19355. Representative: John W. Christie, 1112 Airport Rd., West Chester, PA 19380. *Contract; irregular: Empty cargo shipping containers used in the commercial activities of Container Trading Corp.* from the container handling, repair, and storage facilities located within the ports of Baltimore, MD to such facilities located within the ports of Wilmington, NC and Norfolk, VA and (2) from the container handling, repair, and storage facilities of the Port of Norfolk, VA to such facilities located within the Port of Wilmington, NC and to the facilities of Asher Industries located in Birdsboro, PA under continuing contract with Container Trading Corp. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Trading Corp., Lyndhurst, NJ.

MC 148001 (Sub-2–1TA), filed March 10, 1980. Applicant: M. G. BROADDUS III, Box 113 H, Route 1, Bowling Green, VA 22427. Representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, VA 23220. *Contract carrier:* irregular routes: *Sawdust* from Bowling Green, VA to Salisbury, MD. Supporting shipper: Brooks Lumber Co., Rt. 1, Box 4T, Bowling Green, VA 22427.

MC 124111 (Sub-2–1TA), filed March 10, 1980. Applicant: OHIO EASTERN EXPRESS, INC., 300 W. Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Products dealt in by retail drug outlets (except commodities in bulk)* from Cranberry, NJ to Momence, IL, Detroit, MI, Cleveland, OH and Toledo, OH including points in their respective commercial zones for 180 days.

Supporting shipper(s): Carter-Wallace, Half Acre Rd., Cranberry, NJ 08512.

MC 45764 (Sub-2–1), filed March 10, 1980. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Hwy & Saville Ave., Eddystone, PA 19013. Representative: Edward Keels (same as applicant). *Machinery, plant equipment and supplies, which because of size or weight requires special handling or equipment, and related tools and parts, in foreign commerce on through trailers* from points on and east of the Mississippi River including, but not limited to Detroit, Warren and Sault St. Marie, MI, Rockford, IL, Baltimore, MD and Philadelphia, PA to ports of entry on the U.S. and Mexican border of Brownsville, Laredo and El Paso, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler De Mexico, Lago Alberto, 320 Mexico 17 D F Mexico.

MC 150113 (Sub-2–1TA), filed March 10, 1980. Applicant: SMITH TRANSPORTATION CO., 1428 Market Avenue North, Canton, OH 44714. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Oil and gas well treating compounds and materials, equipment and supplies used in the manufacture and distribution thereof,* between Canton, OH, on the one hand, and, on the other, Mt. Pleasant, Kalkaska, Wayne and Midland, MI; Corry, Greensburg and Black Lick, PA; Depew, NY; Glenville, Nitro and Beckley, WV; Paintsville and Prestonsburg, KY; Charlotte, NC; Richmond, VA; Mt. Holly, NJ; Davisville, RI; Winthrop, ME; Chicago Heights, Flora and Highland, IL; Rosemount, MN; Kansas City and St. Louis, MO; and Kansas City, KA for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Dowell Division of Dow Chemical Co. U.S.A. An underlying ETA seeks 90 days authority. Supporting shipper: Dowell Division of Dow Chemical Co. U.S.A., P.O. Box 21, Tulsa, OK 74102.

MC 148371 (Sub-II–1TA), filed September 28, 1979. Applicant: JUNIOR LEE MULLENS, d.b.a. J. L. MULLENS TRUCKING, Commercial Ave., Richwood, WV 26261. Representative: Junior Lee Mullens (same address as above). Contract carrier, regular routes, *coal* from Sewell Coal Co. mine on Gualey River, WV, over private road to WV State Rt. 20 at Lowland, WV, then over State Rt. 20 to Charmco, WV; then on U.S. Rt. 60 to I–64 at Sam Black Church, then over I–64 to Westvaco Papermill at Covington, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sewell Coal Co., Netti, WV 26681.

MC 146892 (Sub-II–2TA), filed December 20, 1979. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Conveyors, conveyor parts, and materials used in the manufacture or installation of conveyors,* from the facilities of Versa Corp. at or near Mt. Sterling, OH to points in the U.S. (except AK and HI), and materials, equipment, and supplies used in the manufacture of the commodities set forth above from points in the U.S. (except AK and HI), to the facilities of Versa Corp. at or near Mt. Sterling, OH, restricted against the transportation of commodities in bulk, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Versa Corp., Box 152 Mt. Sterling, OH 43143.

Note.—Applicant intends to interline at Columbus and Cleveland, OH.

MC 148522 (Sub-II–2TA), filed January 11, 1980. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Malt beverages,* in containers, from Rochester, NY to Pt. Pleasant, NJ and Union, NJ; from Winston-Salem, NC to E. Stroudsburg, PA; and from Newark, NJ, Columbus, OH, Merrimack, NH, and Williamsburg, VA to Tamacqua and Shamokin, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers.

MC 113106 (Sub-II–2TA), filed January 16, 1980. Applicant: BLUE DIAMOND COMPANY, 4401 E. Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 1030 15th St. NW., Washington, DC 20005. *Glass containers* from Millville, NJ to Mt. Jackson, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corp. Sand Springs, OK 74063.

MC 149027 (Sub-II–1TA), filed December 20, 1979. Applicant: BLUE MOUNTAIN EXPRESS, INC., Route 8, Box 43, Frederick, MD 21701. Representative: Fred H. Daly, 2550 M St., NW., Washington, DC 20037. Contract carrier, irregular routes: *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except frozen commodities and commodities in bulk) from the facilities of The Clorox Company located at Frederick, MD to points in PA, for 180 days, under continuing contract(s) with The Clorox Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 63417 (Sub-II–1TA), filed December 31, 1979. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447 Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). (1) *Plumbing supplies, vanities, and vanity cabinets (except commodities in bulk), and iron and steel products* from Evansville, IN and Rockport, IN, to points in the U.S. (except AL, AK, GA, HI, KY, MD, MS, NC SC, TN, VA, WV, and DC), restricted to the transportation of traffic orginating at the named origin facilities; and (2) *materials and supplies used in the manufacture of the commodities in (1) above (except commodities in bulk, and those requiring special equipment),* from points in the U.S. (except AK and HI) to Evansville, IN and Rockport, IN, restricted to traffic destined to the named destination for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bootz Plumbing Fixtures, Inc., 1400 Park St., Evansville, IN 47710.

MC 146676 (Sub-II–1TA), filed January 7, 1980. Applicant: BURKS TRUCKING, INC., Post Office Box 37, Old Fort, OH 44861. Representative: Richard H. Brandon, 220 W. Bridge, Dublin, OH 43017. *Stero speaker cabinets, densified wood fuel and insulation board and materials, equipment and supplies used in their manufacture and sale* (except in bulk) between Tiffin, OH, on the one hand, and, on the other, points in DE, IL, MA, MD, NJ, NY, PA, CT, OR, and MT, for 180 days. Supporting shipper(s): Tiffin Enterprises, 458 2 Ave., Tiffin, OH 44883.

MC 123997 (Sub-II–1TA), filed December 11, 1979. Applicant: COMET FAST FREIGHT, INC., 101 Wellham Ave., Glen Burnie, MD 21061. Representative: Maxwell A. Howell, 1100 Investment Bldg., Washington, DC 20005. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, equipment and supplies utilized in the manufacturing, sale, and distribution of such commodities (except frozen commodities and commodities in bulk),* between the plantsite and warehouses utilized by The Clorox Co., at or near Frederick and Baltimore, MD, on the one hand, and, on the other, points in PA, NJ, and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Co., 1221 Broadway St., Oakland, CA 94612.

MC 119573 (Sub-II–1TA), filed January 4, 1980. Applicant: WATKINS TRUCKING, INC., 203–207 Trenton Ave., Uhrichsville, OH 44683. Representative: Richard H. Brandon, 220 W. Bridge St., Dublin, OH 43017. *Clay products and refractory products and materials and supplies used in the manufacture and installation of clay products and refractory products* between Carol Stream, IL, on the one hand, and, on the other, points in MN, MO, IA, IN, MI, OH, NY, PA, DE, ME, MD, WI, NH, NJ, RI, VT, DC, VA, CT, WV, KY, TN, and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corp., 300 S. Gary Ave., Carol Stream, IL 60187.

MC 144672 (Sub-II–1TA), filed December 7, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). *Such merchandise as is dealt in or used by wholesale, retail, chain and food business houses* from San Antonio, TX to Montgomery, AL; Santa Ana, CA; San Francisco, CA; Denver, CO; Jacksonville, FL; Atlanta, GA; Chicago, IL; Everett, MA; Jackson, MS; Conklin, NY; Portland, OR; Salt Lake City, UT; Seattle, WA; and Tacoma, WA, for 180 days. Supporting shipper(s): Church's Fried Chicken, Inc., 355 Spencer Lane, San Antonio, TX 78284.

MC 146423 (Sub-II–1 TA), filed December 26, 1979. Applicant: STEPHEN HROBUCHAK, d.b.a. TRANS-CONTINENTAL REFRIGERATED LINES, P.O. Box 1456, Scranton, PA 18503. Representative: George A. Olsen, P.O. Box 357, Galdstone, NJ 07934. (1) *Floor covering* from Whitehall and Fullerton (Lehigh County), PA; and (2) *Floor tile* from Vails Gate, NY to points in CA, AZ, NM, CO, WA, OR, for 180 days. Supporting shipper(s): GAF Corp., 1361 Alps Rd., Wayne, NJ 07470.

MC 116763 (Sub-II–1 TA), filed December 6, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Such commodities as are dealt in by paint and chemical coating manufacturers and wholesale retail paint stores and supply houses (except commodities in bulk, in tank vehicles)* between facilities of Standard T Chemical Co., located at or near Chicago Hts., IL, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at and destined to facilities of Standard T Chemical Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard T Chemical, 10 & Washington St., Chicago Hts., IL 60411.

MC 129086 (Sub-II–1TA), filed December 20, 1979. Applicant: SPENCER TRUCKING CORP., Route 2, P.O. Box 254A, Keyser, WV 26726. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., Washington, DC 20001. *Charcoal briquettes,* from the facilities of The Kingsford Co., at or near Parsons and Ridgley, WV, to Burnside, KY; Dothan, AL; and Belle, MO, and from the facilities of The Kingsford Co., at or near Burnside, KY; Dothan, AL; Belle, MO; St. Louis, MO; Columbus, OH; Atlanta, GA; Charlotte, NC; Chicago, IL; and Cleveland, OH; to points in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Co., 1700 Commonwealth Bldg., Louisville, KY 40202.

MC 142443 (Sub-II–1TA), filed November 30, 1979. Applicant: HOLSTON BROTHERS, INC., 13711 Travilah Rd., Rockville, MD 20850. Representative: Barry Roberts, 888 17 St., NW, Washington, DC 20006. Contract carrier, irregular routes: (1) *Landscape and garden supplies* from points in PA, VA, NJ, MD, WV, NC, NY, VT, GA, OH, IN, CO, CA, NM, NH, ME, and DE to points in NJ, DE, MD, WV, VA, DC, and NC for the account of Landscape Products and Building Suppliers, Inc., Silver Spring, MD; (2) *Building supplies* from points in OH and IN to points in NJ, DE, MD, WV, DC, and NC, for the account of Landscape Products and Building Supplies; Inc., Silver Spring, MD; (3) *Animal feed* from Everson, PA and Lancaster, PA to Gaithersburg, MD for the account of Gaithersburg Farmers Supply, Inc., and (4) *Agricultural, industrial and construction tractors, machinery and equipment* from Richmond, VA to Gaithersburg, MD for the account of Gaithersburg Farmers Supply, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gaithersburg Farmers Supply, 453 E. Diamond Ave., Gaithersburg, MD 20760. Landscape Products and Bldg., Supplies, 9221 Long Branch Parkway, Silver Spring, MD 20901.

MC 144513 (Sub-II–1TA), filed January 4, 1980. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Solvents and cleaning compounds (except in bulk),* from the facilities of National Solvent Corp. at Medina, OH to Birmingham, AL; St. Paul, MN; Peoria, IL; Memphis, TN; Cedar Rapids, IA; Milwaukee, WI; Shreveport, LA; Kansas City and St. Louis, MO; Fargo, ND; Sioux Falls, SD; Phoenix, AZ; Portland, OR; Hastings, NE; Denver, CO; Fort Smith, AR; Dallas and Houston, TX; Hattiesburg, MS; Atlanta, GA; Tampa and Ft. Lauderdale, FL, and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Solvent Corp., 955 W. Smith Rd., Medina, OH 44256,

MC 149043 (Sub-II–1TA), filed December 27, 1979. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Dr., Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030. *Vegetable oils, vegetable oil shortenings in bulk in tank vechicles* from the facility of Capital City Products Co., at Columbus, OH to points in the U.S. and materials and supplies used in the manufacture of vegetable oils and vegetable oil shortenings, in bulk, in tank vehicles from the destination named above to the facility of Capital City Products Co., at Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Capital City Products Co. a Division of Stokely Van Camp, Inc., P.O. Box 569, Columbus, OH 43216.

MC 38481 (Sub-II–1TA), filed December 5, 1979. Applicant: FARRUGGIO'S BRISTOL & PHILA. AUTO EXPRESS, INC., 1419 Radcliffe St., Bristol, PA 19007. Representative: Alan Kahn, Esq., 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *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) having a prior or subsequent movement by rail, water, or motor vehicle, between points in PA, DE, CT, NY, NJ, MD, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six supporting shippers.

MC 149208 (Sub-II–1TA), filed October 22, 1979. Applicant: FEMWORK, INC., P.O. Box 188, Millville, WV 25432. Representative: Michael E. Caryl, 206 W. Burke St., Martinsburg, WV 25401. Contract carrier, irregular routes: *Asphalt and other road building materials* between points in Loudoun, Clarke, and Frederick Counties, VA; Jefferson and Berkeley Counties, WV; and Frederick, Washington, and Montgomery Counties, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W&W Paving Co., Inc., P.O. Box 188, Millville, WV 25432.

MC 149239 (Sub-II–1TA), filed December 19, 1979. Applicant: FORT STEUBEN LIMOUSINE SERVICE CO., 420 Lee Rd., Follansbee, WV 26037. Representative: Owen Katzman, Suite 800 S.— 1800 M St., Washington, DC 20036. *Passengers and their baggage, in special operations, in vehicles limited to 10 passengers or less* between Greater Pittsburgh International Airport, in Alleghany County, PA, on the one hand, and, on the other, points in Hancock, Brooke, and Ohio Counties, WV (except Wheeling, WV) and points in Jefferson, Columbiana, and Harrison Counties, OH, for 180 days. Supporting shipper(s): There are 12 supporting shippers.

MC 149153 (Sub-II–1TA), filed January 24, 1980. Applicant: DANNY'S TWO-WAY, INC., 11663 Chester Rd., Cincinnati, OH 45246. Representative: Danny Watson (same address as applicant). Contract carrier, irregular routes: *Salt and salt products* from Cincinnati, OH and points in its commercial zone to points in IL, IN, KY, MI (Lower Peninsula), MO (points on and east of U.S. Hwy 63), OH, PA (points on and west of U.S. Hwy 15), WV (points on and west of Interstate Hwy 79 from the PA–WV State line on its intersection with Interstate Hwy 77 thence Interstate Hwy 77 to the WV–VA State line) and WI (points on and south of WI Hwy 33), for 180 days, under continuing contract(s) with Domtar Industries, Inc., Sifto Salt Division. An underlying ETA seeks 90 days authority. Supporting shipper(s): Domtar Industries, Inc., 9950 W. Lawrence Ave., Suite 400, Schiller Park, IL 60176.

MC 148860 (Sub-II–1TA), filed January 19, 1980. Applicant: D.M.T. TRUCKING, INC., 2700 Broening Highway, Baltimore, MD 21222. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. (1) *Automobiles, trucks, cabs, chassis and parts thereof, in secondary movements in truckaway service and (2) damaged and rejected shipments of the commodities in (1) above,* between Baltimore, MD, and points in its commercial zone, on the one hand, and, on the other, points in DE, MD, PA, VA, WV and DC, restricted to shipments having a prior or subsequent movement in foreign commerce, for 180 days. Supporting shipper(s): Mid-Atlantic Toyota Distributors, Inc., 6710 Baymeadow Drive, Glen Burnie, MD 21061.

MC 125813 (Sub-II–1TA), filed January 14, 1980. Applicant: CRESSLER TRUCKING, INC., 153 West Orange St., Shippensburg, PA 17257. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn. Ave. & 13th St., NW., Washington, DC 20004. (1) *Rock crushers, rock crusher parts, accessories and tools for rock crushers, and wooden patterns for rock crushers,* from Carlisle, PA, to points in AL, GA, IL, IN, NC, OH and SC; and (2) *scrap steel, raw materials used in the manufacture of rock crushers* (except commodities in bulk), *wooden patterns, rock crusher parts, and used, damaged or defective rock crushers,* from points in AL, GA, IL, IN, NC, OH and SC to Carlisle, PA, for 180 days. Supporting shipper(s): The Frog Switch & Manufacturing Co., P.O. Box 70, Carlisle, PA 17103.

MC 119864 (Sub-II–1TA), filed December 4, 1979. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Rd., Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Foodstuffs (except in bulk)* from Paw Paw, MI to Fostoria, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporing shipper(s): Michigan Quality Foods, Kalamazoo St., Paw Paw, MI.

MC 113666 (Sub-II–3TA), filed December 21, 1979. Applicant: FREEPORT TRANSPORT, INC., Drawer A, 1200 Butler Rd., Freeport, PA 16229. Representative: D. R. Smetanikc (same address as applicant). *Sodium chloride,* in bulk, from Retsof, NY to ports of entry on the International Boundary Line between the U.S. and Canada located in NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cyanamid Canada, Inc., 2255 Sheppard Ave., E., Willowdale, Ontario, Canada.

MC 113666 (Sub-II–4TA), filed December 21, 1979. Applicant: FREEPORT TRANSPORT, INC., P. O. Drawer A, Freeport, PA 16229. Representative: Daniel R. Smetanikc (same address as applicant). *Animal feed ingredients, in bags,* from Chattanooga, TN to Chicago, IL and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.

MC 96324 (Sub-II–1TA), filed January 2, 1980. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. *Malt beverages, malt beverage containers, advertising materials, pallets and material, equipment and supplies used in the production of malt beverages* (except commodities in bulk) between (1) Milwaukee, WI, on the one hand, and, on the other, points in OH, PA, and WV, and (2) between Winston Salem, NC, on the one hand, and, on the other, points in DE, NJ, NY, MA, RI, CT, MD, NH, PA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph Schlitz Brewing Co., 235 W. Galena St., Milwaukee, WI 53201.

MC 140294 (Sub-II–4TA), filed January 18, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Knocked-down metal lawn buildings, materials and supplies (except in bulk), used in the manufacture and distribution thereof,* between facilities of Roper Corp., located at or near Hagerstown, MD, on the one hand, and, on the other, points in VA, PA, RI, NJ, NY, CT, MA, WV, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roper Corp., 881 Pennsylvania Ave., Hagerstown, MD 21740.

MC 135524 (Sub-II–2TA), filed January 28, 1980. Applicant: G. F. TRUCKING COMPANY, 1028 West Rayen Ave., P.O. Box 229, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. *Conveyors, conveyor systems and accessories, parts, materials, supplies, and equipment,* from Birmingham, AL to Quemahoning Township, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Abex Corporation, 530 5th Ave., New York, NY 10036.

MC 129613 (Sub-II–2TA), filed January 24, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Malt beverages* from Eden, NC and its commercial zone to Cincinnati, OH and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. Dennert, Inc., 1330 Arlington, Cincinnati, OH.

MC 146704 (Sub-II–2TA), filed January 14, 1980. Applicant: FALCON MOTOR TRANSPORT INC., 1250 Kelly Avenue, Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). Contract carriage-irregular routes: (1) *Soap and cleaning compounds; fuel oil conditioners; ice control compounds: specialty cleaners and chemicals; automotive cleaners and waxes; fuel and oil additives; and household deodorants, and disinfectants (except commodities in bulk); and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk),* between the plantsites of Malco Products Co. located in Akron and Barberton, OH on the one

hand, and all points in the states of CT, DE, DC, MA, NH, NJ, NY, PA, RI and WV, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Malco Products, Inc., P.O. Box 892, Fairview Ave., Barberton, OH 44283.

MC 140159 (Sub-II–2TA), filed November 29, 1979. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Thomas M. Mulroy, Esq., 1500 Bank Tower, Pittsburgh, PA 15222. *Coal, in bulk, in dump vehicles,* from Reynoldsville, PA to Buffalo, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sugar Hill Limestone Co., 423 Grant St., Reynoldsville, PA 15851.

MC 113666 (Sub-II–2TA), filed January 25, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229. Representative: Daniel R. Smetanick (same as applicant). *Pesticides and insecticides (except in bulk* from Atlanta, IL to ports of entry on the International Boundary Line between the U.S. and Canada located at Detroit and Port Huron, MI, for 180 days. Supporting shipper(s): Cyanamid Canada, Inc., 2255 Sheppard Ave., Willowdale, Ontario M2J 4Y5.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

MC 116300 (Sub-3–1TA), filed February 12, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Granulated slag* from the facilities of Mineral Aggregates Co., Inc. located at or near Satsuma, AL to points in FL, GA, LA and MS. Supporting shipper: Mineral Aggregates Co., Inc., 8149 Kennedy Ave., Highland, IN 46322.

MC 31389 (Sub-31TA), filed February 14, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, Esquire, P.O. Box 213, Winston-Salem, NC 27102. *Common carrier,* regular routes, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving New Alexandria, PA as an off-route point in connection with applicant's regular route operations. Applicant requests tacking and interlining. Supporting shipper: Home Interiors and Gifts, Inc., 4550 Spring Valley Road, Dallas, TX 75234.

Note.—Applicant's subsidiary holds motor contract carrier authority in MC 147888 and therefore dual operations may be involved.

MC 148196 (Sub-3–1TA), filed February 11, 1980. Applicant: PACIFIC NORTHWEST CONTRACT CARRIERS, P.O. Box 197, Wetumpka, AL 36092. Representative: Jimmy Box (same address as applicant). *General commodities (except those of unusal value, Classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading issued by ABC-TNT,* a freight forwarder as defined in Section 10102(8) of the IC Act between points in CA, OR and WA and points in AL, FL, GA, LA, MS, NC, SC and TN. From Erie, PA to points in AL and TN. From Rochester, NY to Montgomery, IL and Seattle, WA. From Montgomery, IL to Birmingham, AL, Dallas, TX, Denver, CO, Los Angeles, CA, New Orleans, LA, Salt Lake City, UT, San Francisco, CA and Tampa, FL. Supporting shipper: ABC-TNT, 211 Alhambra Ave., Los Angeles, CA 90031.

MC 149250 (Sub-3–1TA), filed February 27, 1980. Applicant: H. H. SMITH FARMS, INC., 3325 Thomas Avenue, Montgomery, AL 36106. Representative: James D. Harris, Jr., Harris & Harris, P. A., 200 S. Lawrence Street, Montgomery, AL 36104. *Poultry and animal feed, and feed ingredients from residuary by-products of milling processes, such as, but not limited to, soy bean meal, cotton seed meal, and fish meal,* in bulk, in hopper type vehicles with gravity or auger unloading from the bottom only, between all points and places in AL, AR, FL, GA, LA, MS, and TN. Supporting shipper: Cargill, Inc., Nutrena Feeds, 3250 Fitzpatrick Avenue, Montgomery, AL 36108.

MC 148196 (Sub-3–2TA), filed February 29, 1980. Applicant: PACIFIC NORTHWEST CONTRACT CARRIERS, INC., P.O. Box 197, U.S. Highway 231 North, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, Carlton, Boles, Clark, Stichweh & Caddis, 727 Frank Nelson Building, Birmingham, AL 35203. (1) *insulating, weatherproofing, and roofing materials, and equipment and supplies for installation of same; and (2) materials and supplies used in the manufacture of the commodities listed in (1) above* (1) from B'ham, AL, Stanhope, NJ, and Orange, CA, to points in the United States; and (2) from points in the United States to B'ham, AL, Stanhope, NJ, and Orange, CA. Restricted: to services at the plant sites of United States Mineral Products Company. Supporting shipper: United States Mineral Products Co., Furnace St., Stanhope, NJ 07874.

MC 126305 (Sub-3–2TA), filed March 12, 1980. Applicant: BOYD BROTHERS TRANSPORTATION COMPANY, INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, PA, Transportation Consultant, P.O.Box 357, Gladstone, NJ 07934. *Insulation and Roofing Material* from the plantsite of Johns Manville Corporation, Rockdale, Illinois, to Mecklenburg County, North Carolina. Supporting shipper: Emack Slate Company, P.O. Box 9144, Birmingham, AL 35213.

MC 146451 (Sub-3–1TA), filed March 6, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE, Dothan, AL 36302. Representative: William K. Martin, Capell, Howard, Knabe & Cobbs, PA, 57 Adams Avenue, Montgomery, AL 36104. *Brushes, brooms and brush blocks, and materials, equipment and supplies used in manufacturing, packaging, distribution and display of brushes, brooms and brush blocks,* between the facilities utilized by National Brush Company, at or near Glasgow, KY, Panama City, FL, and Aurora, IL, on the one hand, and, on the other hand, all points in the US. Supporting shipper: National Brush Company, Inc., 101 West Illinois Ave., Aurora, IL 60507.

MC 125368 (Sub-3–4TA), filed March 10, 1980. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Mr. C. W. Fletcher (same address as applicant). *Slate products for Rising & Nelson Slate Co., Inc.,* from the facilities, at or near West Pawlet, Poultney and Fair Haven, VT on the one hand and on the other points in the U.S. except AK and HI. Supporting shipper: Rising & Nelson Slate Co., Inc. Route 153, P.O. Box 98, West Pawlet, VT 05775.

MC 144557 (Sub-3–1TA), filed March 11, 1980. Applicant: HUDSON TRANSPORTATION, INC., Post Office Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Mayonnaise, salad dressing and salad dressing products, mustard, ketchup, tartar sauce, gelatin and gelatin products, and materials, equipment and supplies used in the manufacture and distribution of the above commodities* (except in bulk), between the facilities of Hudson Industries, Inc., at or near Lexington, NC, on the one hand, and, on the other, points in the United States in and east of MI, WI, IL, KY, TN, and MS, for 180 days. Supporting shipper: Hudson Industries, Inc.

MC 142181 (Sub-3–1TA), filed March 13, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier,* irregular routes, (1) *Such commodities as are dealt in or sold by a manufacturer of metal products, and* (2) *equipment, materials, and supplies used in the conduct of such business* between Nashville, TN, on the one hand, and, points in AL, AR, FL, GA, IL, IN, IA, KA, KY, LA, MS, MO, NE, NC, OH, OK, SC, TN, TX, and VA, on the other, for 180 days. Supporting shipper: Cincinnati Sheet Metal and Roofing Company, 130 Nester St., Nashville, TN 37210.

MC 25798 (Sub-3–1TA), filed February 19, 1980. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Florida 33823. Representative: Tony G. Russell, Post Office Box 1186, Auburndale, Florida 33823. *Paper, paper products, and composite containers;* from the plantsite of Sonoco Products Company at or near Hartsville, SC, to points in Florida. Supporting shipper: Sonoco Products Company, North Second Street, Hartsville, SC.

NOTE.—Common Control may be involved.

MC 143789 (Sub-3–1TA), filed March 10, 1980. Applicant: MARTIN TRANSFER AND STORAGE, INC., P.O. Box 3008, East Dublin, GA 31021. Representative: C. E. WALKER, P.O. Box 7381, Columbus, GA 31908. *General commodities, except commodities in bulk, in shipper or railroad-owned trailers, having prior or subsequent movement by railroad,* Between railroad ramps located at Cordele, Macon, and Augusta, GA., on the one hand, and, on the other, the following counties in GA: Baldwin, Ben Hill, Berrin, Bibb, Bleckley, Burke, Crisp, Coffee, Dodge, Emanuel, Houston, Irwin, Jeff Davis, Jefferson, Johnson, Jones, Laurens, Montgomery, Peach, Pulaski, Richmond, Telfair, Tift, Toombs, Truetlen, Turner, Twiggs, Washington, Wheeler, Wilcox and Wilkinson. Supporting shipper: There are six appendix of support attached to this application and these may be reviewed at the Regional Office.

MC 105782 (Sub-3–1TA), filed March 10, 1980. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2160, Haines City, FL 33844. Representative: James E. Wharton, Attorney, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. *Frozen foods,* (except commodities in bulk), from the facilities of Southern Foods, Division of Seabrook Farms, Inc. at or near Montezuma, GA to points in CT, FL, IN, IL, MA, MI, NC, OH, RI, SC, TN, VA, and DC restricted to traffic originating at named origin. Supporting shipper: Southern Frozen Foods, Inc., P.O. Box 306 Plant St., Montezuma, GA 31063.

MC 107002 (Sub-3–2TA), filed March 10, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Representative: Larry M. Ford, P.O. Box 1123, Jackson, MS 39205. *Petroleum and petroleum products,* in bulk, in tank vehicles, from Memphis, TN and Olive Branch, MS to points in TX. Supporting shipper: Joseph M. McGarah and Associates, Inc., P.O. Box 30041, Memphis, TN 38130.

MC 150062 (Sub-3–3TA), filed March 10, 1980. Applicant: GEORGE J. MORTON d.b.a. MORTON TRUCKING COMPANY, 305 West Vine Street, Radcliff, Kentucky 40160. Representative: George M. Catlett, 708 McClure Building, Frankfort, Kentucky 40601. *Military vehicle parts and accessories* between the Ft. Knox Military Reservation, Ft. Knox, KY, on the one hand, and, on the other, Lima and St. Mary's, OH; Indianapolis, IN; Red River Arsenal Military Reservation at or near Texarkana, TX; Ft. Hood Military Reservation, Ft. Hood, TX; Aberdeen Proving Grounds, MD; Redstone Arsenal Military Reservation near Huntsville, AL; Stratford, CN; and Warren, Center Line and Sterling Heights, MI. Supporting shipper: Chrysler Corporation, XMI Field Office, P.O. Box 116, Ft. Knox, KY 40121.

MC 107002 (Sub-3–1TA), filed March 10, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Representative: Larry M. Ford, P.O. Box 1123, Jackson, MS 39205. *Methyl Methacrylate Monomer,* in bulk, from Memphis, TN to Blaine, WA. Supporting shipper: E. I. du Pont de Nemours and Co., 1007 Market St., Wilmington, DE 19898.

MC 143061 (Sub-3–1TA), filed March 10, 1980. Applicant: ELECTRIC TRANSPORT, INC., Post Office Box 528, Eden, North Carolina 27288. Representative: Archie W. Andrews, Executive Vice President, Post Office Box 528, Eden, North Carolina 27288. *Contract carrier,* over irregular routes, *Pneumatic tires and tubes.* From facilities of B. F. Goodrich Tire Co. at or near Miami, OK and Fort Wayne, IN to points in NC. Supporting shipper: Piedmont Truck Tires, Inc., P.O. Box 11037, Greensboro, NC 27409.

MC 47171 (Sub-3–2TA), filed March 10, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same as above address). *Paper and paper products; plastic articles,* between plant site of Daniels Packaging Co., Inc. near Hendersonville, NC, on the one hand, and, on the other, points in GA. Supporting shipper: Daniels Packaging Company, Inc., Box E, Mountain Home, NC 28758.

MC 121470 (Sub-3–1), filed March 12, 1980. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley, 801 Cowan Street, Nashville, TN 37207. *Sheet metal products,* from the plantsite and warehouse facilities of John McDougall Company, located at or near Nashville, TN to points in IA, WI, TX, OK, OH, KA, NE, IL, IN, MI, SC, VA, WV, PA, NY, NJ, DE, and MA. Supporting shipper(s): John W. McDougall Co., P.O. box 90207, Nashville, TN 37209.

MC 146646 (Sub-3–2TA), filed March 12, 1980. Applicant: BRISTOW TRUCKING COMPANY, P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Printed paper forms, and game tickets,* between Chicago, IL; Detroit, MI; Atlanta, Ga; Birmingham, AL on the one hand and on the other, points in the U.S. (Restricted to shipments originating or or destined to the facilities of Wallace International and its customers). Supporting shipper(s): Wallace International, P.O. Box 22226, Birmingham, AL 35226.

MC 115311 (Sub-3–1TA), filed February 15, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *Waste or scrap paper* from points in FL, KY, SC, NC, TN and VA to the facilities of Georgia Kraft Corp. at or near Macon, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mead Corporation, Courthouse Plaza Northeast, Dayton, OH 45463.

MC 145875 (Sub-3–1TA), filed March 12, 1980. Applicant: SWAIN AND SONS TRANSPORTS, INC., 208 Poplar Ave., Memphis, TN 38103. Representative: Willaim R. Swain, Jr., 208 Poplar Ave., Memphis, TN 38103. *Such commodities as are dealt in by wholesale and retail grocery houses,* from Memphis, TN, on the one hand, and, on the other, points in LA. Supporting shipper(s): There are seven supporters in this application.

MC 143621 (Sub-3–3TA), filed March 10, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue, North, Nashville, TN 37219.

Representative: Kim D. Mann, 7101 Wisconsin Avenue, Washington, D.C. 20014. *Earthmoving equipment, accessories, and related supplies* (1) from Peoria, Decatur, Joliet, Mossville, and Aurora, IL to the facilities of the Thompson Green Corporation at or near La Vergne, TN and (2) between the facilities of the Thompson Green Corporation at or near La Vergne, TN, on the one hand, and, on the other, points in AL, GA, KY, and TN for 180 days. Supporting shipper(s): Thompson Green Corporation, 1245 Firestone Boulevard, La Vergne, TN 37086.

MC 138308 (Sub-3–5TA), filed March 10, 1980. Applicant: KLM INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. (1) *such commodities as are dealt in or used by wholesale or retail food business houses;* (2) *foodstuffs;* and (3) *materials, equipment and supplies* used in the conduct of such business (except commodities in bulk) from Chicago, IL and points in its commercial zone to points in AL and MS for 180 dyas. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Topco Associates, Inc., 7711 Gross Pt. Rd., Skokie, IL 60077.

MC 146050 (Sub-3–1TA), filed March 10, 1980. Applicant: ALPHA & OMEGA TRANSPORT, INC., P.O. Box 31004, Charlotte, NC 28206. Representative: Eric Meierhoffer, Suite 423, 1511 K Street, NW., Washington, DC 20005. (1) *hospital supplies, drugs and health care products; and* (2) *materials and supplies used in the manufacture of* (1) *above (except in bulk),* from the facilities of Abbott Laboratories, Inc., Dept. located at or near Rock Mount, NC; Altavista, VA; and North Chicago, IL, to points in FL, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Abbott Laboratories, Inc., 277, 1400 Sheridan Road, North Chicago, IL 60064.

MC 139982 (Sub-3–2TA), filed March 10, 1980. Applicant: WILLIAMSON DELIVERY SERVICES, INC., Box 22032 AMF, Tampa, FL 22032. Representative: Travis W. Williamson (same address as applicant). *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment between Orlando Jetport, Orlando, FL on the one hand, and, on the other points in Indian River County, FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below and Headquarters.

MC 150245 (Sub-3–1TA), filed March 10, 1980. Applicant: BROWN'S SALVAGE, INC., Rt. 2, Box 157, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 236 East Capitol Street, P.O. Box 22807, Jackson, MS 39205. *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 Columbus, Tupelo and West Point, MS, on the one hand, and, on the other, points in Calhoun, Chicasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Prentiss, Pontotoc, Tippah, Union and Winston Counties, MS, and Marion County, AL. Restriction: restricted to the transportation of traffic having a prior or subsequent movement by rail. Supporting shipper(s): Illinois Central Gulf Railroad, P.O. Box 487, 101 Wallace St., Tupelo, MS 38801.

MC 125368 (Sub-3–3TA), filed March 10, 1980. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Mr. C. W. Fletcher, president (same address as applicant). *Joiner works for ships* from Hopeman Bros., Inc., Waynesboro, VA, to two points in CA. Supporting shipper(s): Mr. Charles N. Johnson, Jr., vice-president, Hopeman Bros., Inc., 435 Essex Ave., P.O. Box 820, Waynesboro, VA 22980.

MC 144069 (Sub-3–2TA), filed March 10, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, North Carolina 28225. Representative: W. T. Trowbridge, P.O. Box 5204, Charlotte, North Carolina 28225. *Iron and steel articles* between the facilities of Carolina Steel Corporation and its subsidiaries at or near Hickory, NC, Charlotte, NC, Winston Salem, NC, Greensboro, NC, Augusta, GA, Colfax, NC, Columbia, SC, Lynchburg, VA, Richmond, VA, Roanoke, VA, Wilson, NC, and Taylor, SC, on the one hand and on the other points in NC, SC, GA, FL, AL, TN, KY, OH, PA, WV, VA, MD, and DC. Supporting shipper: Carolina Steel Corporation, 1451 South Elm/ Eugene St., Greensboro, North Carolina 27406.

MC 124306 (Sub-3–2TA), filed March 10, 1980. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, North Carolina 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, North Carolina 27514. *Citric acid, chelating compounds, sodium citrate, gluconic acid* and *sorbitol,* from Brunswick County, NC to points in IL, IN, KS, LA, MO, NC, and OH for 180 days. Supporting shipper(s): Pfizer Inc., 235 East 42nd Street, New York, NY 10017.

MC 145560 (Sub-3–2TA), filed March 10, 1980. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Contract carrier,* irregular routes, *carpet,* from the facilities of Philadelphia Carpet Company, at or near Cartersville, GA, to points in AR, NV and CA, for 180 days. Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Philadelphia Carpet Company. Supporting shipper: Philadelphia Carpet Company.

MC 143621 (Sub-3–4TA), filed March 10, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue North, Nashville, TN 37219. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Washington, DC 20014. (1) *Lead ingots* from the facilities of Min Can at or near Muncie, IN, and (2) *lead, on spools,* from the facilities of Star Reloading Co. at or near Indianapolis, IN, to the facilities of Perfect Equipment Corporation at or near Murfreesboro, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Perfect Equipment Corporation, 855 Scott Street, Murfreesboro, TN 37130.

MC 61264 (Sub-3–1TA), filed March 10, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., a North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious and contaminating to other lading), Between Murphy, NC and Chatsworth, GA: from Murphy over U.S. Hwy 64 to junction U.S. Hwy 411, at or near Ocoee, TN, then over U.S. Hwy 411 to Chatsworth, and return over the same route, serving all intermediate points in GA and NC. Applicant intends to tack with its MC–61264 authority and to interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 3 statements of support attached to the application

which may be examined at the Interstate Commerce Commission at Washington, DC, or copies thereof which may be examined at the regional office named above.

MC 138106 (Sub-3–1TA), filed March 10, 1980. Applicant: TIDWELL MOTOR CARRIERS, INC., P.O. Box 639, Haleyville, AL 35565. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. (1)(a) *Trailers designed to be drawn by passenger automobiles in initial movements,* (b) *Buildings, in sections, when moving on their own undercarriages,* and (c) *Modular homes, when moving on their own or removable undercarriages;* (2) *Returned, disabled, wrecked and repossessed shipments of the commodities described in (1) (a), (b), and (c) above,* (1) from Wildwood, FL to points in the United States (except AK and HI) and (2) from points in the United States (except AK and HI) to Wildwood, FL, under a continuing contract with Tidwell, Inc. of Haleyville, AL, for 180 days. Supporting shipper: Tidwell Industries, Inc., P.O. Box 639, Haleyville, AL 35565.

MC 141450 (Sub-3–1TA), filed February 15, 1980. Applicant: OLIN WOOTEN CO., INC., Alma Highway, Hazlehurst, GA 31539. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *Waste or scrap paper,* from AL, FL, LA, NC, SC, and TN to the facilities of Georgia Kraft Corp., at or near Macon, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Mead Corporation, Courthouse Plaza Northeast, Dayton, OH 45463.

MC 144946 (Sub-3–1TA), filed February 25, 1980. Applicant: BIG T TRUCK SERVICE, INC., 5878 Buford Highway, Suite 5, Atlanta, Georgia 30360. Representative: Richard M Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers S, 3390 Peachtree Road, N.E., Atlanta, Georgia 30326. *Contract carrier,* irregular routes, *Such commodities as are dealt in by retail and chain grocery and food business houses (except frozen foods and commodities in bulk),* from the facilities of The Clorox Company, Forest Park, GA, to points in KY, under continuing contract(s) with the Clorox Company. Supporting shipper: The Clorox Company, 17 Lake Mirror Rd., Forest Park, GA 30050.

MC 115654 (Sub-3–1TA), filed March 7, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings, P.O. Box 23193, Nashville, TN 37202. *Candy, confectionery, and bakery goods* (except in bulk), from the facilities utilized by Acme Bonded Warehouse, at Atlanta, GA, and Nashville, TN, to Bristol, VA and points within its commercial zone, for 180 days. Supporting shipper: Acme Bonded Warehouse, Atlanta, GA.

MC 143621 (Sub-3–1TA), filed March 7, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, Nashville, Tennessee 37219. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Washington, D.C. 20014. (1) *lumber* and *wood products* from points in AL, AR, IL, IN, KY, MI, MO, MS, and OH to the facilities of Norvell Wood Products, Inc. at Nashville, TN, and (2) *lumber, treated lumber,* and *wood products* from the facilities of Norvell Wood Products, Inc. at Nashville, TN to points in AL, AR, IL, IN, KY, MI, MS, MO, and OH for 180 days. An underlying ETA seeks 90-day authority to transport laminated wood products from the facilities of Norvell Wood Products, Inc. at Nashville, TN to points in AL and KY. Supporting shipper: Norvell Wood Products, Inc., 318 Coleman Building, 3716 Hillsboro Road, Nashville, TN 37215.

MC 140389 (Sub-3–2TA), filed March 7, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. (1) *frozen foods,* from the facilities of Pure Packed Foods, Inc., at or near Arlington, TN, to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX and (2) *materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above,* from points in DE, GA, IL, IA, MD, MA, MO, NH, NJ, to the facilities of Pure Packed Foods, Inc. at or near Arlington, TN. Supporting shipper: Pure Packed Foods, Inc., P.O. Box 70, Arlington, TN 38002.

MC 148788 (Sub-3–1TA), filed March 7, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. (1) *General commodities* (except those of unusual value, Classes A & B Explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), in containers, reefers or dry, bonded or non-bonded or trailers having an immediate prior or subsequent movement by water and (2) *Empty containers, trailers and trailer chasses,* between Charleston, SC; Savannah, GA; Jacksonville, Orlando and Tampa, FL, for 180 days. Supporting shippers: Harrington & Company, Inc., P.O. Box 3157, Jacksonville, FL 32206. South Atlantic Terminals, Inc., 720 Gulf Life Tower, Jacksonville, FL 32207. Strachan Shipping Company, P.O. Box 4010, Jacksonville, FL. Thomas L. Watkins Custom House Brokers, P.O. Box 1194, Jacksonville, FL 32201.

MC 133993 (Sub-3–1TA), filed March 3, 1980. Applicant: Sand Mountain Auto Auction, Inc., P.O. Box 638, Boaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Automobiles,* in secondary movements, in truckaway service, between the commercial zones of Boaz, AL, Port Newark, NJ, Alexandria, VA, Miami, FL, Dallas, TX, Phoenix, AZ, Los Angeles, CA and Oakland, CA, on the one hand, and, on the other, all points in CA, AZ, NM, TX, LA, AR, OK, MS, AL, TN, GA, FL, SC, NC, VA, DC and MC; Restricted to shipments moving on Freight Forwarder bills of lading of Tn'T, Inc. Supporting shipper: TNT', Inc., 2818 S. Eastern Ave., Los Angeles, CA 90040.

MC 146402 (Sub-3–1TA), filed February 26, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, Tennessee 38301. Representative: Charles W. Teske (address same as applicant). *Wine* (except in bulk in tank vehicles) from Lodi, Napa, S. Helena, San Jose, and Sonoma, CA to the facilities of State wholesalers Inc. at Atlanta, GA. Supporting shipper: State Wholesalesrs Inc., 1990 DeFoor Ave., NW, Atlanta, GA 30318.

MC 146782 (Sub-3–2TA), filed February 26, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: James Rex Raines, 300 First Avenue, South, Nashville, Tennessee 37201. (1) *iron and steel articles (2) equipment materials and supplies used in manufacture of iron and steel articles* (except commodities in bulk) between the facilities of Harrington and King South, Inc., located at or near Cleveland, Tennessee, on the one hand, and, on the other, points in FL, GA, AL, SC, NC, VA, NJ, MI, IL, IN, OH, OK, AR, TX, PA, KY and WV. *Restricted* to traffic originating at or destined to the above named facilities. Supporting shipper: Harrington & King South, Inc., 3350 Old Tasso Rd., Cleveland, TN 37311.

MC 138882 (Sub-3–5TA), filed February 19, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: Mr. John J. Dykema, P.O. Drawer 707, Troy, Alabama 36081. *Such*

commodities as are dealt in and sold by wholesale tire and rubber distributorships (except commodities in bulk in tank vehicles). Between the facilities of Harris Tire and Rubber Co., Inc., located at or near Troy, AL, Birmingham, AL, Jackson, MS, Atlanta, GA, and Charlotte, NC, and their suppliers and customers, located in the states of AL, FL, GA, SC, NC, TN, KY, MS, LA, TX, MO, IL, and VA. Supporting shipper: Harris Tire and Rubber Co., Inc., 1100 South Brundidge Street, Troy, AL 36081.

MC 2473 (Sub-3–2TA), filed February 22, 1980. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Road, Lexington, North Carolina 27292. Representative: Homer M. Curry, Green Needles Road, Lexington, North Carolina 27292. *Textiles and textile products* from Asheville, N.C. to points in New Jersey, points in New York within 20 miles of New York, N.Y., including New York, N.Y. and to Union County, PA., and points in Pennsylvania on and east of a line along the west bank of the Susquehanna River beginning at the Pennsylvania-Maryland State Line and extending north to U.S. Highway 6, then east along U.S. Highway 6 to the Pennsylvania-New Jersey State Line, then south along the Pennsylvania-New Jersey State Line to the Pennsylvania-Maryland State Line then west along this line to the point of beginning. Supporting shipper: Channel Textile Company, Inc., 1412 Broadway, New York, NY 10018.

MC 125375 (Sub-3–1TA), filed February 19, 1980. Applicant: F.B.G. TRANSPORT, INC., Route 5, Box 298, Covington, GA 30209. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. *Frozen citrus concentrate, fruit sections, and chilled salads,* from points in FL to the facilities of Farm Land Dairies, Inc. at or near Wallington, NJ for 180 days, under a continuing contract(s) with Farm Land Dairies, Inc., Wallington, NJ. Supporting shipper: Farm Land Dairies, Inc., 520 Main Avenue., Wallington, NJ 07057.

MC 107515 (Sub-3–2TA), filed March 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. (1) *Light bulbs and lighting fixtures, and (2) materials, equipment and supplies* used in the manufacture, distribution and sale of the commodities in (1) above (except in bulk) from the facilities of Action Tungsram, Finderne and East Brunswick, NJ to points in the US in and east of ND, SD, NE, KS, OK and TX (except CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC) for 180 days. Supporting shipper: Action Tungsram, 11 Elkins Road, East Brunswick, NJ 08816.

MC 26088 (Sub-3–1TA), filed March 7, 1980. Applicant: THE SANDERS TRUCK TRANSPORTATION CO., INC., P.O. Box 457, Augusta, GA 30903. Representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. *Cranes, crane parts, machinery, machinery parts, fork-lifts, welding machines, air compressors, dollies, boilers, boiler parts, pumps, steel beams, steel bins, and steel,* between the facilities of Carolina Cranes, Inc. in Aiken and Edgefield Counties, SC; Richmond and Columbia Counties, GA on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper: Carolina Cranes, Inc., 3542 Pebble Beach Drive, Martinez, GA 30907.

MC 107515 (Sub-3–4TA), filed March 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Marc A. Pearl, Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. (1) *Electrical fluorescent and high intensity discharge lighting fixtures and equipment,* and (2) *parts and accessories* for the commodities in (1) above, from the facilities of Metalux at or near Americus, GA and Eufaula, AL to points in the U.S. (except HI and AK) for 180 days. Supporting shipper: Gibson-Metalux Corporation, P.O. Box 1207, Americus, GA 31709.

MC 109462 (Sub-3–1TA), filed March 7, 1980. Applicant: LUMBER TRANSPORT, INC., Highway 85, East, Madisonville, KY, 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY, 42431. (1) *Contractors materials, equipment* and *supplies* (except in bulk); (2) *self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies (restricted to the transportation of commodities which are transported on trailers); (3) *commodities*, the transportation of which because of size or weight require special equipment; and (4) *commodities*, which do not require the use of special equipment, when moving in the same shipment on the same bill of lading as commodities in (2) and (3) above, between points in Jackson, Platte, Clay, Cass, Ray, Johnson, Bates, Henry, La Fayette, Clinton, Caldwell, Jasper, Greene and Buchanan Counties, MO and Wyandotte, Johnson, Leavenworth, Douglas, Miami, Franklin, Coffey, Osage, Shawnee, Jefferson, Jackson, Brown, Doniphan, Anderson, Atchison, Sedgwick and Linn Counties, KS, on the one hand, and, on the other, points in KS and MO, for 180 days. Supporting shippers: There are four supporting shipper statements attached to this application.

MC 138157 (Sub-3–8TA), filed March 7, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *Refrigerated bottle and can vending machines and materials, equipment and supplies for bottle and can vending machines,* from Chattanooga, TN to points in the United States in and east of ND, SD, NE, KS, OK & TX. Supporting shipper: Cavalier Corp., 1100 E. 11th St., Chattanooga, TN 37403.

Note.—Applicant holds contract carrier authority in MC–134150 and subs thereunder, therefore, dual operations may be involved.

MC 136501 (Sub-3–1TA), filed March 7, 1980. Applicant: JETWAY CARRIERS, INC., 5865 Jetway Drive, Arlington, TN 38002. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Contract carrier, over irregular routes, *Confectionaries, and cough drops; materials, equipment, and supplies used in the manufacture thereof,* from the facilities of Luden's, Inc. at or near Reading, PA to points in the states of WV, OH, KY, MI, IN, TN, AL, MS, LA, AR, OK, TX, WI, IL and GA. Supporting shipper: Luden's. Inc., 200 North 8th St., Reading, PA.

MC 115311 (Sub-3–3TA), filed February 19, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Alcoholic liquors (except in bulk)* from Asheville, NC; Baltimore, MD: Bardstown, KY; Boston, MS; New York, NY; Chicago, IL; Clermont, KY; Cincinnati, OH; Falmouth, KY; Cleveland, OH; Colinial Heights, VA; Dayton, NJ; Detroit, MI; Edison, NJ; Frankfort, KY; Hammondsport, NY; Lansdowne, MD; Lawrenceburg, IN; Lawrenceville, NJ; Lawrenceburg, KY; Lawrenceburg, TN; Linden, NJ; Linfield, PA; Loretto, KY; Louisville, KY; Lynchburg, TN; Mobile, AL; New Orleans LA; Owensboro, KY; Pekin, IL; Philadelphia, PA; Plainfield, IL; Raleigh, NC; Schenley, PA; Scobeyville, NJ; Tullahoma, TN (and their respective commercial zone) to Montgomery, AL (and its commercial zone) for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: State of Alabama Alcoholic

Beverage Control Board, P.O. Box 1151, Montgomery, AL 36130; Medley Distilling Co., P.O. Box 838, Lousiville, KY 40201; Brown-Forman Distillers Corp. P.O. Box 1080, Louisville, KY 40201; Julius Wile Sons & Co., Inc., 3003 New Hyde Park Road, New Hyde Park, NY 11042; Somerset Importers Ltd., 1114 Avenue of the Americas, New York, NY 10036; Hiram-Walker & Sons, Inc., Foot of Edmund Street, Peoria, IL 61601; Glenmore Distilleries Company, P.O. Box 900, Louisville, KY 40201; Joseph E. Seagram & Sons, Inc., 800 Third Avenue, New York, NY 10022; Schenley Distillers, Inc., 36 E. 4th Street, Cincinnati, OH 45202 and Renfield Importers, Ltd., 919 Third Avenue, New York, NY 10022.

MC 148360 (Sub-3–1TA), filed February 28, 1980. Applicant: PDR TRUCKING, INC., 6048 South York Road, Highway 321 South, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Contract carrier,* irregular routes *(1) department store merchandise, and (2) new furniture,* (1) from Charlotte, NC and points in its commercial zone to Cleveland, OH and points in its commercial zone; and (2) from Burke, Randolph, Catawba, Alexander, Lincoln, Caldwell, and Guilford Counties, NC to Cleveland, OH and points in its commercial zone, under a continuing contract(s) with The May Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The May Company, 158 Euclid Avenue, Cleveland, OH 44114.

MC 150010 (Sub-3–1TA), filed March 4, 1980. Applicant: HENRY FAIRCLOTH TRANSFER, INC., 521 N. John St., Goldsboro, NC 27530. *General commodities* (except Class A and B explosives and motor vehicles), in trailers, having prior or subsequent transportation via railroad flat cars (TOFC), between the railroad TOFC facilities at Asheville, Charlotte, Fayetteville, Greensboro, Raleigh, Rocky Mount and Smithfield, NC, on the one hand, and, on the other, points in NC. An underlying ETA seeks 90 days authority. Supporting shippers: Funk Seeds International, Hwy 117 S. Bypass, Goldsboro, NC 27530; Linde Products Mfg. Co., 1 Linde Dr., Goldsboro, NC 27530; Best Distributing Co., Hwy 117 N. Bypass, Goldsboro, NC 27530; Swift Ag. Chemicals Corp., P.O. Box 1038, Goldsboro, NC 27530; Keebler Company, N. George St., Goldsboro, NC 27530; Franklin Baking Co., Inc., P.O. Drawer 228, Goldsboro, NC 27530.

MC 107515 (Sub-3–2TA), filed February 14, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Aluminum and aluminum products,* from the plantsite of Consolidated Aluminum Co. at or near Benton, KY to points in the US for 180 days. Supporting shipper: Consolidated Aluminum Corporation, P.O. Box 14448, St. Louis, MO 63178.

MC 107515 (Sub-3–1TA), filed February 14, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Aluminum and aluminum products* from the facilities of Norandal U.S.A., Inc., at or near Huntingdon, TN to points in AL, AZ, AR, CA, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, NE, NJ, NY, OH, OK, PA, RI, NC, SC, TX, VA, WV and WI, for 180 days. Supporting shipper: Norandal U.S.A., Inc., P.O. Box 123, Huntingdon, TN 38344.

MC 104430 (Sub-3–1TA), filed February 20, 1980. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Robert L. McArty, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Petroleum products,* in bulk, in tank vehicles, from Pascagoula, MS to Spartanburg, SC. Supporting shipper: Chevron U.S.A., Inc., 575 Market Street, San Francisco, CA 94105.

MC 143956 (Sub-3–2TA), filed February 20, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, S.C. 29488. Representative: Steven W. Gardner, P.O. Drawer 493, Walterboro, SC 29488. *Lead and alloys between Manville, RI,* on the one hand, and Darien, WI, Los Angeles, CA, points in PA, and points in IN, on the other hand. Supporting shipper: New Metal Industries, Inc., 18 Albion Rd., P.O. Box 208, Manville, RI 02838.

MC 108651 (Sub-3–2TA), filed March 5, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Fertilizer and fertilizer materials, except in bulk,* from the facilities of International Minerals, and Chemical Corp., at Greenville, TN, to points in VA in and west of Bland, Wythe and Grayson Counties. Supporting shipper: International Minerals and Chemical Corp., Bohannon Avenue, Greenville, TN 37743.

MC 143956 (Sub-3–1TA), filed March 5, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, S.C. 29488. Representative: Steven W. Gardner, P.O. Drawer 493, Walterboro, S.C. 29488. *Welding products, products affiliated therewith, and products dealt in by welding distributors* (1) from Skokie, IL, to points in CO, FL, GA, ID, IN, IA, MI, KS, MN, MS, NE, ND, OH, OK, SD, TN, and WI, and (2) between Monticello, IN, and Hanover, PA, on the one hand, and points in CO, FL, GA, ID, IN, IA, MI, KS, MN, MS, NE, ND, OH, OK, SD, TN, and WI, on the other hand. Supporting shipper: MIDARC, Inc., 7201 Linder Ave., Skokie, IL 60077.

MC 129537 (Sub-3–1TA), filed February 28, 1980. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Carpeting, floor covering, carpet padding, materials, supplies and equipment used in the installation and manufacture thereof,* between points in Lubbock Co., TX on the one hand, and, all points in NM on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 12 statements in support attached to this application which may be examined in the field office named below.

MC 147474 (Sub-3–1TA), filed February 26, 1980. Applicant: SOUTHWIRE COMPANY, Transportation Division, 126 Fertilla Street, Carrollton, Georgia 30117. Representative: Mr. Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, Georgia 30303. *Plastic articles, copper rod, wire, paint* from on the one hand; Abingdon, VA.; Roanoke, VA.; Houston, TX; Cape Girardeau, MO.; Forest City, NC.; Frankfort, Ind.; St. Louis, MO.; Schenectady, N.Y.; Ft. Wayne, Ind.; El Paso, TX.; and Chatham, N.Y.; and on the other hand, all points in Georgia. Supporting shipper: Hudson Wire Company, P.O. Box 129, Trenton, GA 30752.

MC 140176 (Sub-3–2TA), filed March 5, 1980. Applicant: POWELL TRUCKING COMPANY, INC., Route 2, Box 13, Sumrall, MS 39482. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Air compressors, parts and accessories* from the facilities of Sullair Corporation at or near Michigan City, IN to points in AL, points in AR which lie on and south of a line formed by Interstate Hwy 40 and Interstate Hwy 30; points in FL, LA, MS and points in TX on and east of a line formed by Interstate Hwy 35 and

Interstate Hwy 35W. Supporting shipper(s): Sullair Corporation, Michigan City, IN 46360.

Note.—Applicant intends to serve points in commercial zones of cities located on highway boundaries described in States of AR and TX as well as all points in other States listed. Dual operations may be involved.

MC 148872 (Sub-3–1), filed February 26, 1980. Applicant: H.O.H. COMPANY, INC., P.O. Box 637, Rossville, GA 30741. Representative: C. Jack Pearce, Esq., 1000 Connecticut Ave., NW., Washington, DC 20036. *Floor covering, floor tile, and the materials used in the manufacturing and distribution thereof,* between points in GA and TN, on the one hand, and, on the other, points in IA, MN, WI, MI, ND and SD. Supporting shipper(s): Lowe's Carpet Corporation, P.O. Box 97, Charsworth, GA 30705.

MC 120910 (Sub-3–1TA), filed February 19, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Hazardous waste material; industrial waste material and debris categorized as hazardous or potentially hazardous* as defined by Pub. L. 94–580, known as the Resource and Conservation Act of 1976, from all points in and east of ND, SD, NE, KS, OK and TX to hazardous waste disposal sites in Sumter County, AL. Supporting shipper(s): Chemical Waste Management, Inc., P.O. Box 55, Emelle, AL 35459

MC 138882 (Sub-3–1TA), filed February 26, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy AL 36081. Representative: John J. Dykema, P.O. Drawer, 707 Troy, Alabama 36081. *Materials, equipment and supplies used in the manufacture of tire changers and wheel weights* from San Jose, CA to LaVergne, TN. Supporting shipper(s): Sun Electric Corporation—Rutherford Assembly, 1000 Sun Park Drive, LaVergne, TN 37096.

MC 138882 (Sub-3–3TA), filed February 25, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy AL 36081. Representative: John J. Dykema, P.O. Drawer 707, Troy, Alabama 36081. *Non-ferrous metal scrap* (except commodities in bulk, in tank vehicles) between points in the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV and WI. Supporting shipper(s): Metal Processors, Inc., 16100 Chesterfield Village Parkway, Suite 270, Chesterfield, MO 63107.

MC 138882 (Sub-3–2TA), filed February 25, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema, P.O. Drawer 707, Troy, Alabama 36081. *Canned goods and materials, equipment and supplies* used in the manufacture or sale of canned goods between Lindale, TX on the one hand, and, on the other, points in the states of AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and WV. Supporting shipper: Woldert Canning Co., P.O. Box 1140, Tyler, TX 75710.

MC 94201 (Sub-3–1TA), filed February 28, 1980. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Georgia 30316. Representative: Maurice F. Bishop, Esq., 601–09 Frank Nelson Building, Birmingham, Alabama 35203. *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 Memphis, TN and Raleigh, NC: From Memphis over U.S. Highway 64 (also Interstate 40) to Raleigh, NC, and return over the same route. Between Chattanooga, TN and Nashville, TN: (a) From Chattanooga over Interstate 24 (also U.S. Highway 41) to Nashville, and return over the same route. Between Chattanooga, TN and Bristol, TN: From Chattanooga over Interstate 75 to junction Interstate 81, at or near Knoxville, TN, then over Interstate 81 to Bristol, and return over the same route. (b) From Chattanooga over U.S. Highway 11 to junction U.S. Highway 11E and 11W, at or near Knoxville, TN, then over U.S. Highway 11E (also U.S. Hwy. 11W) to Bristol, and return over the same route. Between Knoxville, TN and Wilmington, NC: From Knoxville, over Interstate 40 to Asheville, NC, then over U.S. Highway 74 to Wilmington, and return over the same route. Between Fayetteville, NC and Bristol, TN: From Fayetteville over NC Highway 87 to junction U.S. Highway 421, at or near Sanford, NC, then over U.S. Highway 421 to Bristol, and return over the same route. Between Winston-Salem, NC and Elizabeth City, NC: From Winston-Salem over U.S. Highway 158 to Elizabeth City, and return over the same route. Between Wilson, NC and Raleigh, NC: From Wilson over NC Highway 42 to junction U.S. Highway 70, at or near Clayton, NC, then over U.S. Highway 70 to Raleigh, and return over the same route. Service in connection with the above described routes is authorized to and from all intermediate and all off-route points in NC and TN. Supporting shipper: None. The purpose of this application is to eliminate the present Bowman Transportation, Inc. certificate requirement that traffic moving between points in TN, on the one hand, and, on the other, points in NC use as a gateway any points in SC.

MC 128117 (Sub-3–3TA), filed February 29, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. *New furniture* (1) from points in Catawba County, NC to points in AR, LA, and CO, and (2) from points in Lincoln County, NC to points in AR, LA, TX, OK, NM, AZ, NV and CO. Supporting shipper: Trend Line Furniture Corp., P.O. Box 188, Hickory, NC 28601.

MC 47171 (Sub-3–1TA), filed February 29, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Toilet preparations and raw materials used in the manufacture thereof, including plastic bottles* (except in bulk) between Royston, GA on the one hand, and, on the other, points in NJ. Supporting shipper: Johnson & Johnson Baby Products Company, 240 Centennial Avenue, Piscataway, NJ 08854.

MC 150144 (Sub-3–2TA), filed February 29, 1980. Applicant: SOUTHERN TRANSPORT, INC., P.O. Box 638, Statesboro, GA 30458. Representative: William Q. Keenan, Arsham & Keenan, 277 Park Avenue, New York, NY 10017, (212) 759–1000. *Foodstuffs and such general merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith equipment, materials and supplies used in the conduct of such business,* except articles of unusual value, used household goods, commodities in bulk, and commodities in tank vehicles: *between the facilities of T. J. Morris Co. in Statesboro, GA on the one hand and on the other, points in the United States.* Supporting shipper: T. J. Morris Company, P.O. box 638, U.S. 301 South, Statesboro, GA 30458.

MC 150193 (Sub-3–1TA), filed February 25, 1980. Applicant: DARICA TRUCKING CO., INC., 338 S. Oliver Street, Elberton, Georgia 30635. Representative: Bruce E. Mitchell and Marc A. Pearl, Serby & Mitchell, P.C., Suite 520, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Lumber and plywood* between the facilities of Woodkraft, Incorporated at or near Madison, GA, and Greenville, GA, on the one hand, and, on the other,

points in the United States in and east of MN, IA, NE, KS, OK and TX. Supporting shipper: Woodkraft, Incorporated, P.O. Box 2489, Peachtree City, GA 30269.

MC 148490 (Sub-3–3TA), filed March 3, 1980. Applicant: C & N EVANS TRUCKING COMPANY, INC., Route 2, Box 39–E, Stoneville, NC 27048. Representative: Clarence B. Evans, President, C & N Evans Trucking Company, Inc., Route 2, Box 39–E, Stoneville, NC 27048. *Containers and packing material* between points in NC, GA, and NY. Supporting shipper: Miller Brewing Company, 3939 West Highland Boulevard, Milwaukee, WI 53201.

MC 117416 (Sub-3–5TA), filed March 3, 1980. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue, NW., Knoxville, TN 37921. Representative: Herbert Alan Dubin, Baskin and Sears, 1320 Fenwick Lane, Silver Spring, MD 20910. (1) *Such commodities as are dealt in by wholesale, retail and chain, grocery, drug, and food business houses and* (2) *materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in* (1) *above (except in bulk)* between the facilities of Hunt-Wesson Foods, Inc. at or near Chicago, IL and Toledo, OH, on the one hand, and on the other, points in IN and KY. Supporting shipper: Hunt-Wesson Foods, Inc., Box 127, Rossford, OH 43460.

MC 149287 (Sub-3–1TA), filed February 20, 1980. Applicant: TURNER BROS. (Partnership of CARL E. TURNER and LEROY E. TURNER), 100 Tower Road, Cumming, GA 30130. Representative: Theodore M. Forbes, Jr., Gambrell, Russell & Forbes, 4000 First National Bank Tower, Atlanta, GA 30303. *Poultry rearing equipment, poultry processing equipment and materials for the production of poultry rearing equipment, and/or poultry processing equipment,* to farm sites, dealers and/or plant sites in shipper owned or leased trailers between the plantsite of U.S. Agri-Business Company, U.S. Industries, Inc. at or near Alpharetta, GA and points in the United States (except AK and HI). Supporting shipper: U.S. Industries, Inc., Post Office Office box 888347, Atlanta, GA 30338.

MC 134978 (Sub-3–1TA), filed February 19, 1980. Applicant: C. P. BELUE, d.b.a. BELUE'S TRUCKING, Route 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Coal,* from Spartanburg, South Carolina to Lyman, South Carolina. Supporting shipper: Lyman Printing & Finishing Co., Division of M. Lowenstein Corp., Box 10352, Rock Hill, SC 29730.

MC 116947 (Sub-3–3TA), filed March 4, 1980. Applicant: SCOTT TRANSFER CO., INC., 1190 Sylvan Road, Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, GA 30342. Contract carrier, irregular routes, *Industrial cleaners, deodorizers, weed-killers, insecticides, and materials and supplies, used in the sale of the named commodities,* between points in Fulton County, GA on the one hand, and, on the other, points in OH, PA, IN, and IL, for 180 days. Supporting shipper: Oxford Chemicals, Inc., 5001 Peachtree Industrial Blvd., Chamblee, GA 30341.

MC 150197 (Sub-3–1TA), filed February 28, 1980. Applicant: LUTHER E. SPOONER, JR., d.b.a. LUKE SPOONER TRUCKING CO., Route 1, Box 4B, Donaldsville, GA 31745. Representative: Same. *Dry fertilizer, lime and land plaster,* from Donaldsville, GA to points in FL, including Marianna, Cabbage Grove, White Springs and Port St. Joe and to points in AL, including Auburn. Supporting shipper: Seminole Notrogen Co., P.O. Box 373, Donaldsville, GA 31745; Agri Services, P.O. Box 574, Donaldsville, GA 31745; Farmers Mutual Exchange, P.O. Box 397, Donaldsville, GA 31745.

MC 138635 (Sub-3–1TA), filed February 29, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, GA 28052. Representative: W. C. Sutton, P.O. Box 3995, Gastonia, NC 28052. *Glass fiber, roving, and strand* from Charlotte, NC to points in TX, AZ, NM, CA, OR, WA, MT, ID, UT, NV, CO, and WY for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 138157 (Sub-3–6TA), filed February 29, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, commodities injurious or contaminating to other lading and frozen foods), from Seattle, WA to points in CA, and points in and east of ND, SD, NE, KS, OK and TX. Restrictions: Restricted to traffic originating at the facilities of Bostrum-Warren, Inc. Supporting shipper: Bostrum-Warren, Inc., 920 2nd Ave., Suite 406, Seattle, WA 98104.

MC 2900 (Sub-3–1TA), filed February 29, 1980. Applicant: RYDER TRUCK LINES, INC.; 2050 Kings road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., (same address as applicant). *Foodstuffs,* between Pennsylvania and New York on the one hand, and on the other, points in the United States. Supporting shippers: Roger D. Peters, General Manager/Treasurer, Keystone Foods, Inc., 63 Wall Street, North East, PA 16428; James A. Muscato, Traffic Manager, Cliffstar Corporation, One Cliffstar Avenue, Dunkirk, NY 14048.

MC 19105 (Sub-3–1TA), filed February 28, 1980. Applicant: FORBES TRANSFER CO., INC., Post Office Box 3544, Wilson NC 27893. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Pipe, pipe fittings and related articles,* from the facilities of Charlotte Pipe and Foundry Company, at or near Charlotte and Bakers, NC, to points in the United States in and east of MI, IN, KY, TN, AR and LA. Supporting shipper: Charlotte Pipe and Foundry Company.

MC 139917 (Sub-3–1TA), filed February 27, 1980. Applicant: SEARAIL, INC., 701 South Royal Street, Mobile, AL 36601. Representative: George M. Boles, Carlton, Boles, Clark, Stichweh & Caddis, 727 Frank Nelson Bldg., Birmingham, AL 35203. *General commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), having an immediately prior or subsequent movement by rail, between Meridian, MS, on the one hand, and, on the other, points in AL, LA, MS, and those in FL west of the Apalachicola River; and between Jackson, MS, on the one hand, and, on the other, points in AL, LA, MS, and those in FL west of the Apalachicola River. Supporting shippers: There are 18 support statements which may be reviewed in the Atlanta, GA, ICC Authority Center.

MC 115162 (Sub-3–1TA), filed February 27, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Plastic and plastic articles and materials and supplies used in the manufacture and distribution of plastic and plastic articles* (except commodities in bulk, in tank vehicles) between Evansville, IN on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Engineered Plastics Corp.; 2521 Lynch Road; Evansville, IN 47711.

MC 146281 (Sub-3–1TA), filed February 25, 1980. Applicant: SILVER FLEET EXPRESS, INC., P.O. Box 6089,

4521 Rutledge Pike, Knoxville, TN. 37914. Representative: Blaine Buchanan, Attorney, 1024 James Building, Chattanooga, TN 34702. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk,* commodities which because of size or weight require the use of special equipment), serving Etowah, TN and points in its Commercial Zone as off-route points in connection with applicant's otherwise authorized regular route operations between Knoxville, TN and New Orleans, LA. Supporting shippers: There are seven (7) statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, Georgia.

MC 121470 (Sub-3–2TA), filed February 27, 1980. Applicant: TANKSLEY TRANSFER CO., 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *(1) air conditioning equipment, furnances, and component parts and accessories therefor, and (2) materials, equipment and supplies used in the distribution and installation of the commodities in (1) above,* from the facilities of Carrier Corp., at Warren, Davidson and Rutherford Counties, TN, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, VA and WV, restricted to the transportation of traffic originating at said facilities and destined to said points. Supporting shipper: Carrier Corp., P.O. Box 4808, Syracuse, NY 13221.

MC 144027 (Sub-3–1TA), filed February 19, 1980. Applicant: WARD CARTAGE & WAREHOUSING, INC., Route 4, Glasgow, KY 42141. Representative: Henry E. Seaton, 929 Pennsylvania Ave., Washington, D.C. 20004. *Automotive parts used in the manufacturing, maintenance and repair of motor vehicles* between points in KY and TN, on the one hand and Dayton, OH and Detroit, MI and points in their commercial zones on the other. Carrier proposes to interline at Louisville, KY, Cincinnati, OH, and Nashville, TN. Supporting shipper: Chrysler Corporation, Operations-Planning Office, Transportation and Traffic Dept., P.O. Box 1976, Detroit, MI 48288.

MC 142053 (Sub-3–1TA), filed February 22, 1980. Applicant: NORTH GEORGIA BUS LINES, INC., 1160 Allene Avenue, S.W., Atlanta, GA 30310. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree Street, N.E., Atlanta, GA 30309. (1) *passengers and their baggage, and express,* between Atlanta, GA and Anderson, SC: from Atlanta, GA over U.S. Hwy. 29 to Athens, GA, then over U.S. Hwy. 129 to Jefferson, GA, then over GA Hwy. 15 to Commerce, GA, then over GA Hwy. 98 to Danielsville, GA, then over U.S. Hwy. 29 to Royston, GA, then over GA Hwy. 145 to Carnesville, GA, then over I–85 to Lavonia, GA, then over GA Hwy. 77 to Hartwell, GA, then over U.S. Hwy. 29 to Anderson, SC, and return over the same route, serving all intermediate points, and serving points in Clayton, Cobb, DeKalb, Fulton, Gwinnett, Barrow, Clarke, Jackson, Madison, Franklin and Hart Counties, GA, and Anderson County, SC, as off-route points; and, (2) *passengers and their baggage,* in special and charter operations, in round-trip movements, beginning and ending at points in Clayton, Cobb, DeKalb, Fulton, Gwinnett, Barrow, Clarke, Jackson, Madison, Franklin and Hart Counties, GA, and Anderson County, SC and extending to points in the United States, including AK but excluding HI. Supporting shipper: the application is supported by 46 church, civic and social groups, individuals, and corporations.

MC 144688 (Sub-3–3TA), filed February 22, 1980. Applicant: READY TRUCKING, INC., 2717 Campbell Blvd., Ellenwood, GA 30049. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except commodities in bulk and those requiring refrigeration), from the facilities of Hunt-Wesson Foods, Inc., at or near Memphis, TN, to points in AL. Supporting shipper: Hunt-Wesson Foods, Inc., Donna Harris, Distribution Specialist, P.O. Box 61770, New Orleans, LA, 70161.

MC 144168 (Sub-3–1TA), filed February 25, 1980. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL. 35055. Representative: Michael M. Knight (same as above). *Such commodities as are dealt in by Super Markets and Drug Stores* Between the facilities of Bruno's, Inc. in AL, GA, FL, TN, on the one hand and on the other points in CA, AZ, TX, LA, MS, AL, GA, FL, TN, NC, SC, IA, IN, IL, and KY. Supporting shipper: Bruno's, Inc. Birmingham, AL. 35201.

MC 144069 (Sub-3–1TA), filed February 27, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, North Carolina 28225. Representative: W. T. Trowbridge, P.O. Box 5204, Charlotte, North Carolina 28225. Transporting *iron and steel articles* between points in NC, SC, GA, FL, AL, TN, KY, WV, OH, VA, MD and DC. There are 43 supporting shippers. Support forms may be inspected at the Atlanta regional office of the Interstate Commerce Commission.

MC 134064 (Sub-3–1TA), filed February 19, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, Georgia 30501. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203 (303) 839–5856. *Emulsified petroleum paraffin wax, except in bulk.* From: The facilities of Michelman Chemicals, Inc., at or near Cincinnati, OH. To: Points in GA, MD, IL, MA, MI, NJ, NY, NC, TX and WI. Supporting shipper: Michelman Chemicals, Inc., 9089 Shell Road, Cincinnati, OH 45236.

MC 114604 (Sub-3–2TA), filed March 5, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Malt beverages and related advertising material* (excet in bulk), from Detroit, MI to the facilities of Thomas Beverage Company in Carroll, Clayton, Cobb, DeKalb, Douglas, Fulton, Haralson, and Rockdale Counties, GA. Restricted to the transportation of traffic destined to the facilities of Thomas Beverage Company. Supporting shipper: Thomas Beverage Company, 2235 DeFoor Hills road, NW, Atlanta, GA 30318.

MC 143059 (Sub-3–1TA), filed March 5, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *(1) Prefabricated buildings, knocked down, and (2) parts, attachments, tools, and accessories used in the erection or installation of the commodities in (1), above,* from the facilities of Com-Struct International and its Fibreshell Division, at Sacramento, CA and Placer County, CA to points in AZ, CO, KS, FL, NE, NM, OK, and TX (except Houston and Galveston). Supporting shipper: Com-Struct International, 8600 23rd Avenue, Sacramento, CA 95826.

MC 136464 (Sub-3–2TA). Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton, Box 3995, Gastonia, NC 28052. *Electric baseboard heat panels, circuit breakers, switches, controllers, and transformers weighing less than 1,200 pounds each and parts thereof,* From points in SC to points in CA under a continuing contract or contracts with Federal Pacific Electric Company. Supporting shipper: Federal

Pacific Electric Company, Route #1, Fort Mill, SC 29715.

MC 141450 (Sub-3–1 TA), filed February, 1980. Applicant: OLIN WOOTEN TRANSPORT COMPANY, INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Wire,* from Lumber City, GA, to Ardmore and Oklahoma City, OK; Texarkana, AR; Waco, TX; Mayfield, KY; Des Moines, IA; Detroit, MI; Madison, TN; Natchez, MS; Gadsden, AL; Laurel Hill and Fayetteville, NC, under a continuing contract or contracts with Cook & Company. Supporting shipper: Cook & Company, P.O. Box 458, Lumber City, GA 31549.

MC 2900 (Sub-3–2 TA), filed February 20, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Weed killing compounds,* from Jacksonville, FL; Lake Charles; Houston, TX; and New Orleans, LA to Des Moines, IA. Supporting shipper: G. W. Fillingame, Freight Traffic Manager, Truck, Air & Field Transportation Services, E. I. du Pont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898.

MC 138882 (Sub-3–4 TA), filed February 20, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema, P.O. Drawer 707, Troy, Alabama 36081. *Electric Storage batteries, spent batteries, and materials, equipment and supplies used in the manufacture and distribution of electric storage batteries,* including lead pigs and ingots (except commodities in bulk in tank vehicles). Between the facilities of General Battery Corporation and its subsidiaries and points in the United States. Supporting shipper: General Battery Corporation, P.O. Box 1262, Reading, PA 19603

MC 115841 (Sub-3–2 TA), filed February 7, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler, 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. *Such merchandise as is dealt in by retail, discount and variety stores* (except commodities in bulk), from Statesville, NC to St. Louis, MO. Supporting shipper: J. C. Penney, 1301 Avenue of the Americas, New York, NY 10019.

MC 136123 (Sub-3–2 TA), filed February 22, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: Raymond P. Keigher, 1400 Gerard Street, Rockville, MD 20850. (1) *glass containers,* from Muncie, IN, to points in GA, KY, LA, MS, MO, NC, SC, and TN, and (2) *materials, equipment and supplies* used in the manufacture or production of glass containers and closures (except commodities in bulk), from points in GA, KY, LA, MS, MO, NC, SC, and TN, to Muncie, IN. Supporting shipper: Ball Corporation, 345 South High Street, Muncie, IN 47302.

MC 139982 (Sub-3–1TA), filed February 22, 1980. Applicant: WILLIAMSON DELIVERY SERVICES, INC., Box 22032 AMF, Tampa, FL 22032. Representative: Travis W. Williamson (same address as applicant). *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment between Tampa International Airport, on the one hand, and, on the other points in Collier County, FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by air. Supporting shipper(s): There are five supporting shippers.

MC 134064 (Sub-3–2TA), filed February 22, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, (303) 839–5856. *Paper and paper products,* from the facilities of Hal-Rose, Inc. at or near Philadelphia, PA and Jersey City, NJ, to points in the United States in and east of MI, OH, KY, TN and AL. Supporting shipper: Hal-Rose, Inc., P.O. Box 1069, Benjamin Fox Pavilion, Jenkintown, PA 19046.

MC 107515 (Sub-3–3TA), filed February 22, 1980. Applicant: REFREIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *(1) Such commodities as are dealt in by wholesale, retail and chain grocery houses, and (2) Foodstuffs, materials, equipment and supplies used in the manufacture, distribution and sale of the commodities in (1) above* between the facilities of Southern States Distribution, Inc. in or near Memphis, TN and points in the US (except AK, HI, ID, MT, NV, OR, UT, WA and WY). Supporting shipper: Southern States Distribution, Inc., 4834 Mendenhall Rd., P.O. Box 18389, Memphis, TN 38118.

MC 146293 (Sub-3–2TA), filed February 22, 1980. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Canned goods* from the facilities of Woldert Canning, Inc. at or near Lindale or Tyler, TX to points in GA, AL, MS, LA, FL, SC, NC, TN, and CA. Supporting shipper: Woldert Canning, P.O. Box 1448, Tyler, TX 75701.

MC 144715 (Sub-3–1TA), filed February 22, 1980. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Boxed meat,* from points in TX, KS, MO, IA, IL, CO, AL, NE and WI to Hanover County, VA. Supporting shipper: Richfood, Inc., P.O. Box 26967, Richmond, VA 23261.

MC 115162 (Sub-3–2TA), filed February 22, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. (1) *Scrap wire, scrap cable, scrap telephone equipment, and scrap metals* (except commodities in bulk), from points in the US in and east of MT, WY, CO, and NM to the plant site of the Lissner Corporation in Chicago, IL; and (2) *Processed scrap and aluminum ingot,* from the plant site of the Lissner Corporation in Chicago, IL to points in the US in and east of the states of MT, WY, CO, and NM. Supporting shipper: Lissner Corporation; 1000 N. North Branch; Chicago, IL 60622.

MC 114604 (Sub-3–3TA), filed February 22, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Meats, meat products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and foodstuffs (frozen or chilled), from the facilities of New Orleans Cold Storage and Warehouse Co., LTD at or near Near New Orleans, LA to points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: New Orleans Cold Storage and Warehouse Co., LTD., P.O. Box 15749, New Orleans, LA 70175.

MC 115162 (Sub-3–3TA), filed February 19, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative:

Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Alcoholic beverages,* except in bulk, from points in the states of NY, NJ, PA, MD, KY, MA, IL, OH, VA, MI, IN, TN, NC, AR, LA, GA, FL, SC, MS, and AL (import) to Montgomery, AL. Supporting shippers: Joseph E. Seagram and Sons, Inc.; 375 Park Avenue; New York, NY 10022; Hiram Walker & Sons, Inc.; Box 479; Peoria, IL 61651; Alcoholic Beverage Control Board; Administrative Building; Montgomery, AL; and Schenley Distillers, Inc.; 36 E. 4th Street; Cincinnati, OH 45202.

MC 106119 (Sub-3–2TA), filed February 19, 1980. Applicant: ASSOCIATED PETROLEUM CARRIERS, INC., Union Road, Post Office Box 2808, Spartanburg, SC 29304. Representative: Robert R. Odom, 220 North Church Street, Post Office Box 5504, Spartanburg, SC 29304. *Liquid petroleum products (except petro acids and chemicals, and asphalt and asphalt products),* in bulk, in tank vehicles, from Columbus, GA, and points within 15 miles thereof to points in AL within 175 miles of Columbus, GA. Supporting shipper(s): There are six statements of support attached to the application which statements may be examined at the field office named above.

MC 144922 (Sub-3–1TA), filed February 19, 1980. Applicant: A.T.F. TRUCKING CO., INC., Route 11, Box 507–B, Birmingham, Alabama 35210. Representative: John R. Frawley, Jr., Attorney at Law, 5506 Crestwood Blvd., Birmingham, Alabama 35212. *Food products, the materials, equipment and supplies used in the manufacture, sale and distribution of food products* (except commodities in bulk), between the facilities of Borden Incorporated located in or near Birmingham, AL on the one hand and on the other, all points in the United States. Supporting shipper: Borden Incorporated, 3900 Vanderbilt Road, Birmingham, AL 35217.

MC 114552 (Sub-3–1TA), filed February 15, 1980. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *Waste or scrap paper* from points in AR, KY, LA, MS, FL, and AL to the facilities of Georgia Kraft Corp. at or near Macon, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Mead Corporation, Courthouse Plaza Northeast, Dayton, OH 45463.

MC 59150 (Sub-3–1TA), filed February 15, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *Waste or scrap paper* from AL, FL, LA, MS, NC, SC, TN, and VA to the facilities of Georgia Kraft Corp. at or near Macon, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Mead Corporation, Courthouse Plaza Northeast, Dayton, OH 45463.

MC 121664 (Sub-3–4TA), filed March 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, Alabama 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, Alabama 35233. *Steel.* From Fairfield, AL to St. Gabriel, LA, Bladenboro, NC, and Memphis, TN for 180 days. Restricted to shipments for the account of Grief Bros. Corporation. Supporting shipper: Grief Brothers Corporation P.O. Drawer 908 Cullman, AL 35055. (An underlying ETA seeks 90 days authority.)

MC 121664 (Sub-3–6TA), filed March 6, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue, South, Birmingham, AL 35233. *Steel tubing.* From Union MO to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA has been filed. Supporting shipper: Maverick Tube Corporation, P.O. Box 696, Union, MO 36084.

MC 121664 (Sub-3–8TA), filed March 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue, South, Birmingham, AL 35233. *Lumber and lumber products,* from Dublin, Gray, Camilla, Richboro, Fitzgerald, and Perry, GA; Abbeville, AL; and Dade City, FL, to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Minoc Industry, Inc., P.O. Box 158, Baconton, GA 31716, and Tollison Lumber Company, P.O. Drawer E, Perry, GA 31069

MC 150212 (Sub-3–1TA), filed March 4, 1980. Applicant: LEARY'S TRUCK BROKERAGE, INC., Dancy Street, Hastings, FL 32045. Representative: Wilson Kenneth Leary, Jr., (same address as applicant). *Contract, irregular: Paper and paper products,* from the facilities of Central States Diversified, Inc. at Palatka, FL, to points in AL, CT, DC, DE, MA, NH, RI, MD, MO, NJ, NY, OH, PA, TN, VA, MS, LA, AR, TX, VT, WV, KY, IN, IL, MI, WI, IA, MN, NC, SC, GA and ME for 180 days. Supporting shipper: Central States Diversified, Inc., 1400 Reid Street, Palatka, FL 32077.

MC 150140 (Sub-3–1TA), filed March 3, 1980. Applicant: FAR WEST PRODUCE EXCHANGE, INC., P.O. Box 37, 315 First Avenue, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Contract carrier: Over irregular routes, *Lighting fixtures and/or parts therefor* from the facilities of Lithonia Lighting, Div. of National Service Industries, Inc. at or near Cochran and Conyers, GA to points in CA, AZ, NV, NM, OR and WA for 180 days. Supporting shipper: Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, 1400 Lester Road, Conyers, GA 30207.

MC 149218 (Sub-2TA), filed March 4, 1980. Applicant: SUNBELT EXPRESS INC., 118 Hamilton Circle, Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Cleaning, buffing, and polishing compounds; textile softeners; lubricating oil; deodorants; and disinfectants (except in bulk);* from the facilities of Economics Laboratory, Inc. located at or near Joliet, IL to Maysville, Somerset, Frankfort, Madisonville, Horse Cave, Louisville, Lawrenceburg, Lexington, and Mt. Serling, KY; Decatur, GA; Nashville, TN; and points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102.

MC 150209 (Sub-3–1TA), filed March 4, 1980. Applicant: E. & G. MOTOR EXPRESS, INC., U.S. Highway 42, Carrollton, KY 41008. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *(1) appliances and appliance parts, and (2) materials, equipment and supplies used in the manufacture and distribution of appliances and appliance parts,* between facilities used by General Electric Company at Louisville, KY, and its commercial zones, on the one hand, and, on the other, Augusta, Brooksville, Maysville, and Vanceburg, KY, and points in OH on and south of U.S. Hwy. 40 and on and west of U.S. Hwy. 23, including the commercial zones thereof, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Electric Company, Charles S. Davis, Manager-Transportation, Appliance Park, Building 10, Louisville, KY 40225.

MC 149140 (Sub-3–2TA), filed March 4, 1980. Applicant: OVERLAND, INC., 4121 Augusta Road, Garden City, GA 31408. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. *Sand,*

from the facilities of Coastal Abrasives and Filter Sand Co., Jasper County, SC, to points in GA. for 180 days. Supporting shipper: Coastal Abrasives and Sand Co. (An underlying ETA seeks authority for 90 days.)

MC 126305 (Sub-3–1TA), filed March 4, 1980. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Paper and Paper Products, and materials, equipment, and supplies used in the manufacture and sale of Paper and Paper Products (except commodities in bulk),* Between the facilities used or utilized by Ronnie Packaging Co., located at or near South Plainfield, NJ and City of Industry, CA, on the one hand, and, on the other, points in the US (except AK and HI), for 180 days. Supporting shipper(s): Ronnie Packaging Co., 4301 New Brunswick Ave., South Plainfield, NJ 07080.

MC 150211 (Sub-3–1TA), filed March 3, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Edward F. Schiff, Suite 400, 133 New Hampshire Ave., NW., Washington, D.C. 20036. (1) *Printed matter:* from the plantsite of Hall of Mississippi, located at or near Corinth, MS., to Illinois, Ohio, New York, Maryland, Delaware, Georgia, Tennessee, Missouri, Kansas. (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacturing, sales and distribution of the above commodities from points in the United States in and east of the States of Minnesota, Iowa, Kansas, Oklahoma and Texas to the plantsite of Hall of Mississippi located at or near Corinth, Mississippi. Supporting shipper(s): Hall of Mississippi, Hwy. 45 & Golding Dr., Corinth, MS 38834.

MC 115311 (Sub-3–2TA), filed March 5, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *Malt liquor and empty containers* from the facilities of Stroh Brewing Company at or near Toledo, OH to points in GA and Aiken, SC (and its commercial zone) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stroh Brewing Company, 1 Stroh Drive, Detroit, MI 48226. Send protests to Interstate Commerce Commission, Regional Complaint/Authority Center, P.O. Box 7520, Atlanta, GA 30309.

MC 121664 (Sub-3–10TA), filed March 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, Alabama 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, Alabama 35233. (1) *Steel tubing* (2) *Materials and Supplies.* (1) From: Pine Bluff, AR, To: Points in and east of ND., SD., NE., KA., OK., and TX. (2) From Points in and east of ND., SD., NE., KA., OK., and TX. To: Pine Bluff, AR, for 180 days. Supporting shipper(s); Century Tube Corporation, P.O. Box 7612 Pine Bluff AR.

MC 116947 (Sub-3–4TA), filed February 29, 1980. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Contract carrier,* irregular (a) *lighting fixtures and lighting equipment,* (2) *parts for commodities in (1) above and (3) materials and supplies used in the manufacture and distribution of the commodities in (1) & (2) above (except commodities in bulk),* Between the plant site of Gibson-Metalux Corporation at or near Eufaula, AL & Americus, GA, on the one hand and on the other points in the United States (except AL & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibson-Metalux Corporation, P.O. Box 1207, Americus, GA 31709.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 110420 (Sub-4–4TA), filed March 7, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., Goff, Sims, Cloud, Stroud & Shepherd, 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *Wine, Wine Vinegar and Vinegar Stock,* in bulk, in tank vehicles, (1) Between Guasti, CA on the one hand, and on the other, Manitowoc, WI; (2) From Guasti, CA to Chicago and Streator, IL, Monroe, MI and Walworth, WI. Supporting shipper: A. M. Richter Sons Co., 2021 S. 14th St., Manitowoc, WI 54220.

MC 65920 (Sub-4–1TA), filed March 10, 1980. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Avenue SW., Grand Rapids, MI 49503. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities (Usual exceptions),* serving the plantsite of E. I. DuPont DeNemours & Co. at or near Montague, MI, as an off-route point in connection with applicant's regular route operations. Supporting shipper: E. I. DuPont DeNemours & Co., P.O. Box "A", Montague, MI 49437.

MC 143500 (Sub-4–2TA), filed March 7, 1980. Applicant: R. B. CARRIERS, INC., 4425 Highway 31E, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Contract, Irregular, *Cosmetics;* (1) From Daytona Beach, FL, to Murray and Lexington, KY, New Albany and Chesapeake, OH, and Athens, TN; and (2) from the destinations named in (1) above to points in IA, WY, OR, TN, CO, LA, AZ, NE, MT, MO, UT, OK, NE, SD, ID, WV, IL, MS, TX, MN, ND, WA, KY, KS, AK, NM, FL, OH, CA, and WI. Restricted in (1) and (2) to traffic originating at or destined to facilities of Don Faughn Enterprises, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Don Faughn Enterprises, Inc., P.O. Box 95, Murray, KY 42071.

MC 124170 (Sub-4–4TA), filed March 10, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *General Commodities (except Classes A and B explosives, commodities in bulk, commodities which because of size and weight require special equipment and household goods as defined by the Commission)* between points in the United States except AK and HI. (Restriction: The above authority is restricted to the facilities utilized by W. W. Grainger, Inc.) An uderlying ETA seeks 90 days authority. Supporting shipper: W. W. Grainger, Inc., 5959 West Howard Street, Chicago, IL 60648.

MC 114632 (Sub-4–3TA), filed March 7, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. *Malt Beverages,* from the facilities of Miller Brewing Company at Milwaukee, WI and Ft. Worth, TX to points in UT. An underlying ETA seeks 90 days authority. Supporting shipper: Miller Brewing Company, 3939 West Highland Blvd., Milwaukee, WI 53201.

MC 144630 (Sub-4–5TA), filed March 7, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Metal container ends,* From the facilities of Ball Corporation at or near Findlay, OH to Fairfield, CA. An underlying ETA seeks 90 days authority. Supporting shipper: Ball Corporation, 345 South High Street, Muncie, IN 47302.

MC 107012 (Sub-4–9TA), filed March 7, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, Indiana 46801. *Freezers,* from the facilities of

Franklin Manufacturing Company, A Division of White Consolidated Industries, Inc. located at or near St. Cloud, MN to Newington, VA. Supporting shipper: Franklin Manufacturing Company, 701 33rd Avenue N., St. Cloud, MN 56301.

MC 111812 (Sub-4–4TA), filed March 6, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. *Foodstuffs, cheese making ingredients, and products used in the manufacturing of cheese,* from Miles Laboratories, Inc. at or near Madison, WI to CT, ME, MD, MA, NH, NJ, NY, OH, PA, RI and VT, for 180 days. Supporting shipper: Miles Laboratories, Inc., P.O. Box 592, Madison, WI 53701.

MC 139482 (Sub-4–5TA), filed March 7, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *General commodities,* except in bulk, between points in MI, MN, MO, IL, WI, IA, ND, SD and MT. Restriction: Restricted to the transportation of traffic originating at or destined to the facilities of Montgomery Wards, the distribution and warehouse facilities used by it, and its retail outlets and catalog stores. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Wards, 1400 University Avenue, St. Paul, MN 55104.

MC 144630 (Sub-4–4TA), filed March 7, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith. P.O. Box 40248, Indianapolis, IN 46240. *Alcoholic beverages and related advertising paraphernalia,* from Cincinnati, OH and Frankfort, KY to Montgomery, AL. Supporting shipper: National Distillers Products Company, 120 Section Road, Cincinnati, OH 45216.

MC 1150 (Sub-4–1TA), filed March 5, 1980. Applicant: HEEREN TRUCKING COMPANY, INC., 114 2nd St. E. Lemmon, SD 57638. Representative: Ronald R. Johnson, 310 Main, Lemmon, SD 57638. *Petroleum products, in bulk, in tank vehicles,* from Glendive, MT to Bowman, ND, to Perkins County, SD and Watauga, SD; from Mandan, ND to Perkins County, SD and Watauga, SD. An underlying ETA seeks 90 days authority. Supporting shippers: Phillips Petroleum Co., 7800 E. Dorado PL, Englewood, CO 80111; Independent Oil Co. Lemmon, SD 57638; Lemmon Equity Exchange, Lemmon, SD 57638; Bison Implement Co. Bison, SD 57620; Ketterling Oil Company, Watauga, SD 57760; Fix 66 Service, Bowman, ND 58623.

MC 148380 (Sub-4–1TA), filed March 5, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Composition board, pulpboard, wallboard and fiberboard, and roofing materials and supplies,* from the facilities of Owens Corning Fiberglas Corporation at or near Kansas City, KS, to points in IL, IN, and WI. An underlying ETA seeks 90-day authority. Supporting shipper: Owens Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 93186 (Sub-4–3TA), filed February 26, 1980. Applicant: WATTS TRANSFER CO., 825 First Ave., Rock Island, IL 61201. Representative: Daniel C. Sullivan, 10 S. LaSalle, Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in by wholesale and retail department stores (except in bulk),* from Davenport and Bettendorf, IA and Rock Island and Moline, IL, to points in IL and IA. Restricted to transportation to or from the facilities of the Target Store, Division of Dayton-Hudson Corporation. Supporting shipper: The Target Store, 7120 Highway 65 NE., Fridley, MN 55432.

MC 106594 (Sub-4–1TA), filed March 3, 1980. Applicant: KIRKPATRICK TRUCKING CO., 11317 Route 14N, Harvard,IL 60033. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. (1) *Glass Bottles;* (2) *Table Sauces,* (1) From Plainfield, IL, to the facilities of Kikkoman Foods, Inc., at or near Walworth, WI; (2) From the facilities of Kikkoman Foods, Inc. at or near Walworth, WI, to points in the commercial zones of Chicago, IL; Kansas City, MO; and Maple Heights, OH. Supporting shipper: Kikkoman Foods, Inc., U.S. Hwy. 14 & Six Corners, Walworth, WI 53184.

MC 128462 (Sub-4–1TA), filed March 3, 1980. Applicant: SCHULTZ & SON TRUCK LINE, INC., Box 36, Long Prairie, Minnesota 56347. Representative: Gene P. Johnson and James L. Mitchell, P.O. Box 2471, Fargo, North Dakota 58108. *Contract* irregular *refractory cement, in bags,* from Chicago, IL, to Crookston, East Grand Forks, Minneapolis, and Moorhead, MN; Bismarck, Drayton, Fargo, Hillsboro, and Jamestown, ND, filed an underlying ETA seeking up to 90 days authority. Supporting shipper: Plibrico, 6800 Shinglecreek Parkway, Minneapolis, MN.

MC 118696 (Sub-4–7TA), filed March 3, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Cabinets and materials, equipment and supplies* used in the manufacture and distribution of cabinets (except in bulk), between the facilities of AristOKraft, Division of Beatrice Foods, at Jasper, IN; Burnet, TX; Littlestown, PA and Zumbrota, MN; and (2) *Materials, equipment and supplies* used in the manufacture and distribution of cabinets (except in bulk), from Asheville, NC; Dublin, GA; East Earl, PA; Kettlersville, OH; Marinette, WI; Memphis, TN; Little Rock, AR and Sinclairville, NY to the facilities of AristOKraft, a Division of Beatrice Foods, at Jasper, IN; Burnet, TX; Littlestown, PA and Zumbrota, MN. Supporting shipper: Charles L. Vollmer, AristOKraft, a Division of Beatrice Foods.

MC 124078 (Sub-4–8TA), filed February 29, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Edible tallow,* from Anderson, IN to Chicago, IL. Supporting shipper: Emge Packing Co., Inc., P.O. Box 2070, 2000 W. 8th St., Anderson, IN 46011, Roger P. Elpers, Vice President.

MC 136635 (Sub-4–3TA), filed February 29, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *(1) Lawn and garden tractors, (2) Snow blowers, (3) parts and attachments and materials and supplies used in the fabricating and assembling of the items named in (1) and (2) above;* Between the facilities of Wheelhorse Products, Inc. at South Bend, IN, Lansing, MI, Hopkins, MN, Leedsdale, PA, West Springfield, MO, Little Rock, AR, and Doraville, GA. Supporting shipper: Wheel Horse Products, Inc., 500 West Ireland Road, South Bend, IN 46614.

MC 133189 (Sub-4–1TA), filed January 14, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, 2200 First National Bank Building, St. Paul, MN 55101. (1) *Iron and steel articles,* from the facilities of North Star Steel Company located at Monroe, MI to points in the U.S. (excluding AK and HI); and (2) *Materials, equipment and supplies (except in bulk) used in the manufacture of iron and steel articles,* from the destination of points in (1) above to the facilities of North Star Steel Company located at Monroe, MI. Supporting shipper: North Star Steel Company, 2901 Metro Drive, Minneapolis, MN.

MC 147245 (Sub-4–1TA), filed January 24, 1980. Applicant: GULICH TRUCKING, INC., Route 1, Roberts, WI 54023. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, Box 218, Crandon, WI 54520. *Coal,* from St. Paul, MN to River Falls, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Great Lakes Coal & Dock, 1031 Childs Road, St. Paul, MN 55106.

MC 150025 (Sub-4–2TA), filed January 25, 1980. Applicant: CRAIGO GRAIN CO., INC., 816 30th St., Monroe, WI 53566. Representative: Rolfe E. Hanson, Attorney, 121 West Doty St., Madison, WI 53703. Contract—Irregular, (1) *Castings and machine parts* from Monroe, WI to the village of McCook, Cook County, IL and to the villages of Clarendon Hills and Addison, Dupage County, IL, and (2) *Materials and supplies* used in the manufacture and processing of machine parts from points in Chicago and its commercial zone in IL to Monroe, WI. Restricted to service under continuing contract with MECO Manufacturing and Engineering Co. An underlying ETA seeks 90 days authority. Supporting shipper: MECO Manufacturing and Engineering Company, Route 2, Box 142, Monroe, WI 53566.

MC 148175 (Sub-4–1TA), filed February 26, 1980. Applicant: ROBERT W. DENTON, d/b/a SPIRIT TRUCKING, 8700 South Wolf Road, Hinsdale, IL 60521. Representative: Robert W. Denton (same as applicant). *General commodities,* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment or handling, having prior or subsequent movement by rail or water between Chicago, IL and its Commercial Zone, on the one hand, and, on the other points in IL, IN, MI, OH and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Associated Container Transportation, 230 N Michigan Ave., Chicago, IL 60601. Kuecker Steamship Service, Inc., Agent, 6 N. Michigan Ave., Chicago, IL 60602. Militzer and Muench USA, Inc., 2720 Des Plaines Ave., Des Plaines, IL. American Container Express, 2 N. Riverside Plaza, Chicago, IL 60606. Argus Shipping, P.O. Box 1402, Elk Grove Village, IL 60007.

MC 145574 (Sub-4–1TA), filed March 4, 1980. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 West Lake Street, Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Ferrous and non-ferrous wire and screws, rivets and fasteners,* between Chicago, IL on the one hand, and, on the other, Frankfort, MI. An underlying ETA seeks 90 days authority. Supporting shipper: Pheoll Manufacturing Company, 5700 W. Roosevelt Road, Chicago, IL 60650.

MC 150052 (Sub-4–1TA), filed March 3, 1980. Applicant: SEAPORT TRANSPORTATION COMPANY, 312 West End, Detroit, MI 48209. Representative: Alex J. Miller, P.O. Box 244, Bloomfield Hills, MI 48013. (313) 642–1012. *Contract carrier irregular self contained room air-conditioners* between Jonesville, MI and Detroit, MI. RESTRICTED, to shipments having a prior or subsequent movement by rail. Under a continuing contract with the York Division, Borg Warner Corporation. Supporting shipper: York Division, Borg Warner Corp., P.O. Box 1592 York, PA 17405.

MC 49567 (Sub-4–1TA), filed March 3, 1980. Applicant: GOLDEN BROS., INC., 234 E. McClure St., Kewanee, IL 61443. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. *Contract carrier, irregular: Iron and Steel Articles.* Between Arlington, TX; Birmingham, AL; Cleveland, OH; Detroit, MI; Dover, OH; Fairfield, AL; Fairless Hills, PA; Hennepin, IL; Houston, TX; Irving, PA; Miami, FL; Pittsburg, CA; Schaumburg, IL; and Tulsa, OK, on the one hand, And, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI and WY, limited to a transportation service to be performed under a continuing contract with New Process Steel Corporation of Illinois. Supporting shipper: New Process Steel Corporation of Illinois, 1901 S. Mitchell, Schaumburg, IL 60193.

MC 142715 (Sub-4–2TA). Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick, P.O. Box 479, South St. Paul, MN 55075. *Common carrier, irregular Electric welders, parts and supplies thereof, From Appleton and Neenah, Wi to St. Paul and Anoka, MN. Restricted to traffic originating at the facilities of Miller Electric, Inc., Appleton and Neenah, WI and destined to St. Paul and Anoka, MN. Supporting shipper: Buettner Welding Supply, 474 Minnechaha Ave., W. St. Paul, MN.*

MC 134477 (Sub-4–17TA), filed March 5, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *(1) Toilet preparations and (2) commodities used in the sale of toilet preparations (except in bulk),* from the facilities of Landers Company at or near Binghamton, NY to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Landers Company, 1530 Palisade Ave., Box 1307, Fort Lee, NJ 07024.

MC 139697 (Sub-4–2TA), filed March 7, 1980. Applicant: WAGONER TRANSPORTATION COMPANY, INC., P.O. Box 2975, South Bend, IN 46680. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract; Irregular; *Foodstuffs, and materials, supplies and equipment used in the manufacture and distribution of foodstuffs (except in bulk),* between the facilities of McCormick Company, Inc., at or near Dallas, TX and Cockeysville, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to shipments originating at or destined to the facilities utilized by McCormick Company, Inc., under continuing contract(s) with McCormick Company, Inc. An uderlying ETA seeks 90 days authority. Supporting shipper: McCormick Company, Inc., McCormick/All Portions, Food Service, 11011 McCormick Road, Hunt Valley, MD 21031.

MC 143471 (Sub-4–2TA), filed March 10, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 West Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Contract; irregular; Such Merchandise as is handled or dealt in by wholesalers, retailers or distributors of agricultural chemicals (except in bulk, in tank vehicles)* from points in IL, MN, MO and NE to Rapid City, SD and points in its Commercial Zone under a contract with Kenco, Inc., d/b/a Warne Chemical & Equipment Co. of Rapid City, SD. Supporting shipper: Ken J. Vahle, Pres. Kenco, Inc., d/b/a Warne Chemical & Equip Co., RP 4, Box 45, Rapid City, SD 57701.

MC 30837 (Sub-4–2TA), filed March 10, 1980. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4314—39th Avenue, Kenosha, WI 53140. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *Farm and industrial equipment,* from the facilities of or used by International Harvester Company at the Port of Kenosha, WI to points in KY, MI, ND, OH, PA, SD and WV, restricted to traffic moving in foreign commerce and having a prior or subsequent movement by water. Supporting shipper: International Harvester Company, 401

North Michigan Avenue, Chicago, IL 60611.

MC 114632 (Sub-4–5TA), filed March 3, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. *Flour,* from Fergus Falls, MN and Omaha, NE to Chicago, IL. Supporting shipper: Conagra, Inc., 200 Keweit Plaza, Omaha, NE 68131.

MC 149146 (Sub-4–1TA), filed March 4, 1980. Applicant: STONEY'S EXPRESS, INC., P.O. Box 1174, Pontiac, Mi 48056. Representative: Alex J. Miller, P.O. Box 244, Bloomfield Hills, MI 48013, (313) 642–1012. *Automobile parts and accessories* between Detroit, MI and its commercial zone on the one hand, and, on the other, Ford Motor Company plants located in Louisville, KY (also known as Louisville Assemble and Kentucky Truck Plant). Supporting shipper: Ford Motor Company, One Parklane Blvd., Dearborn, MI 48126.

MC 117068 (Sub-4–2TA), filed March 10, 1980. Applicant: MIDWEST SPECIALIZED TRANSPORTATION INC., P.O. Box 6418, North Hwy., Rochester, MN 55901. Representative: Richard C. M. Ginnis, 711 Washington Building, Washington, DC 20005. (a) *Gear frames, suspension systems and parts, and channels,* from the facilities of A. O. Smith Corp., at Milwaukee, WI and (b) *Engines* from Mossville and Chicago, IL to Seattle, WA and ports of entry in WA on the International Boundary between the U.S. and Canada. Supporting shipper: Kenworth Truck Company, 8801 E. Marginal Way S., Seattle, WA 98108.

MC 43038 (Sub-4–6TA), filed March 10, 1980. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, MI 48071. *Motor vehicles,* (excluding trailers) in secondary movements, in truckway service, between points in the states of AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY. An underlying ETA seeks 90 days authority. Restrictions: The operations authorized herein are restricted to the transportation of traffic manufactured, imported, assembled or distributed by General Motors Corporation. Supporting shipper: General Motors Corporation, Suite 1300—Top of Troy, 755 W. Big Beaver Road, Troy, Michigan 48084.

MC 126276 (Sub-4–5), filed date March 10, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Contract Carrier:* Irregular Routes: *General Commodities (except Classes A and B explosives, commodities in bulk, commodities which because of size and weight require special equipment and household goods as defined by the Commission)* Between points in the United States except AK and HI. (Restriction: The above authority is restricted to the movement of traffic originating at and/or destined to the facilities utilized by W. W. Grainger, Inc.) An underlying ETA seeks 90 days authority. Supporting shipper: W. W. Grainger, Inc., 5959 West Howard Street, Chicago, IL 60648.

MC 146978 (Sub-4–1), filed March 7, 1980. Applicant: CAMERON TRUCKING COMPANY, INC., P.O. Box 24, Hartford City, Indiana 47348. Representative: Charles T. Cox, 602 No. Walnut Street, Hartford City, Indiana, Phone 317–348–0051. (1) *Commodities manufactured and distributed from General Tire and Rubber Company,* Marion, Indiana to points in AL, AR, GA, LA, IL, IA, KS, KY, MI, MN, MS, MO, NE, MD, NC, ND, NY, OH, OK, PA, SC, SD, TN, VA, WV, WI, and (2) *supplies and materials used in the manufacture thereof* (except in bulk), in the reverse direction. Supporting shipper: CT&R Chemical Plastics Division, Inc., A Division of The General Tire & Rubber Company, 1700 Factory Avenue, Marion, Indiana.

MC 82658 (Sub-4TA), filed March 7, 1980. Applicant: ECONOMY FREIGHT LINES, INC., 2745 W. 31st Street, Chicago, Illinois 60608. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. (1) *Beverages, non-alcoholic (soft drinks),* from points in the Chicago, IL, commercial zone to points in the States of MN, ND, SD, and WI; (2) *Containers and incidental supplies used in bottling beverages,* from points in the Milwaukee, WI, commercial zone, to points in the Chicago, IL, commercial zone. Supporting shipper: King Cola Beverage Company, 138 North Avenue, Hartland, WI 53029.

MC 145276 (Sub-4–2TA), filed March 7, 1980. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Avenue SW., P.O.Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Poultry and hog equipment, repair parts, and feed, medicated feeds, feed supplements, with medicines, when moving in vehicles equipped with mechanical refrigeration,* from Willmar, MN to points in SD. Supporting shipper: Pals, A Division of Willmar Poultry, Box 753, Willmar, MN 56201.

MC 116273 (Sub-4–3TA), filed March 3, 1980. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery, 3800 South Laramie Avenue, Cicero, IL 60650. *Dry spent silica gel catalyst in bulk, in tank vehicles,* between points in AL, AR, CA, CO, DE, GA, IL, IN, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OK, PA, TX, UT, VA, WA, WV, WI, and WY for 180 days. Supporting shipper: Easttown Technical Company, 46 Darby Road, Paoli, Pennsyvlania 19301.

MC 146880 (Sub-4–5TA), filed February 26, 1980. Applicant: LOWELL E. DENTON, d.b.a. Denton Cartage Company, P.O. Box 40, Palos Park, IL 60464. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. *General commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, and those commodities, because of size or weight, requiring special handling or special equipment), between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in KY, MO, and MN for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Great Lakes Overseas, Inc., 1820 Prudential Plaza, Chicago, IL 60601. Trans Freight Line, Inc., 2905 Butterfield Road, Oak Brook, IL 60521. Farrell Line 2800 South Lock Street, Chicago, IL 60608. Moram Agencies, Inc., 1200 Jorie Boulevard, Oak Brook IL 60521. Container Lloyd (USA), Inc., 36 South State Street, Chicago, IL 60603.

MC 124078 (Sub-4–8TA), filed March 5, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Dry hollow glass spheres, in bulk, in tank or hopper type vehicles, from Rockwood, TN to those points in the U.S. in and east of MN, IA, NE, KS, OK and TX for 180 days. Supporting shipper: P. A. Industries, 914 James Building, Chattanooga, TN 37402.

MC 51146 (Sub-4–23TA), filed March 5, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Mathew J. Reid, Jr. (same address as aplicant). *Small arms ammunition and equipment, materials, and supplies* used in the manufacture and distribution of small arms ammunition from East Alton, IL to points in MN, MI, OH, PA, VA, WV, CT, ND, SD, FL, NC, SC, NJ, NY, RI, MA, VT, NH, and ME, for 180 days. Applicant has also filed an underlying

ETA seeking 90 days operating authority. Supporting shipper: Olin Corporation, Winchester-Western Division, East Alton, IL 62024.

MC 124078 Sub-4–10), filed March 5, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Limestone slurry,* in bulk, in tank vehicles, from Henry County, AL to points in GA & FL, for 180 days. Supporting shipper: Henry County Lime Company, Inc., P.O. Box 216, Abbeville, AL 36310, Genny Smith, General Manager.

MC 129987 (Sub-4–1), filed March 3, 1980. Applicant: TERRA COTTA TRUCK SERVICE, INC., Jet. IL Hwys. 31 & 176, P.O. box 424, Crystal Lake, IL 60014. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. *Contract carrier:* Irregular routes: *Salt and Salt Products,* From the facilities utilized by International Salt Co. at or near Chicago, IL, to points in IL, IN, IA, MI, OH and WI for 180 days. Supporting shipper: International Salt Company, 614 Superior Avenue, NW., Cleveland, OH 44113.

MC 129387 (Sub-4–2TA), filed March 3, 1980. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye, P.O. Box 1271, Huron, SD 57350. *Pumps, NOI, pump parts and accessories,* from Fresno, CA and its commercial zone to points in IA, MN, NE, ND and SD. Supporting shipper: Peabody Floway, Inc., 2494 S. Railroad Avenue, Fresno, CA 93707.

MC 123361 (Sub-4–1TA), filed February 13, 1980. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, East St. Louis, IL 62203. Representative: Ernest A. Brooks II, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. *Meats, meat products, meat by-products, packing-house products and commodities used by packing-houses as described in Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209, 706 (except commodities in bulk),* between points in the St. Louis, MO.-East St. Louis, IL Commercial Zone, on the one hand, and, on the other, points in AL, AR, FL, GA, MI, MN, MS, OH, TN and WI. Supporting shipper: Holton's Wholesale Meats, Inc., 919 Lynch Ave., East St. Louis, IL 62201.

MC 143032 (Sub-4–1TA), filed February 11, 1980. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, Minnesota 55806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, Minnesota 55402. (1) *Iron and steel articles* from the facilities of North Star Steel Company located at or near Monroe, MI to points in IA, MN, MT, NE, ND, SD, WI and WY, and (2) *equipment, materials and supplies used in the manufacturing of iron and steel articles,* from points in the above-named States to the facilities above. Supporting shipper: North Star Steel Company, Minneapolis, MN.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 600, Fort Worth, TX 76102.

MC 531 (Sub-5–3TA), filed March 10, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). *Chemicals, in bulk, in tank vehicles,* from the plantsite of Sandoz Colors and Chemicals, at or near Martin, South Carolina (Allendale County), to Vernon, California. Supporting shipper: Sandoz Colors and Chemicals, 59 Route 10, East Hanover, NJ 07963.

MC 757 (Sub-5–1TA), filed March 10, 1980. Applicant: M & M, INC., 401 N. Poplar, Solomon, KS 67480. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, suite 110L, Topeka, KS 66612. *Over-the-Road Trailers, in tow-away service,* from points and places in Barton County, KS to points and places in the states of IL, IA, MN, MO, NE, ND, SD and WI. Supporting shippers: Guthrie Trailers, Inc., P.O. Box 1026, Great Bend, KS. 67530 and Doonan Trailers, Inc., Junction of Hwys 56 and 156, Great Bend, KS 67530.

MC 29910 (Sub-5–10TA), filed March 10, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). *Common; regular, General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment),* serving the facilities of Siemens-Allis Company, at or near Wendell, NC as an off-route point in connection with applicants regular route authority to serve Raleigh, NC. Supporting shipper: Siemens-Allis Company, 801 South 60 Street, West Allis, WI 53214.

MC 30844 (Sub-5–8TA), filed March 3, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 E. 67th Street, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, Iowa 50704. *Paper in cartons* from Groveton, NH to Jefferson City and Kansas City, MO. Supporting shipper: Tempo Company, Inc., 1616 Grand Avenue, Kansas City, MO 64108.

MC 35320 (Sub-5–5TA), filed February 4, 1980. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, Attorney (same as applicant). *Commercial air conditioners, accessories and parts* between Fort Smith, AR and all points in the U.S. except AK and HI. Supporting shipper: General Electric Company, 4811 S. Zero Street, Fort Smith, AR 27903.

MC 35320 (Sub-5–6TA), filed March 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, P.O. Box 2550, Lubbock, TX 79408. *Common;* Regular. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Dallas, TX. on the one hand, and, on the other, Shreveport, Ruston and Monroe, LA. and Vicksburg and Jackson, MS. and their commercial zones. From Dallas, TX. over U.S. Hwy. 80 to Jackson, MS. and return over the same route. Supporting shippers: Twenty-six (26).

MC 41116 (Sub-5–2TA), filed March 10, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. Contract, Irregular, (1) *Paper and paper products (except in bulk), (2) Materials and supplied used in the manufacture, distribution or sale of (1) (except in bulk)* between the facilities of Olinkraft, Inc. located at or near Monroe and West Monroe, LA on the one hand, and on the other points in TX. Supporting shipper: Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291.

MC 102567 (Sub-5–4TA), filed March 10, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Freeway, Suite 130, Houston, TX 77040. *Rosin Sizing, in bulk, in tank vehicles,* from Springfield, LA to all points in MA. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 105566 (Sub-5–1TA), filed February 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., Post

Office Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Water treating and industrial process products (except in bulk, in tank or hopper vehicles), in temperature controlled vehicles,* from the facilities of Nalco Chemical Company at Sugarland, TX; Garyville, LA; and Jonesboro, GA to all points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV and from the facilities of Nalco Chemical Company at Jonesboro, GA to all points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Supporting shipper: Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521.

MC 105566 (Sub-5–2TA), filed February 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Acids; adhesives; adjusters; alcohols (except alcoholic liquors); bate, tanners; cleaning, scouring and washing compounds; soap compounds; fuel oil tree or weed killing; water clarifying compounds; deodorants or disinfectants; depilatory, tanners; extracts, tanning; feed supplements and feeding compounds, insecticides or fungicides or repellants; paints; stains or varnishes; plasticizers; solvlents; petroleum products, plastic materials, other than expanded; plastic or rubber articles; sizing; sludge, acid; and softeners, textile (except in bulk)* from the facilities of Rohm and Haas Company at Los Angeles and Hayward, CA; Calumet City, Morton Grove, and Niles, IL; Louisville, KY; Bristol, Croydon and Philadelphia, PA; Knoxville, TN; and Dallas and Houston, TX to points in AL, AR, CT, DE, IA, KS, LA, MD, MA, MS, MO, NE, NJ, NM, NY, NC, ND, OK, PA, SD, VA, WV, WY. Supporting shipper: Rohm and Haas Company, Independence Mall West Philadelphia, PA 19105.

MC 106398 (Sub-5–3TA), filed March 7, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Iron and steel articles* from the facilities of Bull Moose Tube Company located at Mexico, MO to points in OK, TX, LA, MS, AL, KY, GA, VA, IL, MI, KS and OH. Supporting shipper: Bull Moose Tube Company, P.O. Box 214, Gerald, MO.

MC 106398 (Sub-5–3TA), filed March 7, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Metal articles* from the facilities of Acme Iron and Metal Corporation at Albuquerque, New Mexico to points in CA, LA and OH. Supporting shipper: Acme Iron and Metal Corporation, P.O. Box 6605, Albuquerque, NM.

MC 106398 (Sub-5–5TA), filed March 7, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Lumber and lumber mill products, including plywood and paneling* from Banner, MT; Lebannon, Brookings, Medford, Roseburg, White City, Gold Beach and Tillamook, OR; Longview and Vancouver, WA to the facilities of Cor Tec, Inc., located at Washington Court House, OH. Supporting shipper: Cor Tec, Inc., P.O. Box 456, Washington Court House, OH, Robert L. Malone, General Traffic Manager.

MC 106398 (Sub-5–6TA), filed March 12, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Refractories and refractory products, brick and related commodities, materials, equipment and supplies used in the manufacture and sale of named commodities* from the facilities of Kaiser Refractories at or near Mexico, Missouri to points in AZ, CA, NM, CO, TX, OK, AL, MS, LA, WA, OR NC, and SC. Supporting shipper: Kaiser Refractories, Box 499, Mexico, Missouri 65265.

MC 106398 (Sub-5–7), filed March 12, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, Oklahoma 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, Oklahoma 74120. *Pipe, conduit and accessories* from Louisiana, Missouri to points in KS, MI, IL, IN, AR, KY, OK, OH, TN, IA, AL, GA and TX. Supporting shipper: Tallman Conduit Company, 600 South Main Street, Louisiana, Missouri 63353, Ben Tallman, President.

MC 107496 (Sub-5–5TA), filed March 10, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, Iowa 50309. *Zinc oxide, in bulk, in tank vehicles,* from Coffeyville, KS to Chicago, IL. Supporting shipper: Sherwin-Williams, P.O. Box 855, Coffeyville, KS.

MC 107496 (Sub-5–6TA), filed March 10, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check (same as above). *Alcohol, in bulk, in tank vehicles,* from Decatur, IL to points in WI, and Dubuque, IA. Supporting shippers: Molo Oil Company, 41 Main Street, Dubuque, IA 52001; Dane County Farmers Union Co-Op, 218 S. Main St., Cottage Grove, WI 53527.

MC 108053 (Sub-5–1TA), filed March 12, 1980. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, Nebraska 68025. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Illinois 60601. (1) *Foodstuffs (except commodities in bulk)* from Fairmont, MN to points in the U.S. in and west of MT, WY, CO, and AZ (except AK & HI) and (2) *Foodstuffs (except meats and packinghouse products as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk)* from Mason City and Britt, IA to points in the U.S. in and west of MT, WY, CO and AZ (except AK & HI). Restricted to the transportation of traffic originating at and destined to the named points. Supporting shipper: Armour and Company, Greyhound Tower, Phoenix, AZ 85077.

MC 108207 (Sub-5–2TA), filed March 11, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Whipped prepared topping and creamer* (nondairy), and *frozen foods,* from the facilities of Pure Packed Foods, Inc., at or near Arlington, TN, to points in MN, ND, SD, WI, IN, and OH. Supporting shipper: Pure Packed Foods, Inc., 5885 Jetway Drive, Arlington, TN 38002.

MC 111401 (Sub-5–2TA), filed March 3, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic, P.O. Box 632, Enid, OK 73701. *Liquid fertilizer solutions, in bulk, in tank vehicles,* from the facilities of Chevron Chemical Company at or near Friend, KS to points in CO, NE, OK, TX and NM. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, Suite 130, Dallas, TX 75234.

MC 113362 (Sub-5–1TA), filed March 10, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Foodstuffs*

(except in bulk), from the facilities of Estee Corp. located at Parsippany, NJ to IL, IN, IA, and MN.

MC 114045 (Sub-5–1TA), filed March 12, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as above). *(1) Such commodities as are dealt in by grocery, hardware and drug stores, in containers; (2) Materials used in the manufacture of the commodities in (1) above* (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of and/or used by Boyle-Midway, a division of American Home Products Corporation. Supporting shipper: Boyle-Midway, a division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 114273 (Sub-5–4TA), filed March 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney; P.O. Box 68, Cedar Rapids, IA 52406. *Bakery goods, other than frozen, from* the facilities of Interbake Foods at Richmond, VA (and points in its commercial zone) to points in IL, IN, IA, MI, MN, NE, ND, OH, SD, and WI. Supporting shipper(s): Interbake Foods, Inc., 900 Terminal Place, Richmond, VA 23261.

MC 114890 (Sub-5–2TA), filed March 12, 1980. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Liquid fertilizer solutions, in bulk, in tank vehicles,* from Selma, MO, to points in IL, IA, and AR. Supporting shipper: USS Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree Street, N.E., Atlanta, GA 30303.

MC 115331, (Sub-5–2TA), filed March 7, 1980. Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Road, St. Louis, Missouri 63122. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, Missouri 63122. *Charcoal briquettes, (except in bulk),* from the facilities of Floyd Charcoal Company at or near Howes, Missouri to points in Ohio and Michigan. Supporting shipper(s): Cupples Company Manufacturers, 1034 South Brentwood Boulevard, St. Louis, MIssouri, 63117.

MC 115669 (Sub-5–1TA), filed March 10, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). *Phosphatic solution, in bulk, in tank vehicles,* from the facilities of Texasgulf, Inc., at or near Weeping Water, NE, to points in IL, IA, KS, MN, MO, ND and SD for 180 days. Supporting shipper(s): Texasgulf, Inc., 4509 Creedmoor Road, Raleigh, NC 27622.

MC 117765 (Sub-5–1TA), filed March 3, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagen (same address as applicant). *Salt and salt products,* from Port of Catoosa, Oklahoma; to points in Arkansas on and west of U.S. Highway 65; to points in Kansas on and south of U.S. Highway 56; to points in Missouri on and west of U.S. Highway 63 and on and south of U.S. Highway 50; and to points in Texas on and north of Interstate Highway 20. Supporting shipper: Cargill, Inc. Salt Division, P.O. Box 9300, Research Building, Minneapolis, MN 55440.

MC 117954 (Sub-5–1TA), filed March 5, 1980. Applicant: H. L. HERRIN, JR., d.b.a. H. L. HERRIN TRUCKING COMPANY, P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Frozen and dry processed potatoes,* from Plover, WI to points in AL, AR, FL, GA, LA, MS, TN and TX. Supporting shipper(s): Basic American Food Company, P.O. Box 140, Vacaville, CA 95681.

MC 118130 (Sub-5–2TA), filed March 10, 1980. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76115. *Malt beverages,* from Galveston, TX to Pensacola, FL. Supporting shipper: Gator Distributing Company, P.O. Box 12865, Pensacola, FL 32576.

MC 119399 (Sub-5–3TA), filed March 12, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara, P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. (1) *Animal and poultry feed and feed ingredients;* (2) *materials and supplies used in the manufacture thereof (except commodities in bulk)* from (1) Jasper County, MO to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI, and (2) from points in the states named in (1) to Jasper County, MO. Supporting shippers: International Multi-Foods Corporation, 1200 Multi-Foods Building, Minneapolis, MN 55402; Doane Products Co., P.O. Box 879, Joplin, MO 64801.

MC 119789 (Sub-5–5TA), filed March 10, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. (1) *Electrical applicances, equipment and parts* from Jefferson City, MO to points in TX, LA, AR, and IA and points in the U.S. in and east of WI, IL, KY, TN, and MS, and (2) *materials and supplies used in the manufacture and distribution of electrical appliances, equipment and parts (except commodities in bulk)* from TX, LA, AR, and IA and points in the U.S. in and east of WI, IL, KY, TN, and MS to Jefferson City, MO for 180 days. Restricted as to (1) and (2) above to the transportation of traffic originating at or destined to the facilities of McGraw Edison Company in Jefferson City, MO. Supporting shipper: McGraw Edison Company, 1275 David Road, Elgin, IL 60120.

MC 119988 (Sub-5–3TA), filed March 7, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. *Rubber compound and solvents, in containers,* between Placentia, CA on the one hand, and, on the other, KS, CT, TX, OK, WA and St. Louis, MO. Supporting shipper(s): Adcoat, Inc., 172 E. Jajolla Road, Placentia, CA 92670.

MC 120581 (Sub-5–1TA), filed: March 7, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Metal shelving and store fixtures,* from the plantsites and facilities utilized by Maytex Store Fixtures at or near Terrell, TX to points in the US (except AK & HI). Supporting shipper: Maytex Store Fixtures, P.O. Box 729, Terrell, TX 75160.

MC 121801 (Sub-5–1TA), filed March 4, 1980. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, Ardmore, OK 73401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 24, El Reno, OK 73036. Common Regular *General Commodities, (except those of unusual value, class A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Ardmore, OK and Wichita Falls, TX, serving no intermediate points: from Ardmore over U.S. Hwy 70 to junction OK Hwy 79, then over OK Hwy 79 to junction TX Hwy 79 at OK-TX line, then over TX Hwy 79 to Wichita Falls and return over the same route. Applicant proposes to tack the authority sought with its authority in MC 121801 and subs thereto, and proposes to interline with other motor carriers. Supporting shippers: There are 9 supporting shippers.

MC 126118 (Sub-5–6TA), Filed: March 10, 1980. Applicant's name: CRETE

CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in by manufacturers and distributors of doors* (except commodities in bulk in tank vehicles), from points in IL, IN, KY, MN, MS and TX to Grand Island, NE and points in its commercial zone. Supporting shipper: Overhead Door Corp., P.O. Box 2007, Grand Island, NE 68801.

MC 126930 (Sub-5–1TA), filed March 12, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Applicant's representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Fiberboard and pulpboard (not corrugated)* from the facilities of Angleboard, Inc., at Dallas, TX, to AR, LA, OK, KS, MO, IA, NE, TN, MS, AL and MN. Supporting shipper: Angleboard, Inc., 8901 Blue Ash Road, Cincinnati, OH, 45242.

MC 128007 (Sub-5–1TA), filed March 7, 1980. Applicant: HOFER, INC., 20th & 69 Bypass, P.O. Box 583, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Bentonite,* From points in Walker County, TX, to points in AL, AR, IA, KS, LA, MS, MO, NE, NM, OK and TN. Supporting shipper: Scotwood Industries, Inc., Louisburg, Kansas 66053.

MC 128007 (Sub-5–2TA), filed March 12, 1980. Applicant: HOFER, INC., 20th & 69 Bypass, P.O. Box 583, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. (1) *Trace Minerals, Feed and Fertilizer Ingredients, and Pigments,* From the facilities owned or utilized by Westmin Corporation in Adams County, IL to points in AR, KS, MO, and OK and (2) *Materials and Supplies* used or useful in the manufacture or production of the above named commodities in the reverse direction. Supporting shipper: Westmin Corporation, P.O. Box 822, Quincy, Illinois 62301.

MC 129282 (Sub-5–1 TA), filed March 11, 1980. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75606. Representative: Fred S. Berry, President, P.O. Box 2147, Longview, TX 75606. *Paper and plastic articles and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk).* Between Grand Prairie, TX and points in AL, AR, LA, MS, AND OK. Supporting shipper: Western Kraft Paper Group, 1302 W. North Carrier Parkway, Grand Prairie, TX 75050.

MC 129908 (Sub-5–7TA), filed: March 10, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Applicant's representative: T. J. Blaylock, 8125 S.W. 15th Street, Okla. City, OK 73107. *Aluminum can ends* from the facilities of Reynolds Metals Company at or near Bristol, VA–TN to St. Louis, MO, Kansas City, MO, Lenexa, KS and Dallas, Ft. Worth and Houston, TX. Supporting shipper is Reynolds Metal Co. of Richmond, VA.

MC 129908 (Sub-5–8TA), filed: March 12, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Okla. City, OK 73107. Applicant's representative: T. J. Blaylock, 8125 S.W. 15th Street, Okla. City, OK. *Paper products or expanded plastic or rubber products,* from the facilities of or for the account of Cellu Products Company in NC to AR, LA and TN. Supporting shipper: Cellu Products Company, Patterson, NC 28661.

MC 129908 (Sub-5–9TA), filed: March 12, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Okla. City, OK 73107. Applicant's representative: T. J. Blaylock 8125 S.W. 15th, Okla. City, OK 73107. *Canned goods and such commodities as are distributed by wholesale and retail grocers* from CA, OR and WA on the one hand to KS, OK and TX on the other. Supporting consignee: Fleming Foods Company, P.O. Box 1160, Topeka, Kansas 66601.

MC 135007 (Sub-No. 5–2TA), filed: March 12, 1980. Applicant: AMERCIAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebraska 68127. Applicant's representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, Missouri 64141. *Contract;* Irregular. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Beef Nebraska, Inc., at Omaha, NE, to points in CT, MA, NH, NJ, NY and PA. Supporting shipper: Beef Nebraska, Inc., P.O. Box 7203, Omaha, NE 68107.

MC 135797 (Sub-No. 5–15TA), filed: February 25, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Applicant's representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. *Textiles* from St. Martinville and Jeanerette, LA to points in AR, CA, CO, OK, OR, UT, and WA. Supporting shipper: Union Underwear, P.O. Box 780, Bowling Green, KY 42101.

MC 135861 (Sub-No. 5–4TA), filed: March 7, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract; Irregular. *Metal shelving and store fixtures,* from the plantsites and facilities utilized by Maytex Store Fixtures at or near Terrell, TX to points in the U S (except AK & HI). Supporting shipper: Maytex Store Fixtures, P.O. Box 729, Terrell, TX 75160.

MC 136786 (Sub-No. 5–6TA), filed: March 10, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Applicant's representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Fertilizer, potting soil, and materials, equipment and supplies used in the sale and distribution thereof (except commodities in bulk and those requiring special equipment),* from points in OH to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OK, PA, RI, SC, SD, TN, TX, VA, WV, and WI. Supporting shippers: The Andersons, P.O. Box 119, Maumee, OH 43537; Scott, O. M. & Sons, 33 North Main Street, Marysville, OH 43040; Soco, Inc., 360 West Avenue, Tallmadge, OH 44278.

MC 136786 (Sub-No. 5–7TA), filed: March 10, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Applicant's representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *1) foodstuffs, 2) materials, equipment and supplies used in the manufacture, sale and distribution of foodstuffs, and 3) agricultural commodities, the transportation of which is otherwise exempt from economic regulation under Section 10526(a)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities named in 1) and 2) above (except commodities in bulk and those requiring special equipment)* between the facilities of Tenneco West, Inc. on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to transportation of traffic originating at or destined to the facilities of Tenneco West, Inc. Supporting shipper: Tenneco West, Inc., P.O. Box 9380, Bakersfield, CA 93389.

MC 140665 (Sub-5–6TA), filed February 22, 1980. Applicant: PRIME, INC., Box 115–B, Urbana, MO 65767. Applicant's representative: H. J. Anderson, Box 115–B, Urbana, MO

65767. *Adhesives, and materials and supplies used in the marketing or distribution of adhesives, (except commodities in bulk)* from the facilities of Franklin Chemical Co., Inc., at Columbus, OH to points in AR, LA, TX, AZ, CA, CO, ID, MT, NV, NM, OR, UT, WY, and WA. Supporting shipper: Franklin Chemical Company, Inc., 2020 Bruck, Columbus, OH 43207.

MC 140665 (Sub-5–7TA), filed February 22, 1980. Applicant: PRIME, INC., Box 115–B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Commodities manufactured or distributed by the B. F. Goodrich Company (except commodities in bulk)* from the facilities utilized by the B. F. Goodrich Company at or near Pedricktown, NJ; Louisville and Calvert City, KY; Long Beach, Modesto, and Los Angeles, CA; Dallas, Orange, Port Neches, Houston, and Port Arthur, TX; Henry, Chicago, Franklin Park, St. Charles, and Quincy, IL; Birmingham, Mobile, Tuscaloosa, Pinson Valley, AL; Plaquemine and Convent, LA; E. Camden, AR; Baltimore, MD; Thomaston, GA; Worcester and Gloucester, MA; Dearborn, MI; Charlotte and Hickory, NC; Akron and Cleveland, OH Commercial Zones; Medina, Toledo, Marietta, Marion, Troy, Solon, and Columbus, OH; Kansas City, KS; Neosha, MO; Nashville and Oneida, TN; Miami, OK; Oaks, Bensalem, and Exeter, PA; Elgin, SC; Fenwick, Grantsville, Richwood, and Union, WV; Portland, OR; Denver, CO; Miami, FL; Reno, NV; Columbus, MS; Dubuque, IA; New Ulm, MN; Salem and Woodburn, IN to points in the United States except AK and HA. Supporting shipper: The B. F. Goodrich Company, 6100 Oak Tree Boulevard, Cleveland, OH 44131.

MC 140665 (Sub-5–8TA), filed February 22, 1980. Applicant: PRIME, INC., Box 115–B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Meat, meat by-products, and packinghouse products,* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from points in IA, KS, MO, and NE to points in CA and NV. Supporting shipper: Pacific Provisions, Inc., P.O. Box 2006, 139 Mitchell Ave., South San Francisco, CA 94080.

MC 140755 (Sub-5–1TA), filed March 10, 1980. Applicant: BRAY TRANSPORTS, INC., P.O. Box 270, 1401 N. Little Street, Cushing, Oklahoma 74023. Applicant's representative: Dudley G. Sherrill (same address as applicant). *Liquid fertilizer solution,* from the Facilities of Chevron Chemical Co. at or near Friend, Kansas to Colorado, Nebraska, Oklahoma, Texas, and New Mexico. Supporting shipper: Chevron Chemical Company, 3001 LBJ Freeway, Suite 130, Dallas, TX 75234.

MC 141108 (Sub-5–1TA), filed March 10, 1980. Applicant: D & C Express, Inc., P.O. Box 746, Wilton, IA 52778. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. (1) *Iron and steel articles,* from the plantsite and storage facilities of North Star Steel Company located at or near Monroe, MI to points in CO, IL, IN, IA, KS, MO, NE, OH, OK, PA and WY, and, (2) *materials, equipment and supplies, (except commodities in bulk), used in the manufacture and distribution of iron and steel articles,* from the states named in (1) above to the facilities of North Star Steel Company located at or near Monroe, MI. Supporting shipper: North Star Steel Company, P.O. Box 43189, 1678 Red Rock Road, St. Paul, MN 55164.

MC 141914 (Sub-5–2TA), filed March 3, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. *Finished forest products, millwork and related products* from ports of entry on the International Boundary Line between the US and Canada to points in GA, MD, ND, NY, OH, PA, SD, TN, TX and WI. Supporting shipper: John Lewis, Industries, Ltee, 1030 Ray Lawson, Montreal, Que, Canada H1J 1M1.

MC 141914 (Sub-5–3TA), filed March 3, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. *Finished forest products, millwork and related by-products,* From Ports of Entry on the International Boundary line between the U.S. and Canada to points in all states except AZ, CA, CO, MT, OR, UT and WA. Supporting shipper: John Lewis Industries, Ltee, 10300 Ray Lawson, Montreal, Que, Canada H1J 1M1.

MC 142364 (Sub-5–2TA), filed: March 7, 1980. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *BBQ equipment NOI, electrical appliances NOI and recreational equipment* from the facilities of Neosho Products, Company, at or near Neosho, MO to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY. Supporting shipper: Neosho Products Company, Division of Sunbeam Corporation, Post Office Box 622, Neosho, MO 64850.

MC 142508 (Sub-5–9TA), filed March 10, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Post Office Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, Nebraska 68137. *Equipment and Supplies used by Hospitals and Research Laboratories,* from the facilities of Scientific Products, a division of American Hospital Supply Corporation at Edison, NJ; Gibbstown, NJ; and Lake County, IL; to the facilities utilized by Scientific Products at Tempe, AZ; Irvine, CA; Sunnyvale, CA; Denver, CO; Miami, FL; Ocala, FL; Atlanta, GA; McGaw Park, IL; Gurnee, IL; Harahan, LA; Bedford, MA; Minneapolis, MN; Columbia, MO; Maryland Heights, MO; No. Kansas City, MO; Romulus, MI; Charlotte, NC; Rochester, NY; Grand Prairie, TX; Houston, TX; Salt Lake City, UT; and Redmond, WA. Supporting shipper: Scientific Products, 1210 Waukegan Road, McGaw Park, IL 60085.

MC 143343 (Sub-5–2), filed March 3, 1980. Applicant: BALLENTINE TRANSPORT INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine, P.O. Box 463, Scottsbluff, NE 69361. Contract, Irregular, *Materials and Supplies used in Floor Covering and Finishing (except commodities in bulk, in tank vehicles),* between City of Industry, CA on one hand, and, on the other, Salt Lake City, UT., Denver, CO, Wichita, KS, Little Rock, AR, Tulsa and Oklahoma City, OK, Shreveport, LA, and Points in TX. Supporting shipper: L. D. Brinkman and Company, 520 N Wildwood, Irving, Texas 75060.

MC 144616 (Sub-5–1TA), filed March 10, 1980. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Canned* and *preserved foodstuffs,* from the facilities of Heinz USA at or near Fremont and Teledo, OH, Holland, MI, and Pittsburgh, PA to points in TX, restricted to traffic originating at the named facilities and destined to the named state. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 145150 (Sub-5–1TA), filed March 12, 1980. Applicant: HAYNES TRANSPORT, CO. INC., R. R. 2, Box 9, Salina, KS. 67401. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka , KS. 66612. *Soybean Oil,* From Emporia, KS to Port of Catoosa, OK. Supporting shipper:

Bunge Corporation, P.O. Box 518, Emporia, KS 66801.

MC 145384 (Sub-5–3TA), filed March 7, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Printed material,* from Chicago, IL and points in its commercial zone to Nevada, IA and the facilities of Meredith Corporation at Des Moines, IA. Supporting shipper: The Wessel Company, Inc., 1201 Kirk Street, Elk Grove Village, IL 60007; Meredith Corporation, 5701 SW., Park Avenue, Des Moines, IA 50305.

MC 145557 (Sub-5–1TA), filed February 25, 1980. Applicant: LIBERTY TRANSPORT, INC., 20 East Franklin, Liberty, Missouri 64068. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Missouri 64068. *Foodstuffs and such commodities as are dealt in by retail variety, discount and drug stores and wholesale houses serving such stores (except frozen commodities & commodities in bulk),* from the facilities of Colgate Palmolive Company, located at or near Kansas City, KS to Shreveport, Monroe and Alexandria, Louisiana. Supporting shipper(s): Colgate Palmolive Co. 1806 Kansas Ave., Kansas City, KS 66105.

MC 145950 (Sub-5–2TA), filed March 11, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. *Cleaning Compounds (except in bulk),* from the facilities of Plex Chemical Corporation, at or near Union City, CA, to points in FL and TX. Supporting shipper: Plex Chemical Corporation, P.O. Box 647, Union City, CA 94587.

MC 147632 (Sub-5–1TA), filed: March 10, 1980. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Fluorescent lighting fixtures and parts and accessories therefor,* from the facilities under contract to Keystone Lighting Corporation at Kingston, NY to all points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY. Supporting shipper: Keystone Lighting Corporation, U.S. Route 13 and Beaver Street, Bristol, PA 19007.

MC 148331 (Sub-5–1TA), filed: March 10, 1980. Applicant: MARION TRANSPORT, INC., 265 35th Street, Marion, Iowa 52302. Representative: Robert Cook, 265 35th Street, Marion, Iowa 52302. Contract irregular *unfrozen foodstuffs, to include cereal preparations, popcorn in oil and oat flour;* from Cedar Rapids and Wall Lake, Iowa to all points in the United States (except Hawaii and Alaska). Supporting shipper: National Oats Company, Inc., 1515 H Ave., N.E., Cedar Rapids, Iowa 52402.

MC 149035 (Sub-5–1TA), filed: March 10, 1980. Applicant: HARLAN D. RUDD, P.O. Box 57, Drakesville, Iowa 52552. Representative: Applicant Contract, Irregular, *Tractor parts,* from Chicago, IL, Rockford, IL, Peoria, IL, and Drakesville, IA on the one hand, and, on the other, to the International Boundary Line at Sweetgrass, MT for export to Edmonton, Alberta, Canada. Supporting shipper: Union Tractor Ltd., 4210 Calgary Trail, Edmonton, Alberta, Canada T6H 4S4.

MC 149375 (Sub-5–1TA), filed: March 12, 1980. Applicant: F. W. NEWCOMB TRUCKING, 2716 Isette Avenue, Muscatine, IA 52761. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lighting fixtures, and materials and supplies used in the production, sale and distribution of lighting fixtures (except in bulk),* between the facilities of Muscatine Lighting Mfg. at Muscatine, IA on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Muscatine Lighting Mfg., 2107 Steward Road, Muscatine, IA 52761.

MC 150085 (Sub-5–1TA), filed: March 10, 1980. Applicant: GERALD TALIAFERRO, d.b.a., HOLTON LIVESTOCK EXPRESS, Route 1, Holton, KS 66436. Representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Lawn and Agricultural Implements, Parts and Attachments,* From Holton, KS to points in the United States, and *Materials and Supplies* used in the manufacturing and distribution of the above named commodities in the reverse direction. Supporting shipper: B.M.B. Company, Inc., N. Vermont at 9th, Holton, Kansas 66436.

MC 150257 (Sub-No. 5–1TA), file: March 1, 1980. Applicant: JAMES M. BROOKS & JEANELLE WILLIAMS, d.b.a. B & W FREIGHT COMPANY, 4025 Homestead Road, Houston, TX 77015. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Chemicals in oceangoing containers,* from Beaumont, TX, to Galveston and Houston, TX. Restricted to traffic having a subsequent movement by water. Supporting shipper(s): Sea Train Lines, 2600 S. Loop West, Suite 500, Houston, TX. 77054

MC 150215 (Sub-No. 5–1TA), file: March 5, 1980. Applicant: LARRY H. BURLESON, d.b.a BURLESON DISTRIBUTORS, 2020 N. 9th Street, St. Louis, MO 63102. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Contract, Irregular *(1) Dairy Products required mechanical refrigeration;* (2) *Material and Supplies* used in the manufacture and distribution of dairy products from: (1) the facilities of Raskas Dairy, St. Louis, MO and Nu-Wiles, Ltd., St. Louis County, MO to Points in AZ, CA, CO, CT, DE, IL, IN, IA, KY, MD, ME, MI, NE, NJ, NM, NY, OH, OR, PA, RI, TX, WA, WV, WI, and MA, and the reverse direction on return; (2) from the facilities of Lorraine Cheese Co., at or near Pittsfield, IL to the facility of Nu-Wiles, Ltd., St. Louis County, MO. Supporting shipper(s): Lorraine Cheese Co., Pittsfield, IL 63263 Nu-Wiles, Ltd., 12066 Lackland Road, St. Louis, MO 63141. Raskas Dairy, Inc., 1313 North Newstead, St. Louis, MO 63113.

MC 150244 (Sub-5–1TA), file: March 10, 1980. Applicant: BELCO, INC., 2101 West Main Street, Jacksonville, AR 72076. Representative: Ron Harvey, 2101 West Main Street, Jacksonville, AR 72076, (501) 982–6511. Contract, Irregular, *Closets* or *toilets, sanitary, chemical, plastic, portable, parts* and *accessories* thereof, between Azusa, CA on the one hand, and any point in Texas on the other hand. Supporting shipper(s): Usanco, Inc., 965 Industrial, Azusa, CA.

MC 23618 (Sub-No. 5–1TA), file: March 12, 1980. Applicant: MCALISTER TRUCKING COMPANY, d.b.a. MATCO, 2041 S. Treadaway Blvd. Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, Dallas, TX 75235. (a) *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 Machinery, materials equipment 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;* (b) *Machinery, equipment, materials and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewage, restricted to the transportation of shipments moving to or from pipeline rights of way;* (c)

Earth drilling machinery and equipment, and machinery, equipment, materials and supplies and pipeline incidental to, used in, or in connection with, (1) *the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment,* (2) *the completion of holes or wells drilled,* (3) *the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and* (4) *the injection or removal of commodities into or from holes or wells;* (d) *Machinery, equipment, materials and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe;* (e) *Machinery, equipment, materials and supplies, used in, or in connection with, the drilling of water wells* between points in AZ, NM, TX, OK, KA and LA, on the one hand, and on the other, points in CA. Supporting shipper(s): Lucey Products Co., 5 Greenway Plaza East, Houston, TX 77046; Marlin Drilling Company, 1333 West Loop, Houston, TX; and Dresser Industries, Inc., Oilfield Products Group, Box 6504, Houston, TX 77005.

MC 111170 (Sub-5–2TA), filed March 14, 1980. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Mr. Fred Worsham (same address as applicant). *Pulpmill liquids, in bulk, in tank vehicles,* from Crossett, AR to Bastrop, LA. Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616.

MC 111170 (Sub-5–3TA), filed March 14, 1980. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Mr. Fred Worsham (same address as applicant). *Shipper owned trailers,* between Magnolia, AR and Delphi, IN. Supporting shipper: Dow Chemical U.S.A., P.O. Box 520, Magnolia, AR 71753.

MC 114890 (Sub-5–3TA), filed March 12, 1980. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Gasoline, in bulk, in tank vehicles,* from the facilities of Clark Oil and Refining Corporation at or near Hartford, IL, to the facilities of Clark Oil and Refining Corporation at or near Eureka, MO. Supporting shipper: Clark Oil and Refining Corporation, 8530 West National Avenue, Milwaukee, WI 53227.

MC 117815 (Sub-5–1TA), filed March 13, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S. E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, Attorney at Law, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities utilized by Oscar Mayer & Co., Inc. located in IL, IA, and WI to Sherman, TX, and points in its commerical zone. Supporting shipper: Oscar Mayer & Co., Inc. P.O. Box 7188, Madison, WI 53707.

MC 119399 (Sub-5–4TA), filed March 14, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara, 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. *Containers and bags and agricultural pesticides and ingredients (except in bulk)* from Atlas Point, DE (approximately 2 miles north of New Castle, DE); Indianapolis, IN; Paoli, PA; and Crossett, AR to St. Joseph, MO. Supporting shipper: Farmland Industries, Inc., Chemical Plant, P.O. Box 788, St. Joseph, MO 64502.

MC 119493 (Sub-5–9TA), filed March 13, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, Missouri 64801. *Such commodities as are dealt in or used by wholesale and retail, discount, or variety stores (except commodities in bulk)* (1) from points in CO, DE, ID, KS, ME, MD, MT, ND, NV, NE, NH, OR, OH, RI, SD, TN, UT, VT, WA, and WY to the facilities of Wal-Mart Stores, Inc., in Arkansas (2) and from facilities of Wal-Mart Stores, Inc. at or near Bentonville and Searcy, AR To facilities of Wal-Mart Stores, Inc. in AL, IL, KY, KS, LA, MO, MS, OK, TN, and TX. Supporting shipper: Donnie R. Couch, Assistant Director Traffic, Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 123056 (Sub-5–1TA), filed March 14, 1980. Applicant: FREDONIA TRUCK LINE, INC., Highway 96 and Jackson Street, Fredonia, Kansas 66736. Representative: Laurel D. McClellan, 401 North Sixth, P.O. Box 478, Fredonia, Kansas 66736. Contract, Irregular: (A)(1) *Rice bran, rice hulls, rice mill feed,* and *cottonseed meal* from Parsons, KS; and (2) *hominy* from Atchison, Bonner Springs, and Parsons, KS; Cedar Rapids, IA; Kansas City, MO; and Crete and Lincoln, NE; to points in AR, MO (except St. Louis), OK and TX (except points in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, TX), (B)(1) *Cottonseed meal* from Little Rock, AR, Sikeston and Kennett, MO, Altus, Clinton and Oklahoma City, OK, and Lubbock, Sweetwater, Abiline, Quanah, Plain View and Ft. Worth, TX, to Parsons, KS. Supporting shipper: ConAgra, Inc., 3801 Harney, Omaha, NE 68131.

MC 128988 (Sub-5–5TA), filed March 13, 1980. Applicant: JO/KEL, INC., 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt, 15580 South 169 Highway, Olathe, Kansas 66061. Contract, irregular: *tile, facing or flooring, and materials and supplies used in the manufacture and distribution of such commodities* between points in the United States (except AK and HI), restricted to the transportation of shipments from, to, or between the facilities of Kentile Floors, Inc. Supporting shipper: Kentile Floors, Inc., 58 Second Avenue, Brooklyn, New York 11215.

MC 129032 (Sub-5–1TA), filed March 13, 1980. Applicant: TOM INMAN TRUCKING, INC., 5656 S. 129th E. Ave., Tulsa, Oklahoma 74145. Representative: Larry J. Kramer, 5656 S. 129th E. Ave., Tulsa, Oklahoma 74145. (1) *Hi temperature bonding cement, refractory cement, blocks, boards, coverings and systems (except in bulk);* (2) *Raw materials and supplies used in the manufacture and production of above commodities (except in bulk),* (1) from the facilities of Ryder industries, Inc., at Texarkana, AR and Dallas, TX to all points in the United States (except Alaska, Hawaii and Texas) to the facilities of Ryder Industries, Inc. Supporting shipper: Ryder Industries, Inc., P.O. Box 11196, Dallas, TX 75223.

MC 142508 (Sub-5–10TA), filed March 13, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, Post Office Box 37465, Omaha, Nebraska 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, Nebraska 68137. *Foodstuffs and Equipment, Materials and Supplies used in the manufacture of foodstuffs,* between the facilities utilized by Ocean Spray Cranberries, Inc. in Montgomery, AL; Yuba City, CA; Chicago, IL; Lake Wales and Vero Beach, FL; Middleboro, MA; Bordentown, NJ; Clackamus, OR; Erie and North East, PA; Sulphur Springs, TX; Markham, WA; and Kenosha, WI, on one hand, and on the other, points in the United States (except AK and HI). Supporting shipper: Ocean Spray

Cranberries, Inc., Water Street, Plymouth, MA 02360.

MC 144682 (Sub-5–2TA), filed March 13, 1980. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Malt beverages, promotional advertising, pallets, and dunnage, display materials and empty malt beverage containers,* between Ft. Worth, TX, and points in OR, WA, CA, and Las Vegas and Reno, NV, and Albuquerque and Santa Fe, NM. Supporting shipper(s): Miller Brewing Company, 7001 South Freeway, Ft. Worth, TX 76134

146616 (Sub-5–2TA), filed March 6, 1980. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st Street, Suite B, Tulsa, Oklahoma 74135. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, Oklahoma 74103. Contract; Irregular: *Slab zinc spelter* from the facilities of National Zinc Company at Bartlesville, OK, to Houston, Beaumont, Dallas, and Ft. Worth, TX; Birmingham and Anniston, AL; Greenville and Jackson, MS; Nashville, TN; Kansas City, KS; Kansas City and St. Louis, MO; Chicago, Evanston and Reuters, IL; and Gary, IN. Supporting shipper: National Zinc Company, P.O. Box 579, Bartlesville, OK 74003.

MC 147632 (Sub-5–2TA), filed March 14, 1980. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Fluorescent lighting fixtures and parts and accessories therefor,* from the facilities owned, operated or under contract to Keystone Lighting Corporation in Kingston, NY and Philadelphia and Bucks Counties, PA to points in FL, TX and MS and from Mississippi to the facilities owned, operated or under contract to Keystone Lighting Corporation in Kingston, NY and Philadelphia and Bucks Counties, PA. Supporting shipper: Keystone Lighting Corporation, U.S. Route 13 and Beaver Street, Bristol, PA 19007.

MC 150138 (Sub-5–1TA), filed March 14, 1980. Applicant: HERSHELL A. ATKINSON d/b/a, APOLLO AIR FREIGHT DELIVERY SERVICE, 1027 Aldine Mail Rt., Houston, TX 77037. Representative: Hershell A. Atkinson d/b/a, Apollo Air Freight Delivery Service, 1027 Aldine Mail Rt., Houston, TX 77037. *General commodities, except commodities in bulk, in tank vehicles, household goods and commodities of unusual value, restricted to traffic having a prior or subsequent movement by air in interstate or foreign commerce,* between Houston, TX, on the one hand, and on the other, Alto, Bloomington, Bronson, Crockett, Cuero, Diboll, Edna, El Campo, Fannin, Flatonia, Ganado, Grapeland, Groveton, Hallettsville, Huntington, Jasper, Lufkin, La Grange, Melrose, Nacogdoches, Palacios, Pineland, Point Comfort, Port Lavaca, Port O'Conner, San Augustine, Schulenburg, Seadrift, Shiner, Victoria, Waelder, Weimar, and Yoakum, TX, and points within the Houston, TX Commercial Zone. Supporting shippers: Associated Air Freight, P.O. Box 60873 AMF, Houston, TX 77205; South Texas Supply, 110 Santa Fe, Victoria, TX 77901; Special Service Freight Co., 3105 McKaughan, Houston, TX 77205; Airborne Freight Corp., 3101 Igloo Rd., P.O. Box 60463, Houston TX 77205 and Team Air Freight, P.O. Box 60499, Houston, TX 77205.

MC 150286 (Sub-5–3TA), filed March 13, 1980. Applicant: HOLBERT TOTER SERVICE, INC., Stratford, IA 50249. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Modular Homes,* from the facilities of Sandler-Bilt Homes at or near Boone, IA, to points in IL, KS, MN, MO, NE, SD, and WI. Supporting shipper: Sandler Bilt Homes, 5390—2nd Avenue, Des Moines, IA 50313.

MC 150287 (Sub-5–1TA), filed March 13, 1980. Applicant: TOM RICE, 723 Commercial St., La Porte City, IA 50651. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *(1) Beer, and (2) Recyclable Materials,* from (1) Minneapolis and St. Paul, MN to Waterloo, IA, and (2) from Waterloo, IA, to Minneapolis and St. Paul, MN. Supporting shipper: United Beverage, Inc., 549 Center St., Waterloo, IA 50703.

MC 148832 (Sub-5–1TA), filed February 4, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Boulevard, P.O. Box 1083, Poplar Bluff, MO 63901. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Common, regular, General commodities* (except those of unusual value, classes A and B explosives, houshold goods as defined by the Commission, commodities in bulk, those requiring special equipment and those injurious to other lading), between Memphis, TN and Poplar Bluff, MO, seeking to service Poplar Bluff as a point of joinder only: (1) from Poplar Bluff over U.S. Hwy 67 to its junction with U.S. Hwy 63; then over U.S. Hwy 63 to its junction with Interstate Hwy 55; then over Interstate Hwy 55 to Memphis, and return over the same route; (2) from Poplar Bluff over MO Hwy 53 to its junction with MO Hwy 25; then over MO Hwy 25 to its junction with MO Hwy 84; then over MO Hwy 84 to its junction with Interstate Hwy 55; then over Interstate Hwy 55 to Memphis, and return over the same route, for 180 days. Applicant proposes to tack with its presently held authority and to interline with other carriers at Memphis. Supporting shipper(s): There are 14 supporting shippers.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 148208 (Sub-6–1TA), filed March 10, 1980. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, Utah 84047. Representative: C. Reed Brown, 1300 Walker Bank Building, Salt Lake City, Utah 84111. *Tallow, meat and bone meal* in bulk from the facilities of Intermountain Protein Products in West Jordan, UT to facilities of Ralston Purina at or near Sparks, NV and CA, for 180 days. Supporting shipper: Intermountain Protein Products, 5260 West Old Bingham Highway, West Jordan, UT 84084. An underlying ETA seeks 90 days authority.

MC 57329 (Sub-6–2TA), filed March 10, 1980. Applicant: TRANSPORTATION SERVICES, INC., 1101 N. 27th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Common carrier* —regular route: *General commodities,* between Los Angeles County, CA on the one hand, and, on the other, Phoenix, AZ via Interstate 10, for 180 days. An underlying ETA seeks 90 days authority. Applicant proposes to interline at Los Angeles, CA and Phoenix, AZ. Supporting shippers: There are 16 shippers.

MC 110325 (Sub-6–28TA), filed March 10, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Esq., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Common Carrier:* Regular routes: *General commodities (except Classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving the facilities of Royal Seating Corporation at or near Cameron, TX as an off-route point in connection with carrier's otherwise authorized regular-route operations for 180 days. Supporting shipper: Royal Seating Corporation, P.O. Box 753, Cameron, TX.

Note.—Applicant proposes to tack the authority sought with its authority in MC-110325 and Subs thereto, and proposes to

interline with other motor carriers. An underlying ETA seeks 90 days' authority.

MC 143775 (Sub-6–1TA), filed March 10, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same. *Metal wire and cable,* from Shrewsbury, MA to points in CO, FL, OR, GA and WA, for 180 days.

Note.—Dual operations may be involved.

MC 136605 (Sub-6–4TA), filed March 10, 1980. Applicant: DAVIS TRANSPORT, INC., Post Office Box 8058, Missoula, MT 59807. Representative: Allen P. Felton, Post Office Box 8058, Missoula, MT 59807. *Wrought Steel Pipe, Coated and Wrapped Wrought Steel Pipe,* from the facilities of Beall Pipe and Tank Corporation, located at or near Portland, OR to points in the states of MT, IL, IN, IA, ID, CA, SD, ND, MN, NE, CO, WA, and WY, for 180 days. Supporting shipper: Beall Pipe and Tank Corporation, Post Office Box 03310, Portland, OR 97203.

MC 140266 (Sub-6–1TA), filed March 10, 1980. Applicant: BAKER TRUCK LINES, INC., 1643 Spiral Highway, P.O. Box 535, Lewiston, ID 83501. Representative: Roger D. Baker, as above. *Wood residuals, wood chips, sawdust, shavings and hog fuel,* between those points in that part of ID north of the Salmon River on the one hand, and, on the other, points in Lincoln and Walla Walla counties, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boise Cascade Corp., Boise, ID 83707.

MC 150237 (Sub-6–1TA), filed March 7, 1980. Applicant: JAMES V. PALMER, d.b.a. JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Expanded plastic products with facing on one or more sides* (except in bulk), from Hamilton, OH to points in the U.S. on or west of U.S. Highway 85, for 180 days. Supporting shipper: Dow Chemical U.S.A., Eastern Division, P.O. Box 36000, Strongsville, OH 44136.

Note.—U.S. Highway 85 traverses the states of ND, SD, WY, CO and NM. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 127690 (Sub-6–1TA), filed March 7, 1980. Applicant: MONTANA TRANSPORT COMPANY, P.O. Box 860, Jerrie Lane, Billings, Montana 59103. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, North Dakota 58501. *Hides,* from Butte and Billings, MT; Yakima and Bellingham WA; Idaho Falls, Nampa, and Boise, ID; Pascal, WA; Salt Lake City and Ogden, UT; Fort Worth and San Antonio, TX; and Portland, OR, to points in MI, TX, WI, Seattle and Tacoma and Yakima, and Bellingham, WA; Portland, OR and Chicago, IL, for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper(s): George H. Elliott Company, Box 692, Billings, MT 59103; Northern Commodities Company, Route 2, Box 433, Idaho Falls, ID 83401; Friese Hide and Tallow Company, Inc., Box 2007, Bellingham, WA 98223; and Pacific Hide and Fur, P.O. Box 849, Nampa, ID 83651.

MC 135241 (Sub-6–1TA), filed March 7, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 S.W. Edy Road, Sherwood, OR 97140. Representative: John A. Anderson, Suite 1440, 200 S.W. Market St., Portland, OR 97201. *Contract carrier,* irregular routes; *Newsprint,* in rolls, from the facilities of Publishers Paper Co. at or near Oregon City and Newberg, OR to points in Sacramento, San Joaquin, Stanislaus, Santa Clara, San Francisco, San Mateo, Alameda, Contra Costa, Los Angeles, Orange and Riverside Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Publishers Paper Co., 419 Main St., Oregon City, OR 97045.

MC 135185 (Sub-6–1TA), filed March 11, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract carrier,* irregular routes, *Razors and razor blades, toilet articles and toilet preparations, pens and markers, shaving cream, stationery and stationery products, cigarette lighters, cleaning compounds and pads, hair curlers, hair spray, shampoo, sponges, fire extinguishers, electrical appliances, deodorants, dispensers, sound warning devises, other commodities manufactured by manufacturers of the above described commodities, display racks, stands and cabinets, and materials, equipment, and supplies (except in bulk) and materials, equipment, and supplies (except in bulk) used in the manufacture and distribution of the commodities named above.* From (1) La Mirada, CA and points in its commercial zone; to Seattle and Kent, WA; Portland, OR; and Salt Lake City, UT, and points in their commercial zones. From (2) The facilities of The Gillette Company, at or near St. Paul, MN; to Portland, OR and points in its commercial zone for the account of The Gillette Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Gillette Co., 43rd Floor, Prudential Tower, Boston, MA 02109.

MC 141532 (Sub-6–3TA), filed March 10, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 3328 East Valley Road, Renton, WA 98055. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Hand tools,* from the facilities of Warwood Tool Co. at or near Wheeling, WV to points in CA and WA, for 180 days. Supporting shipper: Warwood Tool Company, N. 19th Street, Wheeling, WV 26003.

MC 150005 (Sub-6–1TA), filed March 10, 1980. Applicant: BILL R. DOWNS, d.b.a., BILL R. DOWNS TRUCKING, 2009 Fir Dr., Rock Springs, WY 82901. Representative: Bill R. Downs (same as applicant). *(1) Machinery, material, equipment 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, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of complete drilling rigs; Between points in WY-CO-UT-MT-ND-SD-ID-NB and NV, for 180 days. There are (8) shipper's. Their statements may be examined at San Francisco, CA.

MC 142631 (Sub-6–1TA), filed March 10, 1980. Applicant: LEELAND L. PEABODY d.b.a. L. PEABODY TRUCKING; 4290 Elton St., Baldwin Park, CA 91776. Representative: Mark S. gray, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. *refractory materials and accessories,* from points in NY, OH, PA, IL, IN, KY, MD, MI, MO, AR, TN and UT, to Los Angeles, CA (and its commercial zone) and points in AZ, under a continuing contract or contracts with The Pryor-Giggey Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Pryor-Giggey Company, 10,000 Santa Fe Springs Rd., Santa Fe, CA 90670.

MC 42487 (Sub-6–8TA), filed March 11, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, a corporation of Delaware, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common* regular routes *General commodities, (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment),* (1) Between Athens, GA

and Greenville, SC, serving all intermediate points: From Athens over U.S. Hwy 29 to Greenville, and return over the same route. (2) Between Athens, GA and Atlanta, GA, serving all intermediate points: From Athens over U.S. Hwy 78 to Atlanta, and return over the same route. (3) Between Athens, GA and Thomson, GA, serving all intermediate points: From Athens over U.S. Hwy 78 to Thomson, and return over the same route, for 180 days. Supporting shipper(s): There were thirty (30) shipper support forms filed with this application which may be inspected at the offices of the Interstate Commerce Commission, Washington, D.C. or at the Region 6 District Office.

Note.—Applicant intends to tack the authorities described above. Applicant also intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will tack with present authority of Applicant at Atlanta, GA, Athens, GA, and Greenville, SC. Present authority at these points is found in Docket No. MC 42487 Sub 744. Authority at Atlanta, GA is also found in Docket No. MC 42487 Sub 872. Authority at Greenville, SC is also found in Docket No. MC 42487 Subs 863 and 905F. These authorities, in turn, will be joined with other authorities of Applicant at common service points to permit service throughout the United States.

Note.—Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission.

MC 77061 (Sub-6–4TA), filed March 10, 1980. Applicant: SHERMAN BROS., INC., 29534 Airport Rd., Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Boards and Sheets and Lumber* from Jackson County, OR to Portland, OR and Pierce and King Counties in WA; for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Weldwood of Canada, P.O. Box 2179, Vancouver, B.C.; Medford Corporation, P.O. Box 550, Medford, OR.

MC 124692 (Sub-6–1TA), filed March 8, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James Hovland, Suite M–20, 400 Marquette Ave, Minneapolis, MN 55402. *Lumber,* from Weippe, ID to El Monte, CA, for 180 days. Supporting shipper: Thomas Perkins, President, Fence Craft Co., Box 37, Rosemead, CA 91770.

MC 150259 (Sub-6–1TA), filed March 12, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, Utah 84110. Representative: Melvin J. Whitear (same as applicant). *Contract carrier:* Irregular routes: 1. *Ammonium Nitrate, bulk dry.* 2. *Sodium Perchlorate, bulk liquid 60 to 64%.* 3. *Di Nitro Tolulene, bulk liquid.* 1. From Hardin, MT, Cheyenne and Casper, Wy and Benson, AZ to Pelican Point, UT and points within 7 miles. 2. From Henderson, NV to Pelican Point, UT, and points within 7 miles and Gilbert, MN. 3. From Pasadena, TX to Pelican Point, UT and points within 7 miles and Gilbert, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cook Associates, Inc., d.b.a. Cook Slurry Company, 2226 Beneficial Tower, Salt Lake City, UT 84111.

MC 150208 (Sub-6–1TA), filed March 12, 1980. Applicant: S. AND S. BROKERS AND DISTRIBUTORS LTD., 236 Manora Crescent NE, Calgary, Alberta T2A 4S5, Canada. Representative: John A. Anderson, Suite 1440, 200 S.W. Market Street, Portland, OR 97201. *Inedible offal,* from the Port of Entry on the International Boundary Line between the United States and Canada located at or near Eastport, ID, to the facilities of Protein Products, Inc. at Newberg, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Protein Products, Inc., P.O. Box 328, Newberg, OR 97132.

MC 150256 (Sub-6–1TA), filed March 11, 1980. Applicant: CAL COAST TRUCKING, INC., 4520 Everett Street, Vernon, California 90058. Representative: David P. Christianson of Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017, (213) 627–8471. *Contract carrier:* Irregular routes: *Magazines and printed materials,* between Los Angeles County and Orange County, CA, on the one hand, and, on the other, points in California, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Periodical Distributors, Inc., 6303 Corsair Street, City of Commerce, CA 90040; and Playgirl, Inc., 3420 Ocean Park Boulevard, Santa Monica, CA 90405.

MC 77061 (Sub-6–5TA), filed March 10, 1980. Applicant: SHERMAN BROS., INC., 29534 Airport Rd., Eugene, OR. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Iron and Steel Articles* from Multnomah and Washington Counties, OR to Ada and Canyon Counties, ID. RESTRICTED to shipments for the account of American Steel, a Division of American Industries, 4033 N. W. Yeon Ave., Portland, OR 97210, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Steel, a Division of American Industries, 4033 N. W. Yeon Ave., Portland, OR 97210.

MC 136818 (Sub-6–2TA), filed March 11, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Cheese, cheese products and synthetic cheese,* from the facilities of L. D. Schreiber Cheese Co. in Barry, Newton, Jasper and Lawrence Counties, MO, to points in AL, AR, FL, GA, KY, LA, MS, OK, TN, NC, SC, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: L. D. Schreiber, 425 Pine Street, Green Bay, WI 54305.

MC 134599 (Sub-6–6TA), filed March 11, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, Utah 84127. Representative: Mr. Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier:* irregular routes: *Chemicals used in the manufacture of rubber products* (except commodities in bulk) from Laredo, TX to the facilities of The Armstrong Rubber Company at or near Little Rock, AR; Hanford, CA; West Haven, CT; Des Moines, IA; Natchez, MS; and Clinton and Madison, TN, for 180 days. Supporting shipper: The Armstrong Rubber Company, 500 Sargent Drive, West Haven, CT 06507. An underlying ETA seeks 90 days authority.

MC 134599 (Sub-6–5TA), filed March 11, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, Utah 84127. Attorney: Mr. Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier:* irregular routes: *Rubber and plastic hose and hose fittings and equipment, materials, and supplies used in the manufacture of such commodities,* between the facilities of Electric Hose and Rubber Co., in Marion County, FL on the one hand, and, on the other, points in the United States (except AK and HI) for the account of Dayco Corporation of Dayton, OH under continuing contract with Dayco Corporation of Dayton, OH, for 180 days. Supporting shipper: Dayco Corporation, P.O. Box 1004, Dayton, OH 45401. An underlying ETA seeks 90 days authority.

MC 147662 (Sub-6–1TA), filed March 10, 1980. Applicant: KMC TRANSPORT, INC., P.O. Box 962, Caldwell, ID 83605. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier,* irregular routes, (1) *Fiberglass products,* from the facilities of Fiberstrong Products, Inc. at or near

Caldwell, ID to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of fiberglass products (except commodities in bulk), from points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY to the facilities of Fiberstrong Products, Inc. at or near Caldwell, ID, for 180 days. RESTRICTION: Restricted to a transportation service to be performed under continuing contract(s) with Fiberstrong Products, Inc. An underlying ETA seeks 90-day authority. Supporting shipper: Fiberstrong Products, Inc., Mr. Ted L. Carter, President, 202 Albany Avenue, Caldwell, ID 83605.

MC 143812 (Sub-6-1TA), filed March 10, 1980. Applicant: VAN DIEST TRUCKING INC., 1415 East Ninth Avenue, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Agricultural minerals, auxiliary soil nutrients* and *commercial fertilizers,* in bulk, in tank vehicles, from Bakersfield, CA to points in AZ, LA, NV, NM, and TX for 180 days. An underlying ETA seeking up to 90 days of operating authority has also been filed.

MC 117786 (Sub-6-4TA), filed March 10, 1980. Applicant: RILEY WHITTLE, INC., Post Office Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Paper and paper products including paper labels or tags* from points in WI, PA, TX to Dayton, OH for 180 days. Supporting shipper: Monarch Marking Systems, P.O. Box 608, Dayton, OH 45401.

MC 125433 (Sub-6-11TA), filed March 10, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). *Games, toys, juvenile furniture, playground apparatus and clothing* from AR, LA, MS, TN, AL, GA, KY, VA, SC, NC and KY to Bensonville, IL; Southgate, MI; Secaucus, NJ; Mansfield, MA and Beltsville, MD, for the account of Toys R Us, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Toys R Us, 395 West Passaic Street, Rochelle Park, NJ 07662.

MC 115826 (Sub-6-1TA), filed March 12, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Such commodities as are dealt in and used by producers and distributors of alcoholic beverages, liquors and wines,* from the facilities of Heublein, Inc., at or near Hartford, CT to points in AZ, CA, CO, GA, ID, IL, IN, KS, KY, MI, MN, MO, MT, NE, NV, OK, SD, TN, UT, WI & WY. (Restriction: The above authority is restricted to the movement of traffic originating at the named facilities) for 180 days. Supporting shipper: Heublein, Inc., 330 New Park Avenue, Hartford, CT 06101.

MC 150259 (Sub-6-2TA), filed March 12, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, UT 84101. Representative: William S. Richards Post Office Box 2465, Salt Lake City, UT 84110. *Contract Carrier:* Irregular routes: *Chemicals, in bulk,* between Salt Lake City, UT, and points within 50 miles, on the one hand, and points and places in the Continental United States west of the Mississippi River, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521.

MC 150084 (Sub-6-1TA), filed February 19, 1980. Applicant: PRIDE TRANSPORT, INC., 1005 Jewell St., Salt Lake City, UT 84104. Representative: James H. Faust, Kearns Building, Salt Lake City, UT 84111. *Juvenile furniture, broken down, in cartons.* From the facilities of Graco Children's Products, Inc., at or near Blue Hall, Elverson and Hallam, PA, Rochester NY and West Rutland VT to states in and west of CO, MT, NM and WY, for 180 days. An underlying ETA seeks 90 days to operate. Supporting shipper: Graco Children's Products, Inc., Elverson PA 19529

MC 2862 (Sub-6-1TA), filed February 19, 1980. Applicant: ARROW TRANSPORTATION CO. of Delaware d.b.a. ARROW TRANSPORTATION COMPANY, Post Office Box 10106, Portland, OR 97210. Representative: Jerry R. Woods, Suite 1440, 200 Market St., Portland, OR 97201. *Jet fuel,* in bulk, in tank vehicles, from facilities of West Aire, Inc., at or near Hayden Lake, ID to Walla Walla, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: West Aire, Inc., P.O. Box 26, Hayden Lake, ID 83835.

MC 141033 (Sub-6-1TA), filed February 19, 1980. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, 15045 East Salt Lake Avenue, City of Industry, CA 91749. Representative: James I. Mendenhall, President, P.O. Box 1257, 15045 East Salt Lake Avenue, City of Industry, CA 91749. (1) *Such merchandise as is dealt in or distributed by pharmaceutical houses* (except commodities in bulk); from Norwich and North Norwich, NY, and Greenville, SC, to points in the U.S. (except AK and HI), (2) *Materials, supplies and equipment used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk;* from points in the U.S. (except AK and HI), to Norwich and North Norwich, NY, and Greenville, SC, for 180 days. Supporting shipper: Norton-Eaton Pharmaceuticals, Division of Morton-Norwich, 13 Eaton Ave., Norwich, N.Y. 13815.

By the Commission.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80-8839 Filed 3-21-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Contract Detention Grant Program

AGENCY: Law Enforcement Assistance Administration.

ACTION: Notice of Grant Program.

SUMMARY: The Corrections Division of the Office of Criminal Justice Programs, Law Enforcement Assistance Administration, is publishing the announcement of an additional program under the category of its Discretionary Programs for Fiscal Year 1980. This program is supported by Federal funds authorized by the Justice System Improvement Act of 1979.

Contract Detention Program

The Contract Detention Program is a pilot effort designed to demonstrate that local jail overcrowding can be alleviated in a cost effective and timely manner by purchasing detention services for low risk inmates through contracts between local jails and private entities.

The program is intended primarily as a housing alternative for low risk offenders incarcerated in a city or county jail that has been cited by a local, state or federal court as being overcrowded. The contract for alternative detention must reduce the jail population to a level that will satisfy a court order or consent decree. Funds for this purpose may be used only for the contracting of housing, custodial services, and minor security-related renovation.

Applicants are encouraged to seek out new and innovative service providers (e.g. private social service agencies, hotel/motels, colleges, etc.) to accomplish these objectives. A copy of the draft contract between the jail officials and the detention service

provider must be included with the application. Applicants must also document that a wide range of programs offering alternatives to incarceration (diversion projects, early release mechanisms) have already been implemented in an effort to reduce overcrowding.

Allocations: In FY80, $450,000 has been allocated for this pilot effort.

Number and Dollar Range of Grants: Two sites will be awarded funds at an amount up to $225,000 per site for a period of 15 months. The 15 months includes three months to finalize the contractual arrangements and 12 months of contractual detention services. No continuation awards are anticipated under this program.

Match Requirement: No specific amount of matching funds will be required for these grants. Applicants must document, however, how total costs for housing the excess inmate population will be covered during the grant period.

Eligibility: Eligibility for participation in this program is limited to city and county jails that are under some form of court order or formal consent decree to reduce their jail populations. The use of contractual services must fully satisfy the court order or decree by maintaining the jail population under the maximum level set by the order or decree.

Submission Deadline: Applications (including the draft contract) must be received by LEAA by June 6, 1980.

Contact: For further information and details, potential applicants should contact: Peter L. Regner, Chief, Offender Services Branch, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: 202/724–5859.

Other Criteria: In addition to the criteria discussed in the previous sections, there are other requirements and criteria that must be included in a formal application submission for this program. Applicants should contact the program manager for further details.

Homer F. Broome, Jr.,

Acting Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80-8870 Filed 3-21-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Atmospheric Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Date: April 10 and 11, 1980.
Time: 9 a.m.–5 p.m. each day.
Place: Room 642, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 634–1490.
Summary Minutes: May be obtained from the above stated contact person.
Purpose of Committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.
Agenda: April 10–11, 1980.

April 10, 1980

9 a.m. Opening remarks and introduction of new members—Bierly.
9:15 a.m. Approval of minutes from ACAS meeting, 31 Oct.–2 Nov. 1979—Dessler.
9:30 a.m. Remarks by AD/AAEO—Dr. Francis Johnson.
10 a.m. Coffee break.
10:15 a.m. Activities since last meeting: Reorganization of ATM, FY 81 Budget, Long range plans for ATM, and Update on NSF Circular—Bierly.
11 a.m. UCAR/NCAR Relations, Director NCAR—R. M. White.
12 Noon. Lunch.
1:30 p.m. Instrumentation/Facility Needs and Use in Atmospheric Sciences, Policy for independent facilities (e.g.—T–28 A/C, CHILL Radar), Incoherent Scatter Radar, and Instrumentation needs—Staff.
3:15 p.m. Coffee break.
3:30 p.m. Manpower needs—Dessler/Bierly.

April 11, 1980

9 a.m. Proposal processing, NSF system, and Program problems.
10 a.m. Coffee break.
10:15 a.m. NCAR cost recovery initiatives—R. M. White.
12 Noon. Lunch.
1:30 p.m. ATM Organizational Response to GARP and the World Climate Program, ATM reaction—Greenfield.
2 p.m. Oversight discussion, ACAS responsibility, Aeronomy and GARP reports, Suggested programs for October, Meteorology and Solar Terrestrial Studies, and Appointment of chairpeople and members to oversight committees—Bierly.
3 p.m. Coffee break.
3:15 p.m. Continue discussing—Dessler.
4 p.m. Next meeting.
4:15 p.m. Adjournment.

M. Rebecca Winkler,

Committee Management Coordinator.

March 19, 1980.

[FR Doc. 80-8822 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Ecological Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Ecological Sciences of the Advisory Committee for Environmental Biology.
Date and Time: April 9, 10 and 11, 1980; 8:30 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G St NW, Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Persons: Dr. David W. Johnston, Program Director, Ecology Program (202) 632–7324, and Dr. Melvin I. Dyer, Program Director, Ecosystem Studies Program (202) 632–5854, Room 336, National Science Foundation, Washington, D.C. 20550.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in ecological sciences.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 1980.

[FR Doc. 80-8819 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Electrical, Computer, and Systems Engineering; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Electrical, Cimputer, and Systems Engineering of the Advisory Committee for Engineering and Applied Science.
Date and Time: April 23, 1980–9 a.m. to 5 p.m. April 24, 1980—9 a.m. to 2 p.m.
Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Open—April 23—9 a.m. to 12 noon. April 24—9 a.m. to 2 p.m. Closed—April 23—1:30 p.m. to 5 p.m.
Contact Person: Mr. Norman Caplan, Acting Director, Division of Electrical Computer, and Systems Engineering, Room 416,

National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632–5881.

Summary Minutes: May be obtained from Mr. Norman Caplan, Acting Director, Division of Electrical, Computer, and Systems Engineering, Room 416, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632–5881.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in the area of Electrical, Computer, and Systems Engineering.

Agenda

Wednesday, April 23, 1980—Open—9 a.m. to 12 noon

9:00—Introduction by Division Director and Status Report.
10:00—Questions and answers.
10:15—Briefing of Division programs.
11:45—Questions and answers.
12 noon—Recess.

Wednesday, April 23, 1980—Closed—1:30 p.m. to 5 p.m.

1:00—Discussion of proposal review and decision making processes, followed by separate subgroup discussions of individual programs, including review of peer review material and other privileged material.
5:00—Adjourn.

Thursday, April 24, 1980—Open—9 a.m. to 2 p.m.

9:00—Oral reports from Subcommittee.
9:30—Subcommittee discussion of future directions of programs.
10:30—Subcommittee discussion of division-wide concerns.
11:30—Drafting of preliminary Subcommittee response.
12:00 Further Discussion of division wide concerns.
2:00—Adjourn.

Reason for Closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,

Committee Management Coordinator.

March 19, 1980.

[FR Doc. 80-6820 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Long-Term Ecological Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Long-Term Ecological Research of the Advisory Committee for Environmental Biology.

Date and Time: April 21 and 22, 1980; 8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. James T. Callahan, Associate Program Director, Ecosystem Studies Program, (202) 632–5854, Room 336, National Science Foundation, Washington, D.C. 20550.

Purpose of Subcommittee: To provide advice and recommendations concerning support for long-term ecological research.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 19, 1980.

[FR Doc. 80-6812 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee for Measurement Methods and Data Resources of the Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Measurement Methods and Data Resources of the Advisory Committee for Social and Economic Science.

Date and Time: April 25 and 26, 1980; 1:30 p.m. to 5:30 p.m., April 25; 9:00 a.m. to 3:00 p.m., April 26.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Part Open—1:30 p.m. to 3:30 p.m., April 25, 1980. Closed—3:30 p.m. to 5:30 p.m., April 25, 1980, and 9:00 a.m. to 3:00 p.m., April 26, 1980.

Contract Person: Dr. Murray Aborn, Program Director, Measurement Methods and Data Resources, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4216.

Summary of Minutes: May be obtained from the contact person, Dr. Murray Aborn, at the above address.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research and research-related projects in Measurement Methods and Data Resources.

Agenda: Open: 1:30 p.m. to 3:30 p.m., April 25—Discussion of recent program activities. Closed: 3:30 p.m. to 5:30 p.m., April 25; and 9:00 a.m. to 3:00 p.m., April 26—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pusuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-8821 Filed 3-21-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Systematic Biology of the Advisory Committee for Environmental Biology.

Date and Time: April 17 and 18, 1980; 8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. John H. Beaman, Program Director, Systematic Biology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5846.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6)

of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 19, 1980.

[FR Doc. 80–8818 Filed 3–21–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Babcock and Wilcox Water Reactors; Meeting

The ACRS Subcommittee on Babcock and Wilcox Water Reactors will hold a meeting on April 8, 1980 in Room 1046, 1717 H St., NW., Washington, DC 20555 to complete its review of the NRC Staff Study to determine whether construction should be halted on certain B & W plants because of sensitivity of the once-through-steam generator (OTSG) to feedwater transients.

Notice of this meeting was published March 19, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as praticable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, April 8, 1980

8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Babcock and Wilcox, their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Peter Tam (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 18, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–8877 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident Action Plan; Meeting; Change

The April 1–2, 1980 meeting of the ACRS Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident Action Plan will be held in Room P–118, Phillips Building, 7920 Norfolk Avenue, Bethesda, MD, starting at 8:30 a.m. each day. Notice of this meeting was published on March 17 (45 FR 17097) and all other items pertaining to the meeting remain the same as published.

Dated: March 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–8876 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

Announcement by Automatic Telephone Answering Service

AGENCY: Nuclear Regulatory Commission.

During the next 60 days, the NRC will test the effectiveness of an automatic Telephone Answering Service as an additional method of providing current information to the public concerning the scheduling of Commission meetings. The telephone number to call is (202) 634–1498.

The schedule of Commission meetings will be recorded daily on or before 3 PM of the date preceding the meeting and updated as required. The meeting schedule will also continue to be distributed through the current mailing service, the **Federal Register** and the Public Document Room, as before; no change is anticipated in this distribution.

The recording will operate 24 hours a day. Because the Commission schedule is subject to late changes, those who are planning to attend a meeting should re-verify the status of the meeting whenever possible.

Meetings will be at 1717 H Street unless otherwise indicated.

Further details of meetings are available from NRC staff during regular work hours at (202) 634–1410. At the end of the 60 day trial period, consideration will be given to extending this service to an "800" (Toll-Free) number.

Dated: March 18, 1980.

Walter Magee,

Office of the Secretary.

[FR Doc. 80–8878 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–325, 50–324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 26 and 50 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to (1) correct the table of safety related hydraulic snubbers, (2) provide for systematic implementation of instrumentation modifications, and (3) eliminate the requirement for removing the SRM "shorting links" during core alterations with control rods withdrawn.

The applications for amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental

impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 20, 1979, as supplemented January 14, 1980 and applications dated November 19, 1979 and January 24, 1980, (2) Amendment Nos. 26 and 50 to Licenses Nos. DPR–71 and DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of March 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80–8879 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–470F]

Combustion Engineering, Inc.; Receipt of a Standardized Final Safety Analysis Report

Combustion Engineering, Incorporated, (CE), has filed with the Nuclear Regulatory Commission (the Commission) its Final Safety Analysis report (CESSAR–FSAR), which was docketed on December 21, 1979. CESSAR describes the System 80 NSSS reference design.

The CESSAR–FSAR was tendered on October 27, 1978. During the acceptance review for completeness, Combustion Engineering, Incorporated submitted Amendments 1 through 4 by letters dated December 7, 1978, December 20, 1978, June 20, 1979 and August 13, 1979, respectively. These amendments were submitted in response to our requests for information required for docketing as set forth in letters from NRC dated March 23, 1979 and July 25, 1979.

Under the "Reference System" option, an entire facility design or major fraction of it can be identified as a standard design to be used in multiple applications. CESSAR describes and analyzes the nuclear steam supply system (NSSS) standard design for a pressurized water reactor nuclear power plant. The reactor is designed to operate at core thermal power levels up to 3800 megawatts. Major Design features described in CESSAR–FSAR are similar to those of CESSAR nuclear steam systems now under construction.

When its review of CESSAR–FSAR is complete, the Commission's staff will publish a Safety Evaluation Report (SER) documenting the results of the review. Moreover, CESSAR has been referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Copies of the SER and ACRS report will be made available to the public. A notice relating to the availability of these documents will be published in the **Federal Register.**

All interested persons who desire to submit written comments for consideration by the staff and ACRS during their review of CESSAR should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Section by May 10, 1980.

A copy of CESSAR is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. When available, the Safety Evaluation Report and the report by the Advisory Committee on Reactor Safeguards will also be made available for public inspection at the above locations.

Dated at Bethesda, Md., this 6th day of March 1980.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Chief, Standardization Branch, Division of Project Management.

[FR Doc. 80–8880 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co. (Zion Station, Units 1 and 2); Issuance of Director's Decision

By letter dated April 27, 1979, Pollution and Environmental Problems, Inc. (PEPI) transmitted a request pursuant to 10 CFR 2.206 for the preparation of an environmental impact statement on Amendments Nos. 44 and 41 to the operating licenses at Zion Station, Units 1 and 2. After a review of the relevant information, the Director has determined that there is no basis for issuing an environmental impact statement. Accordingly, the request by PEPI has been *denied.*

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60085. A copy of this decision will also be filed with the Secretary of the Commission for review by the Commission in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes review of this decision within that time.

Dated at Bethesda, Md., this 13th day of March 1980.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80–8881 Filed 3–21–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 2); Director's Decision

In a telegram dated February 27, 1980, Robert Gary of Philadelphia, Pennsylvania, requested under 10 CFR 2.206 that the Commission require installation of "cryogenic traps" before "any planned venting of radioactive gas" from the Three Mile Island Unit 2's containment. Mr. Gary claims that "[t]he reason for this is too obvious to specify in detail * * *"

On its face, Mr. Gary's request is insufficient, because it does not state the facts, as required under 10 CFR 2.206(a), which form the basis of his request. Facts or other substantiating reasons for taking certain action are necessary to establish a basis for such action, not only in a petition under 10 CFR 2.206, but also to justify proposed action by the Director of Nuclear Reactor Regulation at his own discretion. *See* 10 CFR 2.202(a)(1). In the absence of the petitioner's specification of the bases for proposed action, the Director will not entertain such requests under 10 CFR 2.206. *See Duke Power Company* (Oconee Nuclear Station, Units 1, 2 and 3), DD–79–6, 9 NRC 661 (1979). A statement that the reasons for taking certain action are "obvious" is clearly insufficient.

In all events, the staff has considered the use of a cryogenic processing system in its draft report for public comment, "Environmental Assessment for Decontamination of the Three Mile Island Unit 2 Reactor Building Atmosphere" (NUREG–0662, March

1980). For the reasons stated in that report, the staff has recommended to the Commission that it approve purging of the reactor building atmosphere as the decontamination option for disposal of Krypton-85 released in the reactor building during the accident at Three Mile Island Unit 2. Accordingly, Mr. Gary's petition is denied.

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes review of this decision within that time.

Dated at Bethesda, Md., this 18th day of March 1980.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-8882 Filed 3-21-80; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; Systems of Records; Minor Amendments

AGENCY: United States Nuclear Regulatory Commission (NRC).

ACTION: Proposed Minor Amendments of Systems of Records.

SUMMARY: The Nuclear Regulatory Commission is proposing minor amendments to the NRC Systems of Records, NRC-19. The amendments clarify and update the information contained in the NRC Systems of Records, necessitated by adding the Senior Executive Service training records to existing NRC training records.

COMMENT DATE: Comments are due on or before April 23, 1980.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission. Phone: (301) 492-8133.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to the NRC System of Records is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch by April 23, 1980. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

1. The paragraphs of NRC-19 entitled "Categories of individuals covered by the system," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of uses and the purposes of such uses," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC-19

SYSTEM NAME:

Official Personnel Training Records—NRC

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other government/nongovernment training courses or programs, including the NRC Senior Executive Service Candidate Development Program.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background, work experience, performance appraisals, and training courses, including applications for training, training requests, authorizations for training, course grades, evaluations, and other related personnel information and correspondence.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4103 (1976);

b. E. O. 11348, April 20, 1967, as amended by E. O. 12107, December 28, 1978;

c. Civil Service Reform Act of 1978, Pub. L. 95-454 (5 U.S.C. 4311 et seq.);

d. 5 U.S.C. 3396 (October 13, 1978).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information may be extracted from the records and made available to the Office of Personnel Management; other Federal, state and local government agencies; and educational institutions for use in training programs related to NRC employees.

b. Information in these records may be disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

* * * * *

RETENTION AND DISPOSAL:

Retained for 5 years, or until no longer needed, then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisors, and training groups, agencies, or educational institutions.

* * * * *

Dated at Bethesda, Md. this 14th day of March, 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-8892 Filed 3-21-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-529, 50-260, 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-33, Amendment No. 55 to Facility Operating License No. DPR-52 and Amendment No. 32 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised the licenses for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments authorize the license to temporarily store low-level radioactive waste in an existing covered pavilion that is situated outside the security fence, as presently located, but inside the site exclusion area. The total amount of low-level waste authorized to be stored is not to exceed 1320 curies of total activity. This authorization expires two years from the effective date of these amendments and is subject to

conditions and restrictions specified in the licensee's application.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 21, 1980, as supplemented by letters dated February 25, 1980 and March 13, 1980, (2) Amendment No. 60 to License No. DPR-33, Amendment No. 55 to License No. DPR-52, and Amendment No. 32 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of March 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80-8883 Filed 3-21-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric and Power Co.; Availability of Draft Environmental Statement Related to Steam Generator Repair at Surry Power Station, Unit No. 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0663) prepared by the Commission's Office of Nuclear Reactor Regulation related to steam generator repair at Surry Power Station, Unit No. 1, located in Surry County, Virginia, is being made available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Swem Library, College of William and Mary, Williamsburg, Virginia. The Draft Statement is also being made available at the Department of Intergovernmental Affairs, Division of State—Federal Relations, Fourth Street Office Building, 205 North Fourth Street, Richmond, Virginia, and at the Crater Planning District Commission, 2825 S. Crater Road, Petersburg, Virginia. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these document upon request). Comments are due by May 5, 1980. Comment by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Swem Library, College of William and Mary, Williamsburg, Virginia. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 14th day of March 1980.

For the Nuclear Regulatory Commission.

Ronald L. Ballard,

Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 80-8884 Filed 3-21-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

March 19, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them cut rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Food and Nutrition Service
Monthly report of the child care and summer food program for children
FNS 44
Monthly
State agencies; 714 responses, 861 hours
Charles A. Ellett, 395–5080

Revisions

Agricultural Stabilization and Conservation Service
Report of tobacco acreage
ASCS–311
Annually
Operators of farms with types 32 & 41 tobacco; 15,000 responses, 3,750 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

New Forms

Bureau of Land Management
Private rental survey
On occasion
Landlords & renters of rental hsg. in all States & territories; 3,000 responses, 750 hours
Charles A. Ellett, 395–5080

FEDERAL RESERVE SYSTEM [1]

Agency Clearance Officer—Carolyn B. Doying—452–3512

New Forms

Monthly report of covered consumer credit outstanding
FR 2061B
Monthly
U.S. covered consumer creditors; 120,000 responses, 1 hour
Warren Topelius, 395–3211

Special credit restraint program—finance companies
FR 2062D
Monthly
Largest finance company lenders to businesses; 168 responses, 1 hour
Warren Topelius, 395–3211

Selected credit restraint program—selected companies
FR 2062E
Monthly
Selected large corporations; 4,104 responses, 1 hour
Warren Topelius, 395–3211

Investment asset report for special deposit requirements for short-term financial intermediaries
FR 2063A
Monthly
All short-term financial intermediaries; 960 responses, 96 hours
Warren Topelius, 395–3211

Base report of covered consumer credit outstanding
FR 2061A
Single time
U.S. covered consumer creditors; 10,000 responses, 1 hour
Warren Topelius, 395–3211

Supplement to special credit restraint program—finance companies
FR 2062D(S)
Single time
Largest finance company lenders to businesses; 14 responses, 1 hour
Warren Topelius, 395–3211

Supplement to selected credit restraint program—selected corporations
FR 2062E(S)
Single time
Selected large corporations; 342 responses, 1 hour
Warren Topelius, 395–3211

[1] These reports will be acted on before normal 10 day period. The clearance of these reports on an expedited basis is necessary to implement the President's program to help curb inflation. These reports are authorized under the terms of the Credit Control Act of 1969 and Executive Order 12201.

Base report for the calculation of special deposit requirements for short-term financial intermediaries
FR 2063B
Single time
All short-term financial intermediaries; 80 responses, 8 hours
Warren Topelius, 395–3211

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312/751–4692

New Forms

Application for substitution of payee—for employee, spouse or survivor annuitant
AA–5
On occasion
Applicant for administrating benefits of an annuitant; 3,000 responses, 500 hours
Barbara F. Young, 395–6132

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–8929 Filed 3–21–80; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF STATE

[CM–8/278]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 15, 1980, at 9:30 a.m. in Room A106 of the Federal Communications Commission, 1229 20th Street, NW., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission services.

The agenda for the April 15 meeting will include consideration of the following:

1. Report of February 1980; CCITT of Study Group VII;

2. Report of the Modem working party considerations of the reports of the April meeting of Study Group VII;

3. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Richard H. Howarth, State Department,

Washington, D.C. 20520, telephone (202) 632–1007.

Dated: March 14, 1980.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 80–8887 Filed 3–21–80; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80–02]

Coast Guard Academy Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held at the U.S. Coast Guard Academy, New London, CT, on Monday, Tuesday, and Wednesday, April 21–23, 1980. The session on Monday will be held from 10:30 to 11:45 a.m. and from 2:00 to 3:15 p.m. An open session will also be held on Wednesday from 10:15 to 11:45 a.m.

The agenda for this meeting is as follows: (a) faculty, (b) curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75–38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend or present oral statements at the hearing should notify, not later than the day before the meeting: Capt. Roderick M. White, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 443–8463.

Any member of the public may present a written statement to the Committee at any time.

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

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–8895 Filed 3–21–80; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–80–7]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 14, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), 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–24), 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 section 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

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

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20171	Ohio State University	14 CFR § 91.169	To allow petitioner to operate small civil airplanes of U.S.-registry under the operating rules of § 91.183 through § 91.215 and the inspection provisions of § 91.217 and § 91.219.
20170	Air Transport Association	14 CFR § 121.434	Relief from the required one night takeoff and one night landing for all transitioning and upgrading pilots.
20172	Star Airways	14 CFR § 135.181	To allow petitioner to operate their aircraft using the drift down provisions of § 121.201(b) instead of the requirements of § 135.181.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20165	British Midland Airways, Ltd	14 CFR Parts 21, 61, 63, and 91	To permit petitioner to operate a U.S. registered B707–321C aircraft, N448M, leased from Robert F. Beauchamp using foreign airmen, a minimum equipment list, and a continuous airworthiness maintenance program. *Granted 3/10/80.*
20074	American Eagle Airlines, Inc.	14 CFR § 121.291(a)(1) and Part 121 Appendix D.	To permit petitioner to operate B–707–321B Fan Jet aircraft without first performing a full seating capacity emergency evacuation demonstration. *Granted 3/10/80.*
NE 78–11–03	Dee Howard Co. and Ronair, Inc.	14 CFR Part 39 Amendment 39–3224.	To extend compliance date for requirement to perform a one-time blue etch anodize inspection of first stage fan blades on Pratt & Whitney JT3D series turbofan engines to March 31, 1980. *Both denied 2/28/80.*

[FR Doc. 80–8666 Filed 3–21–80; 8:45 am]

BILLING CODE 4910–13–M

Engineering and Manufacturing District Offices at Des Plaines, Illinois; Indianapolis, Indiana; Muskegon, Michigan; and Minneapolis, Minnesota; Notice of Closing/Opening

Notice is hereby given that on or about March 28, 1980, the Engineering and Manufacturing District Offices at Des Plaines, Illinois; Indianapolis, Indiana; and Muskegon, Michigan, will be closed. Services to the aviation public of Northern Illinois, Wisconsin, and Minnesota and upper Michigan will be provided by Engineering and Manufacturing District Office in Minneapolis, Minnesota, with a satellite office in Milwaukee, Wisconsin. Services to the aviation public of Indiana and the lower two-thirds of Illinois will be provided by the Engineering and Manufacturing District Office in Vandalia, Ohio, with a satellite office in Indianapolis, Indiana. Services to the aviation public of lower Michigan will be provided by the Engineering and Manufacturing District Office in Cleveland, Ohio, with satellite offices in Grand Rapids, Michigan, and Ypsilanti, Michigan.

The Engineering and Manufacturing District Office in Minneapolis, Minnesota, will open on March 31, 1980, as will all four satellite offices. An appropriate change will be made to the FAA Field Organization statements to reflect this information.

Issued in Des Plaines, Illinois, on March 14, 1980.

William S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-8788 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Traffic Signals; Signal Timing Optimization Project; Solicitation of Interest

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA has developed a Signal Timing Optimization Project to document the effectiveness of improved traffic signal timing in the conservation of fuel. Public agencies are invited to contact FHWA if they are interested in this project. Each agency involved in the project will obtain traffic data, prepare new traffic signal timing plans, retime its traffic signals, evaluate the effectiveness of the retiming on fuel consumption and bus performance, and prepare a narrative report. Results of this pilot project will be made available to State and local agencies and the general public. With its successful completion, it is expected that this project will become the basis for a continuing FHWA program of training and assistance to facilitate the retiming of some 130,000 traffic signals in urban areas with a savings of an estimated 100,000 barrels of crude oil per day.

DATE: Letters of interest should be submitted to the appropriate State highway or transportation agency on or before May 8, 1980.

FOR FURTHER INFORMATION CONTACT: George W. Schoene, Office of Traffic Operations (HTO–22), Room 3419, 202–426–0411, or Stan Abramson, Office of the Chief Counsel (HCC–10), Room 4223, 202–426–0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Introduction

Modern traffic control and computer technology, when used to develop traffic signal timing plans, have been effective in achieving fuel conservation and improved traffic and bus performance. It is estimated that nationwide application of this technology to develop optimal timing plans for 130,000 electrical and time-based coordinated traffic signals would result in saving 100,000 barrels of crude oil per day (based on available, limited data).

Unfortunately, this savings is not being attained. Traffic agencies seldom update their signal timing plans because of the overall level of effort required to accomplish retiming, manpower and budget restraints, the low priority generally assigned to retiming, and the level of sophistication required to use modern signal timing optimization computer programs.

There are several barriers to be overcome if this low cost, highly effective fuel conservation measure is to be implemented on a nationwide basis: (1) Credible data on the effectiveness of retiming needs to be available to citizens and public officials: (2) More needs to be known about the resources required to retime traffic signals so that decisionmakers can better configure their staffing plans and budget allocations for signal retiming; and (3) The level of effort to retime traffic signals needs to be minimized to the extent practicable. This need relates both to reducing the person-hours required and to easing the effort and time required to learn and to understand signal timing optimization methods.

The FHWA is undertaking a project designed to overcome these barriers. It will focus on the British optimization computer program TRANSYT (*TRA*ffic *N*etwork *S*tud*Y* *T*ool) to generate new traffic signal timing plans. An October 1977 article in "Transportation Engineering" (ITE Magazine) provided a description of the TRANSYT program and of the level of effort required to utilize it. The FHWA will make minor modifications to the computer program and its documentation, provide a short training course (3 to 4 days), and provide on-site and call-up technical assistance to agencies involved in the demonstration project. These parts of the project are designed to make it significantly easier for the typical traffic engineer to retime traffic signals using the TRANSYT computer program.

Project Management

The portion of the project addressed by this notice provides for signal retiming by a limited number of local or State government organizations such as metropolitan planning organizations (MPO's), cities, counties, States, etc. (all of which are hereinafter referred to as "local agencies"). The local agencies will be responsible for selection of the network of intersections, selection of personnel to attend the training course on the TRANSYT program, gathering traffic and inventory data, coding, key punching, running the program on a local computer, the actual retiming and fine tuning, making floating car runs on a sample of the demonstration network, and furnishing an evaluation report and data to FHWA. The FHWA will fund 100 percent of the eligible costs. A written agreement between the local agency and FHWA will be prepared.

Representatives of a local agency undertaking a project will attend a TRANSYT course conducted by FHWA.

An additional day of hands-on training will be provided at the local site by FHWA. Assistance will also be available from FHWA.

The local agency will gather the traffic and inventory data required for the TRANSYT program. Very recent traffic counts (less than 6 months old and including turning movements) are required for each signalized intersection. The local agency will provide its own professional services. While consultant services for signal retiming are often appropriate, an objective of this project is to evaluate the utility of the FHWA procedures for local use.

The FHWA-local agency agreement will provide for 100 percent compensation on an agreed unit price basis, i.e., so much per intersection retimed. Progress payments can be provided. Travel and subsistence costs will be provided for attendance of one or two local agency people at the FHWA course on TRANSYT based on current government travel policy.

The FHWA-local agency agreement will provide for termination of the contract at FHWA's option upon failure of the local agency to accomplish a milestone in the agreed time. The FHWA will retain 20 percent of the estimated costs until the local project has been accepted by FHWA.

Eligible Participants

Any public agency with authority to retime traffic signals on all roads and streets within the study network is eligible to express its interest in the project, provided it meets ALL of the following requirements:

(1) It is a public agency such as a city, county, township, MPO or State having authority to enter into a contract with FHWA.

(2) It has a physically interconnected system (hard wire, radio, or leased) with the provision for synchronization and one or more timing plans.

(3) It has ready access to a large (32 bit) computer having the capability to run the TRANSYT program.

(4) Timing plans in the study area should not have been installed or updated recently or do not currently provide optimum operation.

(5) Total system(s) of about 25 to 100 signals. NOTE: The TRANSYT program is limited to about 50 signalized intersections. Thus, larger networks should be configured so that they can be divided into smaller sub-areas.

(6) Availability of, and willingness to dedicate, professionals with required capability, technicians, and aids to the project.

(7) Willingness to adhere to a rigid timetable.

(8) An intent to keep the timing plans within the demonstration network updated.

Selection Criteria

The following criteria, not necessarily in order of importance, will be used to determine which of the interested parties will be invited to participate in the project:

(1) Meets ALL of the requirements under "Eligible Participants."

(2) Probability of completing a project in a timely manner.

(3) Staff capability.

(4) Capability to obtain valid traffic data in a timely manner.

(5) High probability of achieving technical success.

(6) Probability of retiming other signals within a jurisdiction.

(7) In the case of a State, county, MPO, or other multi-jurisdictional organization, the probability of acting as a lead agency in retiming of traffic signals in several jurisdictions.

Letters of Interest

Letters of interest should be submitted to the appropriate State transportation agency on or before May 8, 1980. They will then be forwarded through the FHWA division offices in each State to the Director, Office of Traffic Operations, FHWA, Washington, D.C.

Letters of interest should not exceed ten pages and should include (in the following order):

(1) Introduction.

(2) A description of the network, traffic characteristics, physical characteristics, and the traffic signal control system.

(3) A clearly readable map, to scale, of the proposed networks. It should indicate signal locations, number of phases, and speed limits or other speed information.

(4) Any other figures related to (1) and (2).

(5) Adequate information to demonstrate that the agency meets ALL of the requirements under "Eligible Participants" presented in the same order as listed therein.

(6) Information to assist reviewers and selectors relative to the criteria, and in the same order listed, under "Selection Criteria." Information as to past performance in similar activities relative to items (2), (4), (5) and (7) will be of special value.

(7) Name and location of the agency, and the name, address and telephone number of one administrative manager and one technical manager who may be contacted.

(8) Other pertinent information.

The letter of interest should be sent to the appropriate State transportation agency, which will forward a copy to the FHWA division office.

Preliminary selection of the projects from the letters of interest will be made by FHWA and the announcement of selected projects will be made as soon thereafter as possible.

Issued on: March 17, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80-8677 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Amtrak Employee Compensation and Incentive Commission; Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given for the third and forth meetings of the Amtrak Employee Compensation and Incentive Commission in room 8238 of the U.S. Department of Transportation in Washington, D.C. to begin at 9:00 a.m. on April 8, and April 15, 1980. The purpose of the meetings is to discuss current salaries and incentives paid to officers and employees of Amtrak and other appropriate matters that may be brought before the Commission. Attendance is open to the interested public as limited by space available except for certain limited portions of meetings which will be closed by the Commission pursuant to authority granted by the Secretary of Transportation.

Further information may be obtained by contacting the Rail Passenger Programs Division, Federal Railroad Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C., 20590, telephone 202-755-9332.

Issued in Washington, D.C. on March 18, 1980.

William C. Harsh, Jr.,

Chief, Rail Passenger Programs Division.

[FR Doc. 80-8844 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Safety, Bumper, and Consumer Information Programs; Public Meeting

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on Wednesday, April 16, 1980, to answer questions from the public and industry regarding the Agency's safety,

bumper, and consumer information programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Motor Vehicle Environmental Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At this meeting, representatives of the Department of Transportation (DOT) will answer questions received in writing from the industry and the public relating to NHTSA's vehicle safety, bumper, or consumer information programs whch are technical, interpretative or procedural in nature. The questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions.)

Questions for the April 16 meeting must be submitted in writing by April 8 to Michael M. Finkelstein, Associate Administrator for Rulemaking, NHTSA, Room 5401, 400 Seventh Street SW., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the April 8 date may be answered at the meeting if sufficient time is available and a person from DOT knowledgeable in the subject matter is present. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of questions submitted by April 8 will be available at the meeting, and this list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will be available in four to five weeks at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C., on March 20, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-8970 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Hazardous Materials Advisory Council and Massachusetts Motor Truck Association, Inc., American Trucking Associations, Inc.; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Public Notice and Invitation to Comment.

SUMMARY: The Hazardous Materials Advisory Council (HMAC) and the Massachusetts Motor Truck Association, Inc. (MMTA) (joint applicants), and the American Trucking Associations, Inc. (ATA) have applied for an administrative ruling as to whether the City of Boston "Ordinance Regulating the Transportation of Hazardous Materials," which regulates the transportation of hazardous materials in or through the City of Boston, is inconsistent with and thus preempted by the Hazardous Materials Transportation Act or regulations issued thereunder. Public comment is solicited.

DATES: Comments received on or before May 9, 1980, will be considered before an inconsistency ruling is issued by the Associate Director for Operations and Enforcement.

ADDRESSES: The HMAC and the MMTA application and the ATA application and any comments received may be reviewed in the Dockets Branch, Materials Transportation Bureau, Room 8426, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. Comments on the application(s) must be submitted to the Dockets Branch at the above address. Five copies are requested. A copy of each comment must also be sent to:

Honorable Kevin H. White, Mayor of City of Boston, 1 City Hall Square, Boston, Massachusetts 02201.

Mr. Christopher Ianella, President, City Council of Boston, 1 City Hall Square, Boston, Massachusetts 02201.

Mr. Lawrence W. Bierlein, Attorney, for HMAC and MMTA, 910 Seventeenth Street, NW., Washington, D.C. 20006.

Mr. William E. Johns, Technical Services Division, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.

and that fact certified at the time the comment is submitted to the Dockets Branch. (The following format is acceptable: "I hereby certify that a copy of this comment has been sent to Honorable Kevin H. White, Messrs. Christopher Ianella, Lawrence W. Bierlein and William E. Johns at the addresses noted in the **Federal Register** publication.)

FOR FURTHER INFORMATION CONTACT: Jerry Boone, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, telephone (202) 755-4972, during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Hazardous Materials Transportation Act (49 U.S.C. 1801-1812) (HMTA) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or regulations issued under the HMTA. (The substantive regulations issued under the HMTA are found at 49 Code of Federal Regulations (CFR) Parts 171-179.) Section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent State or political subdivision requirement ceases to be preempted, however, if upon application the Secretary of DOT determines that the State or local requirement (1) provides an equal or greater level of public safety than the HMTA or regulations issued thereunder and (2) does not unduly burden commerce.

Regulations implementing Section 112 are codified at 49 CFR 107.201-107.225. These procedural regulations provide for the issuance of inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling, such as is being sought here, is an administrative opinion as to the relationship between a Federal requirement (in the HMTA or regulations issued thereunder) and a requirement of a State or political subdivision thereof. Title 49 CFR 107.209(c) sets forth the following factors that are to be considered in making the ruling:

(1) Whether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) To extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

If a State or local requirement is found to be inconsistent with, and thus preempted by, a Federal requirement, the State or locality may seek a nonpreemption determination, i.e., a

waiver of preemption, which results if the criteria of section 112(b) of the GMTA (49 U.S.C. 1811(b)) are met.

II. The HMAC and the MMTA and the ATA Applications for Inconsistency Ruling

On February 5 and February 20, 1980, the HMAC and the MMTA (joint applicants) (hereinafter referred to as HMAC/MMTA), and the ATA, respectively, filed applications for a ruling as to whether the Boston Ordinance pertaining to the transportation of certain hazardous materials in or through the City of Boston is inconsistent with the HMTA or regulations issued thereunder. On February 20, 1980, the HMAC/MMTA filed a supplement to its application.

A. *Synopsis of Boston Ordinance.*

The Boston requirements, entitled "An Ordinance Regulating the Transportation of Hazardous Materials," are included as an appendix to this document. In pertinent part, the Ordinance does the following: It defines terms used therein, including "carrier," "vehicle," and "hazardous materials" (§ 1).

The Ordinance orders the Fire Commissioner and Commissioner of Health to issue certain regulations (§ 2(A)). With the exception of section 2(A)(6), the Ordinance prescribes specific minimum requirements for such regulations. These regulations must include, but are not limited to, the following:

1. Prohibition on weekday travel, excluding holidays, within designated parts of Boston for all defined hazardous materials between the hours of 6:00 a.m. and 8:00 p.m. unless a specific permit is obtained from the Fire Commissioner (§ 2(A)(2)).

2. A ban on all through shipments of hazardous materials, excluding "flammable fluids," if a practical alternative route exists from origin to destination outside the City. A determination by the Fire Commissioner that no practical alternative route exists would result in his designation of routes within the City (§ 2(A)(3)).

3. Designation of routes for hazardous materials transportation permitted within the City (§ 2(A)(4)).

4. A permit requirement for otherwise unrestricted parts of Boston where the Fire Commissioner determines special precautions are necessary based on the hazardous materials and/or routes involved (§ 2(A)(5)).

5. Establishment of equipment and operating requirements, which may include the following (§ 2(A)(6)).

(a) Speed and stopping requirements;

(b) Restrictions on driver leaving vehicle unattended;

(c) Required minimum distance between hazardous materials vehicles while in transit;

(d) Equipment of vehicle with radio communications;

(e) Equipment of vehicle with warning lights and illumination;

(f) Placard reading "HAZARDOUS CARGO" with specific marking requirements for the contents.

6. A requirement to provide immediate notification of specified incidents to the City Fire Department and also, within 10 days of such incident, file a written report with the City Fire Commissioner (§ 2(A)(7)).

7. Establishment of a permit system for carriers desiring to operate in a manner inconsistent with the other City requirements. Under that system, a permit would issue only where compelling need is shown and where transporting hazardous materials is in the public interest. Such permits would be required to be carried in the vehicle with an identification marking required on the exterior of the vehicle (§ 2(A)(8)).

Additionally, authority is created to control transportation of hazardous materials other than those described in the definition section (§ 4).

The MTB notes that while the Boston Ordinance requires the issuance of regulations to implement its provisions, those regulations have not yet been promulgated. It is also noted that the MTB's procedural regulations, contained in 49 CFR Part 107, Subpart C, require that in order to be considered as the subject of an inconsistency ruling, State or local requirements must be officially in place—when the procedural regulations were issued, it was stated that the MTB "does not hold itself out as a legislative drafting or editorial service not will it provide legal research service for State or local governments or legislators." (41 FR 38167; Sept. 9, 1976). In this case, however, the Boston Ordinance has been formally enacted by the City Council and signed by the Mayor and it clearly delineates, with one exception (§ 2(A)(6)), specific requirements which the regulations must include. For these reasons, it is the determination of the MTB that the Boston requirements are sufficiently definite and procedurally complete and may properly be considered for an administrative ruling as to their consistency or inconsistency with Federal requirements.

B. *Synopsis of Applicants' Arguments for Inconsistency.*

The HMAC/MMTA and the ATA applications both contend that the entire Boston Ordinance is inconsistent with and thus preempted by the HMTA and regulations issued thereunder. In their respective applications, the applicants identify specific requirements of the Boston Ordinance which in their view deviate from the call of the HMTA and existing DOT regulations. These may be summarized as follows:

1. *Definitions (§ 1).* The ATA states that the Boston definitions of "carrier" and "vehicle" vary impermissibly from the definitions of "carrier" and "motor vehicle" in § 171.8 of the Hazardous Materials Regulations (the Regulations) (49 CFR 171.8), and that this variation will result in confusion among affected parties.

The HMAC/MMTA and the ATA state that the definition of "hazardous materials" in the Boston Ordinance also deviates from that in § 171.8 of the Federal Regulations. To begin with, they point out that not all DOT regulated classes of materials are included in the definition and certain classes are included incompletely. The variation, it is stated, includes using shipping names and hazard classifications as if they were equal categories of materials. It is claimed by the applicants that this is a likely source of confusion and is destructive to securing compliance with Federal provisions.

The HMAC/MMTA states that "Class A explosives" cannot be defined completely by reference to § 173.53 alone as Boston has done, but must include reference to §§ 173.50, 173.51, and 173.86, as well as §§ 173.53 through 173.87 generally. It states that "Class B explosives" likewise cannot be defined by Section 173.88 alone. Rather, that definition must take into account the same general sections as above, as well as §§ 173.89 through 173.95. The HMAC/MMTA also states that the definitions of the explosives classification must take into account other materials that are designated by DOT as falling within other classifications, e.g., oxidizers, organic peroxide, flammable solids, etc.

The HMAC/MMTA urges that the Boston definition of "Poisonous gases: Poison A (173.326)" is inherently defective, as it omits liquids.

Similarly, ATA urges that the Boston definition of "radioactive materials," which includes only those radioactive materials which bear a Yellow III label, is inconsistent with the Federal standard because it omits numerous radioactive materials included in the Federal definitions (49 CFR 173.389(e) and 173.390).

The ATA states that the Boston designation of "liquid natural gas" (LNG) as a specific category of hazardous materials creates a different classification than that ("Flammable

Gas") established by the Federal regulations for the same material. In ATA's view, this designation is therefore inconsistent with the Federal standard.

The HMAC/MMTA and the ATA both state that the Boston definition of "flammable liquids" varies unacceptably from that in § 173.115 of the Regulations, in that it fails to include flammable liquids with flash points above 73° F. and below 100° F. Furthermore, the HMAC/MMTA contends that Boston has failed to recognize certain exceptions and exclusions provided for by the Federal definition.

2. *Prohibition on Transport During Specified Hours (§ 2(A)(2)).* The HMAC/MMTA and the ATA both urge that the weekday curfew requirement and the delay inherent in that curfew are inconsistent with the Federal principle of expeditious delivery of hazardous materials, as embodied in § 177.853 of the Regulations. The ATA urges that the curfew requirement may unreasonably burden commerce, in that it may result in unnecessary down-time which would result in increased operation expenses. The HMAC/MMTA application questions the possible effects of the curfew and presents unfavorable results that it sees as possibly emanating from such a requirement.

3. *Bans and Designation of Routes (§§ 2(A)(3) and (4)).* The HMAC/MMTA states that those Boston requirements which establish bans and call for designation of routes are designed only to change the identity of the populace (from that of Boston to that of neighboring jurisdictions) exposed to the commerce of hazardous materials. It states that these requirements improperly alter the balance between local safety and the wider demands of safety in interstate commerce. Finally, HMAC/MMTA urges that the above noted Boston requirements along with the bans of adjoining jurisdictions create a regional network of restrictions on the movement of hazardous materials that are inconsistent with a national program of hazardous materials safety.

4. *Regulation of Vehicle Operations (§ 2(A)(6)).* The ATA attacks several of the possible controls of the operations of vehicles authorized to be effectuated by regulations. First, ATA urges that a requirement which places restrictions on the distance between hazardous materials vehicles while in transit unduly burdens carriers who operate vehicles transporting hazardous materials and jeopardizes safety as well, particularly in urban traffic situations. Such a restriction in ATA's view is inconsistent with Section 102 of the HMTA, which enunciates the Federal policy to vest the Secretary of Transportation with wide authority to prescribe regulations to protect the Nation against the risks inherent in the transportation of hazardous materials.

Second, ATA states that the requirement to equip vehicles with radio communications in order to enter or pass through Boston places an unreasonably burden on commerce, in that carriers are not presently required to equip themselves similarly in any other jurisdiction. The ATA urges that Section 112 of the HMTA preempts State or local requirements that impose such burdens.

Third, ATA states that the Boston requirements for lighting and warning lights represent an intention to go beyond the Federal requirements set forth in §§ 393.11 through 393.33 of the Regulations. As such, it is the view of ATA that these requirements would detract from the effectiveness of the Federal requirements and, therefore, should be rules inconsistent.

Finally, ATA states that the Boston placard requirement complicates the Federal system embodied in 49 CFR Part 172, Subpart F by requiring a second placard reading "HAZARDOUS CARGO" and, therefore, is inconsistent with the Federal standard, specifically, § 172.502(b) which prohibits the display of placards whose content (among other things) could be confused with the Federal system. The HMAC/MMTA advances a similar argument, stating that the placard requirement and the vehicle marking requirement as well, represent specific intentions to add to and vary from the Federal requirements on hazard warning and materials identification. They state that the requirements are inconsistent with the Federal identification and warning system as implemented in Part 172, Subparts D and F, and the specific commodity entries throughout Part 173 of the Regulations.

5. *Accident Reports (§ 2(A)(7)).* The ATA states that the written accident reporting requirement contained in the Boston Ordinance is precluded by § 171.16 of the Federal Regulations, which prescribes the written notice requirements for hazardous materials accidents. The HMAC/MMTA offers a similar argument. In its view, the Boston requirement is redundant and unnecessary in light of the above section and, also, § 177.807.

6. *Permit Requirements (§§ 2(A)(2), (5), and (8)).* The HMAC/MMTA states that the manifold permit requirements called for in the Boston Ordinance as well as the permit requirements of adjoining jurisdictions threaten to impair the ability of carriers to meet the Federal objective of safe and expeditious delivery of cargo, as embodied in § 177.853 and, therefore, are inconsistent with that provision. As part of that contention, the HMAC/MMTA specifically requests that the requirements of the Boston Ordinance be considered against the framework of the bans and permit requirements of adjoining jurisdictions. Accordingly, those requirements (which are included as appendices to the HMAC/MMTA application) are identified and summarized as follows:

(i) City of Chelsea Ordinance, which requires advance written notification for shipment of LNG.

(ii) City of Everett Ordinance, which bans through shipments of liquefied energy gases (LEG).

(iii) City of Malden Ordinance, which bans movement and nonemergency stopping of LEG trailers without written approval of the chief of the fire department.

(iv) City of Somerville Ordinance, which bans through shipments of LNG and propane, as well as other hazardous cargo that may be designated by the chief engineer of the fire department, and requires non-through shipments travel under specific permit.

The HMAC/MMTA believes that Section 106(b) of the HMTA, which authorizes the registration of shippers, carriers, and others in the discretion of the Secretary of Transportation, forestalls any local permitting rules of the type to be imposed in Boston.

The ATA characterizes the Boston permit provisions as an exemption system to the requirements for transporting hazardous materials into or through the City of Boston. The ATA contends that as such the permit system is inconsistent with Section 107 of the HMTA, which governs exemptions.

III. Public Comment

Comments should be restricted to the question of whether Boston's Ordinance regulating the transportation of hazardous materials is inconsistent with the HMTA or regulations issued thereunder. Commenters may wish to address only certain requirements since it is possible that some of the City requirements are inconsistent and others are not.

Since the application being considered is for an inconsistency ruling and not a nonpreemption determination, comments on the effect on interstate commerce of the Boston requirements, as that effect relates to a waiver of preemption under 49 U.S.C. 1811(b), are inappropriate in this proceeding. There may, however, be considerations

regarding the movement of hazardous materials in commerce that are relevant to the purposes and objectives of Congress in enacting the HMTA.

Persons intending to comment on the application should examine the HMTA (49 U.S.C. 1801–1812), the DOT Hazardous Materials Regulations (49 CFR Parts 171–179), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–211), as well as the Boston requirements contained in the Appendix to this Notice. Each comment is to be accompanied by a certification that a copy of the comment has been sent to the Mayor of Boston, the City Council of Boston, the HMAC/MMTA and the ATA.

In order to assist commenters, the following facts are noted:

1. Title 49 CFR 177.804 requires persons subject to 49 CFR Part 177 to comply with applicable Federal Motor Carrier Safety Regulations (49 CFR Parts 390 through 397), exclusive of 49 CFR 397.3 and 397.9. The provisions of the Federal Motor Carrier Safety Regulations incorporated by reference at 49 CFR 177.804 may thus have their preemptive effect considered under the administrative procedures at 49 CFR Part 107, Subpart C. Title 49 CFR 390.30, part of the incorporation by reference, sets out the standard to be used in considering preemption under the Federal Motor Carrier Safety Regulations:

> Except as otherwise specifically indicated, Parts 390–397 of this subchapter are not intended to preclude States or subdivisions thereof from establishing or enforcing State or local laws relating to safety, the compliance with which would not prevent full compliance with these regulations by the person subject thereto.

The standard thus established is essentially identical to the first test used to determine preemption under the HMTA, i.e., the direct conflict test (49 CFR 107.209(c)(1)). Unless a different criterion is specifically set forth in the Federal regulation, a State or local requirement in a subject area addressed by the Federal Motor Carrier Safety Regulations, and being considered in an inconsistency ruling as a result of the incorporation of those regulations at 49 CFR 177.804, is preempted if it directly conflicts with a provision of the Federal Motor Carrier Safety Regulations.

2. The MTB recently issued an inconsistency ruling on the State of Rhode Island rules and regulations governing the transportation of LNG and LPG intended to be used by a public utility, IR–2, published in the Federal Register of December 20, 1979 (44 FR 75566). Certain of the Boston requirements are similar to Rhode Island requirements (some of which were found to be consistent with Federal requirements and some of which were found to be inconsistent). Commenters may wish to examine the Rhode Island inconsistency ruling, which was incorporated by reference in the HMAC/MMTA application and included as an appendix to the ATA application. It should be noted, however, that that ruling is in the process of being administratively appealed by the State of Rhode Island, Division of Public Utilities and Carriers.

(49 U.S.C. 1811; 49 CFR 1.53(b)(1); 49 CFR Part 1, App. A; 49 CFR Part 107, Subpart C.)

Issued in Washington, D.C., on March 17, 1980.

William H. Nalley,

Acting for the Associate Director for Operations and Enforcement.

Appendix

In the Year Nineteen Hundred and Seventy-Nine

City of Boston

An Ordinance Regulating the Transportation of Hazardous Materials

Be it ordained by the City Council of Boston, as follows:

Whereas: The wide-spread transportation of hazardous materials within or through the City of Boston creates a real and imminent danger that an accident involving hazardous materials may occur; and

Whereas: An accident involving hazardous materials could involve injury or destruction to the lives and properties of the people of Boston; and

Whereas: It is necessary to regulate the transportation of hazardous materials to protect the public health and safety; environment, property and general welfare of the people and City of Boston; and

Whereas: The Fire Commissioner and the Commissioner of Health and Hospitals have the authority pursuant to M.G.L.A. Ch. 148, S. 9 and Ch. 111, S. 122 respectively, to take steps to ensure the public health and safety; now, therefore, be it

Ordained: By the City Council of Boston, pursuant to the authority vested in it by law, as follows:

Section 1: Definitions

(A) *Carrier:* A person engaged in the business of transporting hazardous materials on streets and highways by motor vehicles; if the motor vehicle is leased, the lessee is the carrier.

(B) *City:* The City of Boston.

(C) *Hazardous Materials:* The following are designated hazardous materials for the purpose of this ordinance:

Class A Explosives: (173.53)—Numbers in parens. refer to Title 49 of the Code of Federal Regulations).
Class B Explosives: (173.88).
Poisonous Gases: Poison A (173.326).
Flammable Solid: (172.101).
Radioactive Materials with Radioactive Yellow III—label (172.403) excluding USA DOT—7AX type A Radioactive materials that are intended for use in, or incident to, research or medical diagnosis, or treatment.
Liquified Petroleum Gas (LPG).
Liquified Natural Gas (LNG).
Liquified Hydrogen: (173.316).
Flammable Liquids with flash points 73 deg. For less in gross quantities of 1,000 pounds or more.

Operate: To engage in the transport of hazardous materials in commerce on the streets and highways by motor vehicle.

Person: Any individual, corporation, firm, partnership, society, association, joint venture, or any other legal entity.

Vehicle: A motor vehicle used for the transportation of hazardous materials in commerce.

Section 2: Regulations Concerning the Transport of Hazardous Materials

(A) The Fire Commissioner and Commissioner of Health and Hospitals shall promulgate joint regulations under the authority of M.G.L.A. c. 148 § 9 and M.G.L.A. c. 111 § 122 and this ordinance and not inconsistent with such authority or regulations issued thereunder. A hearing shall be provided as required by law. Such regulations shall require but not be limited to the following:

(1) Adopt Massachusetts Department of Public Works regulation CMR Title 720 Sections 8 to ensure the application of those regulations to city streets.

(2) Prohibit the transportation of hazardous materials within designated parts of the City between the hours of 6 a.m. and 8 p.m., Saturdays, Sundays and holidays excluded. Drivers may operate their vehicles in the designated areas of the City during these restricted hours only if they obtain a permit from the Fire Commissioner to do so.

(3) Prohibit the transportation of hazardous materials excluding flammable fluids within the City if there is neither a point of origin nor a destination (delivery point) within the City and if a practical alternative route exists from origin to destinaton outside the City. Economic criteria shall not be determinative of whether or not an alternative route is practical. If a practical alternative route does not exist as determined by the Fire Commissioner he shall designate appropriate routes within the City.

(4) Designate routes within the City on which carriers may operate their vehicles. These routes shall not go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets or alleys, unless no reasonable alternative exist.

(5) Require carriers to obtain permits to operate in the unrestricted parts of the City where, in the discretion of the Fire Commissioner and due to the nature of the hazardous materials and/or the routes and parts of the City involved, special precautions are considered necessary.

(6) Regulate the operation of all vehicles within the City. This regulation may extend to, but not limited to:

(a) The speed at which vehicles may operate in the City;

(b) Vehicles stopping within the City;
(c) The degree to which a driver may leave a vehicle unattended;
(d) The distance that must be maintained between vehicles in transit;
(e) A requirement that vehicles be equipped with radio communications;
(f) A requirement that vehicles be provided with adequate illumination and warning lights;
(g) A requirement that vehicles be placarded "HAZARDOUS CARGO" with identification of that specific hazardous material.
(7) Require all carriers to report to the Fire Department every accident within the City involving that carrier's vehicle which results in any of the following:
(a) Injury or fatality,
(b) Continuing danger to life or health at the scene of the accident,
(c) The disabling of the vehicle,
(d) Estimated property damage exceeding one hundred dollars, and
(e) An unintentional release of hazardous material from the vehicle.

Note.—The carrier shall report the accident to the Fire Department—
(1) By phone or in person immediately after the occurrence of the accident, and
(2) In writing within ten days following the accident on a form to be furnished by the Fire Commissioner.

(8) Establish a permit system which requires the following:
(a) That any carriers who wish to operate their vehicles in a manner inconsistent with this ordinance and/or regulations hereunder be required to obtain a permit from the Fire Commissioner;
(b) That a permit issued only where compelling need is shown and where transporting hazardous materials is in the public interest;
(c) That permits be granted for a period of one year and be automatically renewed upon application unless revoked for cause after a hearing before the Traffic and Parking Commission;
(d) That permits be revocable and not transferable;
(e) That permits be carried in the cab at all times and that a suitable means be used to allow ready identification of carriers with permits from outside the vehicle;
(f) That annual fees for permits be set as required to defray administrative expenses and as permitted by law;
(9) The Fire Commissioner and the Commissioner of Health and Hospital shall have the authority to promulgate all regulations necessary to give full effect to the provisions of this ordinance.

Section 3: Suspension of Operations

The Fire Commissioner may temporarily suspend the operation of some or all vehicles within the City, without notice whenever road, weather, traffic or other special circumstances warrant that action.

Section 4: Authority to Restrict Other Hazardous Materials

The Fire Commissioner and the Commissioner of Health and Hospitals shall have the authority to promulgate regulations controlling the transportation of the following hazardous materials within the City:

Oxidizers (173.151).
Organic Peroxide (173.151a).
Flammable, Pyrophoric and Combustible.
Materials (173.115).
Radioactive Materials with Radioactive White I or Yellow II label (172.403).
Certain Hazardous Materials which have been identified as posing more than one hazard, for example, uranium hexafloride which is corrosive and radioactive.

Section 5: Authority to Suspend Restriction

The Commissioner shall have the authority to suspend the aforementioned restrictions, in whole or in part, when extenuating circumstances severely limit transit around the City.

Section 6: Delivery of Gasoline and Home Heating Oil

Nothing in this ordinance shall be construed as prohibiting or interfering with the delivery of home heating oil or gasoline within the City of Boston.

Section 7: Reports

The Fire Commissioner shall compile and submit to the Boston City Council, by February 1 of each year, a written report describing the admininstration and enforcement of this ordinance, and the regulations issued hereunder, in the calendar year just concluded. This report shall include:
(a) A list of permits issued, expired and renewed,
(b) A list of accidents reported pursuant to subsection 2(A)(7) of this ordinance,
(c) A list of all noted violations of this ordinance,
(d) Other information the Commissioner considers pertinent.

Section 8: Violations

Any person who violates any provision of this ordinance and/or regulations promulgated hereunder shall be punished by a fine of not more than one thousand dollars in accordance with Mass. Gen. Laws Ann., Ch. 148, S. 10B.

Section 9: Severability

If any provision or clause of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 10: Fees, Regulations and Effective Date

The Fire Commissioner and the Commissioner of Health and Hospitals shall establish a fee structure to cover the administrative costs of this ordinance.

To satisfy the requirement of publications, the Fire Commissioner shall hold public hearings to provide affected parties with the details of the regulations promulgated under this ordinance.

The effective date of regulations promulgated under this ordinance shall be ninety (90) days after the completion of said public hearings.

In City Council December 19, 1979. Passed.

Approved by the Mayor January 3, 1980.

Attest:

Barry Hynes,

City Clerk.

[FR Doc. 80-8828 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-60-M

Study of Methods of Assuring Adequate Financial Responsibility for Certain LNG and LPG Activities; Request for Comments

AGENCY: Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Request for public comments.

SUMMARY: DOT is required by the Pipeline Safety Act of 1979 to conduct a study on the risks associated with the production, transportation, and storage of liquefied natural gas (LNG) and liquefied petroleum gas (LPG), and to assess methods for assuring the adequacy of insurance, bonding, or other financial responsibility to reimburse third parties to cover such risks. Public comment is invited on the various aspects of the study.

DATE: Comments must be received on or before May 9, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Attention: J. S. Nalevanko, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC, 20590. It is requested that five copies be submitted.

SUPPLEMENTARY INFORMATION: The public is invited to submit comments which may address, but need not be limited to, the following topics:

(1) Use of mathematic models to estimate risks associated with the production, transportation and storage of LNG and LPG.

(2) Difficulties and uncertainties in estimating and assuring against low-probability/high consequence accidents involving third party claims.

(3) Impact of facility size and geographic/demographic factors on risk levels: general criteria.

(4) Liability coverage under current statutory and regulatory requirements.

(5) Ability of insurance market (domestic/international) to provide coverage for "maximum credible accident."

(6) Relationship between insurance premiums based on "maximum credible accident" and "estimated maximum loss."

(7) Definition of third party claims, eligible claimants, and adequate financial responsibility.

(8) Desirability of a federal fund as a device for risk and claims management for catastrophic accidents.

(9) Methods of obtaining adequate financial responsibility (e.g., self-insurance, State, or regional captive insurance companies, etc).

(10) Methods of assuring adequate financial responsibility (e.g., annual certification, financial statements, etc.)

Comments received will be taken into consideration when recommendations for action are drafted for the Secretary of Transportation to submit to Congress. Comments should be related to LNG and LPG risks by transportation mode or facility separately.

Issued in Washington, D.C., on March 18, 1980.

Leon D. Santman,

Director, Materials Transportation Bureau, Research and Special Programs Administration.

[FR Doc. 80-8827 Filed 3-21-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 81 (Rev. 10), Amdt. 5]

Delegation of Authority Regarding Examining and Certification Personnel Authorities for Revenue Agents, GS-5/7/9/11

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority vested in the Commissioner of Internal Revenue by the Department of the Treasury by memoranda dated October 2, 1979, and January 16, 1980, for examining and certification personnel authorities for Revenue Agents, GS-5/7/9/11 is delegated to the Director, Personnel Division and Regional Commissioners. The text of the delegation order appears below.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard F. Duncan, 1111 Constitution Ave., NW., Room 1514, Washington, D.C. 20224, (202) 566-6431 (not a Toll-Free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Philip P. Russo,

Acting Director, Personnel Division.

[Order No. 81 (Rev. 10), Amdt. 5]

Date of issue: March 19, 1980.

Effective Date: April 1, 1980.

Delegation of Examining and Certification Personnel Authorities for Internal Revenue Agents, GS-5/7/9/11

The authority vested in the Commissioner by the Department of the Treasury in memoranda dated October 2, 1979, and January 16, 1980, (for recruitment and examination of applicants for Internal Revenue Agents at the GS-5, GS-7, GS-9, and GS-11 levels, issuance and establishment of competitor inventories, and issuance of certificates of eligibles) is hereby delegated in the National Office to the Director, Personnel Division and in the regions to Regional Commissioners.

The authority of the Regional Commissioners may be redelegated no lower than Section Chief, Regional Personnel Branch.

To the extent that authority previously exercised consistent with this Amendment may require ratification, it is hereby affirmed and ratified.

This Amendment supplements Charts 1 and 2 of Attachment B to Delegation Order No. 81 (Rev. 10), issued April 16, 1979, which is printed in the **Federal Register** dated April 9, 1979, Vol. 44, Number 69, Pages 21110-21133.

This order supersedes Delegation Order No. 81 (Rev. 10), Amdt. 2, issued November 1, 1979, effective April 1, 1980.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-8888 Filed 3-21-80; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Medical Center; Land Acquisition and Construction of a Spinal Cord Injury Unit, Memphis, Tenn.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement, Land Acquisition and Construction of a Spinal Cord Injury Unit, Veterans Administration Medical Center, Memphis, Tennessee" dated April 1980, has been prepared as required by Section 102(2)(C) of the National Environmental Policy Act of 1969.

The project proposes purchase of eight parcels of land plus a reserved accessway totaling approximately 3.6 acres along the eastern and northern boundaries of the existing Veterans Administration property and construction of a spinal cord injury unit.

The parcels considered for purchase contain apartment buildings and residential buildings. The land will be used for patient recreation, the proposed spinal cord injury unit, parking, and administrative reuse of existing buildings. The spinal cord injury unit will improve patient care and provide needed space in the existing hospital.

The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-2526). Single copies of the final statement are available by request to the above office.

Dated: March 17, 1980.

By direction of the Administrator.

Maury S. Crallé, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 80-8875 Filed 3-21-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 58
Monday, March 24, 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).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 17715, March 19, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., 10:30 a.m., 11 a.m., 11:30 a.m., March 21, 1980.

CHANGES IN THE MEETING: The times of the meetings have been changed to the following:

2:00 p.m. Judicial.
2:30 p.m. Legislative.
3:00 p.m. Surveillance.
3:30 p.m. Enforcement.

[S. 588-80 Filed 3-19-80; 4:04 pm]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, March 25, 1980.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public

1. Title VII and Collective Bargaining: proposal and resolution to encourage voluntary efforts.

2. Additional Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines in Employee Selection Procedures.

3. Proposed Revisions to EEOC's Regulations to Implement Section 717: Removal of restrictions on the collection of race, sex and national origin data on applicants for Federal employment.

4. Report on Commission Operations by the Executive Director.

Closed to the public

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued March 18, 1980.

[S-591-80 Filed 3-20-80; 10:28 am]

BILLING CODE 6570-06-M

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, March 25, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel.

DATE AND TIME: Thursday, March 27, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions: Draft AO 1980-17, C. Peter Sorenson, Treasurer, The Alternatives Fund.
1980 election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary to the Commission.

[S-592-80 Filed 3-20-80; 3:15 pm]

BILLING CODE 6715-01-M

4

March 19, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., March 26, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public information may be examined in the Office of Public Information.

Power Agenda—444th meeting, March 26, 1980, Regular Meeting (10 a.m.)

CAP-1. Docket No. ER80-227, Ohio Valley Electric Corp.

Miscellaneous Agenda—444th meeting, March 26, 1980, Regular Meeting

CAM-1. Incentive program to dismiss and cure patently deficient license applications for existing unlicensed projects.
CAM-2. Docket No. RM80-17, Revisions of monthly statements.
CAM-3. Docket No. RM80- , Recodification of certain Commission rules.
CAM-4. Docket No. RM79-22, Amendment and clarification of interim regulations under the Natural Gas Policy Act of 1978 and regulations under the Natural Gas Act.

Gas Agenda—444th meeting, March 26, 1980, Regular Meeting

CAG-1. Docket No. RA80-1-16 (PGA80-2 and IPR80-2), National Fuel Gas Supply Corp.
CAG-2. Docket No. TA80-2-36 (PGA80-1), Mountain Fuel Supply Co.
CAG-3. Docket No. RP80-78, Panhandle Eastern Pipe Line Co.
CAG-4. Docket No. RP80-76, West Texas Gathering Co.
CAG-5. Docket No. RP80-73, Texas Eastern Transmission Corp.
CAG-6. Docket No. RP75-79, Florida Gas Transmission Co.
CAG-7. Docket Nos. RP79-57 and TA80-2-37 (PGA80-3, IPR80-2 and DCA80-1), Northwest Pipeline Corp.
CAG-8. Docket Nos. RP79-10 and RP79-13, Great Lakes Gas Transmission Co.
CAG-9. Docket No. TA80-2-41 (PGA80-3), Southwest Gas Corp.
CAG-10. Docket No. TA80-2-33 (PGA, IPR80-2, AP, TT, LAFUT80-1), El Paso Natural Gas Co.
CAG-11. Docket No. TA80-2-31 (PGA80-2), (IPR80-2) (OFUT80-1), Arkansas Louisiana Gas Co.
CAG-12. Docket No. TA80-2-38 (PGA80-2), Oklahoma Natural Gas Gathering Corp.
CAG-13. Docket No. TA80-2-40 (PGA80-1), Raton Natural Gas Co.

CAG–14. Docket No. RP80–36, Mississippi River Transmission Corp.
CAG–15. Docket No. TA80–2–42 (PGA80–2, IPR80–2 and TT80–1), Transwestern Pipeline Co.
CAG–16. FERC Gas Rate Schedule Nos. 12, 55, 56, 118, 143, 144, 146, 326, 521, 526 and 540 and Docket Nos. CI78–1232, CI78–1173 and CI78–604, Gulf Oil Corp.
CAG–17. Docket No. CI79–618, CNG Producing Co.; Docket No. CI79–177, Sabine Corp.; Docket No. CI62–588, et al., Amoco Production Co., et al.; Docket No. CI80–108, Sun Oil Co., et al.; Docket No. G–19589, et al., Belco Petroleum Corp.; Docket No. CS80–38, Philip B. Berry P/A No. 2; Docket No. CI75–61, et al. Continental Oil Co., et al.; Docket No. CI76–670, Terra Resources, Inc.; Docket No. CI75–353, et al., Sun Oil Co., et al.; Docket No. CI75–354 (CI60–580), Sun Oil Co.; Docket No. G–6837, et al., Sun Oil Co., et al.; Docket No. CI80–138, Shell Oil Co.; Docket No. CI77–577, et al., Gulf Oil Corp., et al.; Docket No. CI80–104, Case-Pomeroy Oil Corp.; Docket No. CI80–105, Felmont Oil Corp.; Docket No. CI78–943, Quintana Offshore Inc.; Docket No. CI78–950, Quintana Oil and Gas Corp.; Docket No. CI80–80, CNG Producing Co.; Docket No. CI79–643, Tenneco Exploration Ltd.; Docket No. CI79–593, Texaco Inc.; Docket No. CI80–73, Arco Oil and Gas Co.; Docket No. G–3636, et al., Union Texas Petroleum, a division of Allied Chemical Corp., et al.; Docket No. CI78–1186 (G–2640), Mobil Oil Corp.; Docket No. G–13746, et al., Mobil Oil Exploration and Producing Southeast, Inc., et al.; Docket No. CI79–560, Pogo Producing Co.; Docket No. CI79–581, Pogo Producing Co.; Docket No. CI79–569, Pennzoil Oil and Gas, Inc.; Docket No. CI79–583, Pennzoil Oil and Gas, Inc.; Docket Nos. CI79–585, CI79–589, and CI79–590, Pennzoil Oil and Gas, Inc.; Docket No. CI80–57, Transco Exploration Co.; Docket No. G–7526, et al., Amoco Production Co., et al.; and Docket No. CI79–201, Mobil Oil Corp.
CAG–18. Docket No. RP72–6 (source of supply), El Paso Natural Gas Co.
CAG–19. Docket Nos. CP77–1, et al., McCulloch Interstate Gas Corp.
CAG–20. Docket No. CP77–478, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.
CAG–21. Docket No. CP80–198, Columbia Gas Transmission Corp.
CAG–22. Docket No. CP80–82, Michigan Wisconsin Pipeline Co., Texas Eastern Transmission Corp., and Transcontinental Gas Pipe Line Corp.
CAG–23. Docket No. CP79–500, Southern Natural Gas Co., Tennessee Gas Pipeline Co., a division of Tenneco Inc., and Michigan Wisconsin Pipe Line Co.
CAG–24. Docket No. CP79–314, Southern Natural Gas Co.
CAG–25. Docket No. CP80–224, Union Texas Petroleum, a division of Allied Chemical Corp.; and Docket No. CP80–225, West Lake Arthur Corp.

Power Agenda—444th Meeting, March 26, 1980, Regular Meeting

I. Licensed Project Matters

P–1. Project No. 2926, South Columbia Basin Irrigation District

II. Electric Rate Matters

ER–1. Docket Nos. ER78–379, ER78–381, ER78–382 and ER78–383, Indiana & Michigan Electric Co.
ER–2. Docket Nos. ER79–559 and ER79–560, Niagara Mohawk Power Corp.
ER–3. Docket No. ER80–116, Niagara Mohawk Power Corp.
ER–4. Docket No. ER80–167, Washington Water Power Co.
ER–5. Docket No. ER80–220, New England Power Co.
ER–6. Docket Nos. ER80–38 and ER80–121, West Texas Utilities Co.
ER–7. Docket No. ER78–380, Indiana & Michigan Electric
ER–8. Docket No. ER77–411, et al., and ER77–23, et al., Illinois Power Co.
ER–9. Docket No. ER76–827, Minnesota Power and Light Co.
ER–10. Docket Nos. E–9520 and ER77–531, Illinois Power Co.
ER–11. Docket No. EL79–10, Wisconsin River Power Co.

Miscellaneous Agenda—444th Meeting, March 26, 1980, Regular Meeting

M–1. Docket No. RM79–49, Calculation of Cash Working Capital Allowance for Electric Utilities.
M–2. Docket No. RM79–28, amendments to part 32 of the regulations under the Federal Power Act; regulation governing interchange energy transmission rates for section 202(c) emergencies.
M–3. Docket No. RM79–29, amendments to part 35 of the regulations under the Federal Power Act; proposed limitations on adders for all electric rates.
M–4. Docket No. RM79–52, Continuance of service.
M–5. Reserved.
M–6. Reserved.
M–7. Docket No. RM79–42, Civil penalties.
M–8. Docket No. RM78–22 (part 11), Revision to Rules of Practice: Settlements.
M–9. Docket No. RM78–22 (part 12), Revision to Rules of Practice: Format for Briefs.
M–10. Docket No. RM79–48, New small boiler exemption from incremental pricing.
M–11. Docket No. RM79–3, Colorado Department of Natural Resources, Oil and Gas Conservation Commission and the U.S. Geological Survey applications for alternative filing requirements.
M–12. Docket No. GP80–63, State of Louisiana, section 102, NGPA determination, Mullins & Pritchard, Mable G. Myers No. 1 well, 9700' Miocene Sand Reservoir.

Gas Agenda—444th Meeting, March 26, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket Nos. OR79–1 and OR78–1, Williams Pipe Line Co. and Trans Alaska Pipeline System.
RP–2. Docket Nos. RP78–87 and RP79–5, Texas Eastern Transmission Corp.

II. Producer matters

CI–1. Docket No. G–17136, Trice Production Co.
Docket No. G–18516, Oleum Inc.
Docket No. RI60–234, Trice Production Co.
CI–2. Docket No. RI75–112, Certain producer and pipeline respondents.

III. Pipeline certificate matters

CP–1(A). Docket No. TC79–139, Texas Eastern Transmission Corp.
CP–1(B). Docket No. TC79–7, Texas Eastern Transmission Corp.
CP–2. Docket No. CP79–234, Algonquin Gas Transmission Co.
Docket No. CP79–338, Texas Eastern Transmission Corp.
Docket No. CP79–339, Texas Eastern Transmission Corp.
Docket No. CP79–368, Transcontinental Gas Pipeline Corp.
Docket No. CP79–369, Transcontinental Gas Pipeline Corp.
CP–3. Docket No. CP80–201, Caterpillar Tractor Co.
CP–4. Docket No. CP79–473, Alabama-Tennessee Natural Gas Co.
CP–5. CP78–123, et al., Northwest Alaskan Pipeline Co.

Kenneth F. Plumb,

Secretary.

[S–590–80 Filed 3–20–80; 10:22 am]

BILLING CODE 6450–85–M

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FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 19, 1980, 45 FR 17715.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 25, 1980.

CHANGE IN THE MEETING: Addition of the following item to the open session:

12. Agreement No. 8660–10: Petition of Pacific Coast European Conference for reconsideration of order of conditional approval.

[S–594–80 Filed 3–20–80; 3:59 pm]

BILLING CODE 6730–01–M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., March 27, 1980.

PLACE: Hearing Room 1, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Docket No. 79–102: Sea-Land Service, Inc., proposed 25 percent general rate increases in the U.S. mainland, Puerto Rico-Virgin Islands trades; consideration of draft report.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–595–80 Filed 3–20–80; 3:59 pm]

BILLING CODE 6730–01–M

7

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, April 2, 1980.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of March.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

Date of Notice: March 17, 1980.

[S-589-80 Filed 3-19-80; 4:47 pm]

BILLING CODE 7550-01-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: March 26 and March 27, 1980.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

Wednesday, March 26, 2 p.m.

1. Briefing on Low Power License for North Anna (approximately 1½ hours—public meeting).

2. Affirmation Session (approximately 10 minutes—public meeting).

a. Draft **Federal Register** Notice on immediate effectiveness study.

b. ENO determination for TMI.

c. Reporting of misadministration of byproduct material.

d. Director's denial re public service electric and gas (TENT).

3. time reserved for discussion of affirmation items (if required—15 minutes—public meeting).

Thursday, March 27, 2 p.m.

1. Briefing on enforcement action (approximately 1½ hours—closed—exemption 5).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-593-80 Filed 3-20-80; 3:15 pm]

BILLING CODE 7590-01-M

federal register

Monday
March 24, 1980

Part II

Department of Defense

Corps of Engineers, Department of the Army

Procurement Activities; Board of Contract Appeals Rules

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 210

Procurement Activities; Board of Contract Appeals Rules

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers Board of Contract Appeals is amending the rules of procedure concerning contract appeals to add a new Section 210.5 for cases subject to the Contract Disputes Act of 1978 (Public Law 95–563, 41 U.S.C. 601–613). This action is necessary to implement the Contract Disputes Act of 1978. The Board's existing rules in Section 210.4 will continue in force and will apply to appeals that are not subject to the Contract Disputes Act.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Administrative Judge Charles J. Sheridan (202) 272–0369, or write to: Administrative Judge E. K. McFadden, Acting Chairman, Corps of Engineers Board of Contract Appeals, Washington, DC 20314.

SUPPLEMENTARY INFORMATION: The new rules specify agency procedures to be followed. Therefore, notice of proposed rulemaking and the procedures applicable thereto are not required. Furthermore, the new rules are in substantial conformance with the final guidelines for uniform Board rules published by the Office of Federal Procurement Policy (OFPP) pursuant to the Contract Disputes Act.

Authority: Pub. L. 95–563 (41 U.S.C. 601–613).

Dated: March 18, 1980.

Charles J. Sheridan,

Administrative Judge, Member, Corps of Engineers Board of Contract Appeals.

Accordingly, 33 CFR Part 210 is amended as follows:

1. By revising the heading of § 210.4 to read:

§ 210.4 Rules of the Corps of Engineers Board of Contract Appeals for cases not subject to the Contract Disputes Act of 1978.

* * * * *

2. By adding a new § 210.5 to read as follows:

§ 210.5 Rules of the Corps of Engineers Board of Contract Appeals for cases subject to the Contract Disputes Act of 1978.

(a) *Preface to rules.* (1) *Jurisdiction for Considering Appeals.* The Corps of Engineers Board of Contract Appeals (referred to herein as the "Board") shall consider and determine appeals from decisions of contracting officers pursuant to the Contract Disputes Act of 1978 (Public Law 95–563, 41 U.S.C. 601–613) relating to (i) Civil Works Contracts of the Corps of Engineers, (ii) contracts made by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal, or (iii) with the approval of the Chief of Engineers, contracts made by any other agency when such agency has designated the Board to decide the appeal.

(2) *Location and organization of the Board.* (i) The Board's address is Room 4108, Pulaski Building, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314, telephone (202) 272–0369.

(ii) The Board consists of a chairman, vice chairman, and other members, all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. In general, the appeals are assigned to a panel of at least three members who decide the case by a majority vote. Board members are designated Administrative Judges.

(3) *Applicability of the Contract Disputes Act of 1978.* (i) If a contract with an executive agency was awarded before 1 March 1979, and if the contracting officer's final decision was issued 1 March 1979 or thereafter, the contractor may elect to proceed under the Contract Disputes Act of 1978.

(ii) If a contract with an executive agency was awarded on 1 March 1979 or thereafter, the Contract Disputes Act is automatically applicable.

(iii) All other appeals are not subject to the Contract Disputes Act of 1978 and are controlled by the Board's rules published 14 January 1975 (Title 33, Code of Federal Regulations, Section 210.4).

(iv) If the Contract Disputes Act is applicable to the appeal, the contractor can elect an accelerated procedure if the disputed amount is $50,000 or less. If the disputed amount is $10,000 or less the contractor has a further right to elect a small claims (expedited) procedure. Both of these procedures are described in Rule 12. Particular note should be made of the 180 day limit on processing accelerated procedure cases and the 120 day limit on processing small claims (expedited) procedure cases.

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

(ii) Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise. The parties are expected to cooperate and to voluntarily comply with the intent of such procedures without resort to the Board except on controversial questions. The Board expects the parties to exchange complicated exhibits prior to hearing in order to expedite the hearing.

(iii) Whenever reference is made to contractor, appellant, contracting officer, respondent, and parties, this shall include respective counsel for the parties as soon as appropriate notices of appearance have been filed with the Board.

(b) Rule 1. *Appeals, how taken.* (1) Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken.

(2) Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in paragraph (b)(1) of this section, citing the failure of the contracting officer to issue a decision.

(3) Where the contractor has submitted a claim to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (b)(1) of this section, citing the failure to issue a decision.

(4) Upon docketing of appeals filed pursuant to paragraph (b)(2) or (3) of this section, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

(5) In lieu of filing a notice of appeal under paragraph (b)(2) or (3) of this section, the contractor may request the Board to direct the contracting officer to issue a decision in a specified period of time, as determined by the Board, in the event of undue delay on the part of the contracting officer.

(c) Rule 2. *Notice of appeal, contents of.* A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the agency involved in the dispute, the decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal should be signed personally by the appellant (the contractor taking the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

(d) Rules 3. *Docketing of appeals.* When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writing shall be given to the appellant with a copy of these rules, and to the contracting officer.

(e) Rule 4. *Preparation, content, organization, forwarding, and status of appeal file.*

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

(i) The decision from which the appeal is taken;

(ii) The contract including specifications and pertinent amendments, plans and drawings;

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

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

(v) Any additional information considered relevant to the appeal.

Within the same time above specified the contracting officer shall furnish the appellant a copy of each document he transmits to the Board, except those in paragraph (e)(1)(ii) of this section. As to the latter, a list furnished appellant indicating specific contractual documents transmitted will suffice.

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

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

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

(5) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to consideration of a particular document or documents reasonably in advance of hearing or, if there is no hearing, of settling the record. If such objection is made the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence in accordance with Rules 13 and 20.

(6) Notwithstanding the foregoing, the filing of the Rule 4 (1) and (2) documents may be dispensed with by the Board either upon request of the appellant in his notice of appeal or thereafter upon stipulation of the parties.

(f) Rule 5. *Motions.* (1) Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

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

(g) Rule 6. *Pleadings.* (1) *Appellant.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. Upon receipt of the complaint, the Board shall serve a copy of it upon the Government. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth its complaint and the Government shall be so notified.

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

(h) Rule 7. *Amendments of pleadings or record.* The Board upon its own initiative or upon application by a party may order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

(i) Rule 8. *Hearing election.* After filing of the Government's answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

(j) Rule 9. *Prehearing briefs.* Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

(k) Rule 10. *Prehearing or presubmission conference.* (1) Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an administrative judge or examiner of the Board for a conference to consider:

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

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

(iii) agreements and rulings to facilitate discovery;

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

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

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

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

(l) Rule 11. *Submission without a hearing.* Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submissions to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with Rule 23.

(m) Rule 12. *Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED procedures. These procedures are available solely at the election of the appellant.*

(1) Sub-Rule 12.1 *Elections to utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED procedures.* (i) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a SMALL CLAIMS (EXPEDITED) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in sub-Rule 12.2 of this Rule. An appellant may elect the ACCELERATED procedure rather than the SMALL CLAIMS (EXPEDITED) procedure for any appeal eligible for the SMALL CLAIMS (EXPEDITED) procedure.

(ii) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an ACCELERATED procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in sub-Rule 12.3 of this Rule.

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

(2) Sub-Rule 12.2 *The SMALL CLAIMS (EXPEDITED) procedure.* (i) In cases proceeding under the SMALL CLAIMS (EXPEDITED) procedure, the following time periods shall apply:

(A) Within 10 days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under Rule 4 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs;

(B) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned administrative judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (*1*) identify and simplify the issues; (*2*) establish a simplified procedure appropriate to the particular appeal involved; (*3*) determine whether either party wants a hearing, and if so, fix a time and place therefor; (*4*) require the Government to furnish all the additional documents relevant to the appeal; and (*5*) establish an expedited schedule for resolution of the appeal.

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

(iii) Written decision by the Board in cases processed under the SMALL CLAIMS (EXPEDITED) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single administrative judge. If there has been a hearing, the administrative judge presiding at the hearing may, in the judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

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

(3) Sub-Rule 12.3 *The ACCELERATED procedure.* (i) In cases proceeding under the ACCELERATED procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion,

may shorten time periods prescribed or allowed elsewhere in these Rules, including Rule 4, as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the ACCELERATED procedure, and may reserve 30 days for preparation of the decision.

(ii) Written decisions by the Board in cases processed under the Accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or the Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of desagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the Accelerated procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under Rule 29.

(4) Sub-Rule 12.4 *Motions for reconsideration in Rule 12 Cases.* Motions for Reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

(n) Rule 13. *Settling the record.* (1) The record upon which the Board's decision will be rendered consists of the documents furnished under Rules 4 and 12, to the extent admitted in evidence, and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, post-hearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

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

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

(o) Rule 14. *Discovery—Depositions.* (1) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

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

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

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

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

(6) *Subpoenas.* Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 21.

(p) Rule 15. *Interrogatories to parties, admission of facts, and production and inspection of documents.* After an appeal has been docketed and complaint filed with the Board, a party may serve on the other party: (1) written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 30 days after service; (2) a request for the admission of specified facts and/or the authenticity of any documents, to be answered or objected to within 30 days after service; the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and (3) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence, to be answered or objected to within 30 days after service. Any discovery engaged in under this Rule shall be subject to the provisions of Rule 14(1) with respect to general policy and protective orders, and of Rule 35 with respect to sanctions.

(q) Rule 16. *Service of papers other than subpoenas.* Papers shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of complaints, answers and briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in Rule 21.

(r) Rule 17. *Hearings: Where and when held.* Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, Rule 12 requirements, and other pertinent factors. On request or motion by either party and for good cause, the Board may, in its discretion, adjust the date of a hearing.

(s) Rule 18. *Notice of hearings.* The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will consider the desires of the parties and the requirements for just and inexpensive determination of appeals without unnecessary delay. Notices of hearings shall be promptly acknowledged by the parties.

(t) Rule 19. *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing will

not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

(u) Rule 20. *Hearings: Nature, examination of witnesses.* (1) *Nature of hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence or in the sound discretion of the presiding administrative judge or examiner. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

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

(v) Rule 21. *Subpoenas.* (1) *General.* Upon written request of either party filed with the recorder, or on his own initiative, the administrative judge to whom a case is assigned or who is otherwise designated by the chairman may issue a subpoena requiring:

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

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

(iii) Production of books and papers—in addition to (i) or (ii), the production by the witness at the deposition or hearing of books and papers designated in the subpoena

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

(3) *Requests for subpoenas*—

(i) a request for subpoena shall normally be filed at least:

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

(B) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

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

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

(5) *Form; issuance.*

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

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

(6) *Service.*

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

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

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

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

(w) Rule 22. *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

(x) Rule 23. *Post-hearing briefs.* Post-hearing briefs may be submitted upon such terms as may be directed by the presiding administrative judge or examiner at the conclusion of the hearing.

(y) Rule 24. *Transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Waiver of transcript may be especially suitable for hearings under sub-rule 12.2. Transcripts or copies of the proceedings shall be supplied to the parties at the actual cost of duplication.

(z) Rule 25. *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its descretion as a conditon of granting permission for such withdrawal.

(aa) Rule 26. Representation: *The Appellant.* An individual appellant may appear before the Board in person, a corporation by one of its officers; and a

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

(bb) Rule 27. Representation: *The Government.* Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney in the form specified by the Board from time of time.

(cc) Rule 28. *Decisions.* Decisions of the Board will be made in writing and authenticated copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to to held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board. Decisions of the Board will be made solely upon the record, as described in Rule 13.

(dd) Rule 29. *Motion for reconsideration.* A motion for reconsideration may be file by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

(ee) Rule 30. *Suspensions; dismissal without prejudice.* The Board may suspend the proceedings by agreement of counsel for settlement discussions, or for good cause shown. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

(ff) Rule 31. *Dismissal or default for failure to prosecute or defend.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 35. If good cause is not shown, the Board may take appropriate action.

(gg) Rule 32. *Remand from court.* Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, such orders shall conform to these rules.

(hh) Rule 33. *Time, computation and extensions.* (1) Where possible, procedural actions should be taken in less time than the maximum time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time shall be in writing.

(2) In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(ii) Rule 34. *Ex parte communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal, submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures.

(jj) Rule 35. *Sanctions.* If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

(kk) Rule 36. *Effective date.* These rules shall apply (1) mandatorily, to all appeals relating to contracts entered into on or after 1 March 1979, and (2) at the contractor's election, to appeals relating to earlier contracts, with respect to claims pending before the contracting officer on 1 March 1979 or initiated thereafter.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of /L107227360528008360the 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

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection service—

11796 2–22–80 / Importation of certain animals; deletion of the Canadian and Mexican border ports

Civil Rights Commission

13790 3–3–80 / Illinois Advisory Committee, Springfield, Ill. (open), 3–24–80

Federal Communications Commission

10348 2–15–80 / Commercial Television Broadcast Service assigned to Vancouver, Wash.

12439 2–26–80 / FM table of assignments; Caldwell, Ohio

11133 2–20–80 / Noncommercial education channel assignments under the United States-Mexico FM broadcast agreement; Santa Barbara, Calif.

10347 2–15–80 / Noncommercial educational channel assignments under the U.S.-Mexico FM Broadcast agreement (San Antonio, Tex.)

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

55169 9–25–79 / Discontinuance of certification of all 80-Unit Insulin products

LABOR DEPARTMENT

Employment and Training Administration—

11798 2–22–80 / Labor certification process for the temporary employment of aliens in the United States; increased meal charge

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 March 21, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: April 18, May 2, 16, and 30; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.
Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

MEMPHIS, TENN.

WHEN: March 25 at 1 p.m.

WHO: The Office of the Federal Register in cooperation with Memphis State University.

WHERE: Assembly Room, Richardson Towers, Memphis State University.

RESERVATIONS: Call Dr. Frank Lewis, 901–454–2829.

LOS ANGELES, CALIF.

WHEN: April 14, 15, and 16; at 9 a.m.

WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213–688–3800.