AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 165
8-24-78
PAGES
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Federal Register

THURSDAY, AUGUST 24, 1978



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Monday	Tuesday	Wednesday	Thursday	Friday
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	LABOR			LABOR
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

federal register
Area Code 202 Phone 523-5240

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[3410-02]

Title 7—Agriculture

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

[Valencia Orange Reg. 603]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 25-31, 1978. Such action is needed to provide for orderly marketing of fresh Valenica oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on August 22, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to be reasonably strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.903 Valencia Orange Regulation 603.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 25, 1978 through August 31, 1978, are established as follows:

(1) District 1: 130,000 cartons;

(2) District 2: 370,000 cartons; and

(3) District 3: Unlimited.

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

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

Dated: August 23, 1978.

CHARLES R. BRADER,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-24070 Filed 8-23-78; 11:47 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket NO. 78-WE-13-AD; Amdt. 39-3283]

PART 39—AIRWORTHINESS DIRECTIVE

General Dynamics Model 340 and 440 Series and C-131E Airplanes Including Those Modified for Turbo-Propeller Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires checks and rework of the passenger emergency escape window cover installation to assure that the passenger emergency escape window release handle access door is not restricted from opening. The AD is necessary to assure proper functioning of the emergency exit.

DATES: Effective date September 5, 1978. Initial compliance required within the next 10 hours time in service from the effective date of this AD. Final compliance action required within 30 days or 50 hours time in service, whichever comes earlier, from the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from: General Dynamics, P.O. Box 80877, San Diego, Calif. 92138, Attention: Lary Hayes, Manager Product Support, Convair Division. Also, a copy of this service bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in room 6W14, FAA, Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los

Angeles, Calif. 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: As a result of inspections of the passenger emergency escape window installations on in-service General Dynamics 340/440 airplanes the FAA has learned that in certain instances, the spring-loaded release handle access door in the escape window cover assembly could not be opened. Investigation revealed that in those instances the cover assembly had moved out of position in a downward direction to the point where the lower edge of the access door impinges against the crossbar of the release handle. The inability to open the access door would render this emergency exit unuseable during an evacuation of the airplane in an emergency.

Since this condition is likely to exist in other products of the same type design an airworthiness directive is being issued which requires that each passenger emergency escape window be checked daily to assure that the release handle access door swings open without restriction. It further requires rework of the cover assembly as defined in General Dynamics Alert Service Bulletin 640(340D)-25-A10 dated July 12, 1978, at which time the checks required by this AD may be discontinued. provisions are included for approval of alternate methods of insuring that the release handle access door can be opened.

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

ADOPTION OF THE AMENDMENT

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

GENERAL DYNAMICS: Applies to all Model 340 and 440 series and C-131E airplanes in passenger configuration, including those modified for turbopropeller power, certificated in all categories.

To insure that the passenger emergency escape window release handle access door can be opened, accomplish the following:

(a) Within the next 10 hours time in service from the effective date of this AD unless already modified in accordance with paragraph (c) or (d), check each passenger emergency escape window release handle cover assembly to assure that the release handle access door swings open without restriction. If the release handle access door cannot be opened, modify the cover assembly per General Dynamics Alert Service Bulletin 640(340D)-25-A10 dated July 12, 1978 prior to the next flight.

(b) Repeat the checks specified in (1) on all unreworked cover assemblies prior to first flight of each day pending accomplishment of the rework defined in General Dynamics Alert Service Bulletin 640(340D)-25-A10 dated July 12, 1978.

(c) Within 30 days or 50 hours time in service, whichever occurs earlier from the effective date of this AD, accomplish the rework defined in the General Dynamics Service Bulletin noted in paragraph (b) at which time checks required by this AD may be discontinued.

(d) Alternate methods of insuring that the release handle access door can be opened may be used if approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

(e) The checks specified in this AD may be performed by flight crew personnel.

(f) Record the accomplishment of check in a record maintained by the operator.

This amendment becomes effective September 5, 1978.

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

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, Calif. on August 15, 1978.

LEON C. DAUGHERTY,
Acting Director
FAA Western Region.

[FR Doc. 78-23461 Filed 8-23-78; 8:45 am]

[4910-13]

[Docket No. 78-ASW-37, Amdt. 39-3282]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Model 212 Helicopter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to the Bell Helicopter Textron Model 212 which requires removal of the rotor brake quill assembly, P/N 205-040-300-1, if installed, and a repetitive inspection of the main transmission spiral bevel gear, P/N 204-040-701-3 or -101, for improper load patterns, chips, fractures, or other defects. This AD is prompted by reports of failure of the spiral bevel gear in the transmission of these helicopters and could result in hazardous loss of drive from both engines to the rotor system.

DATE: Effective August 21, 1978.

For paragraph a., compliance is required within the next 25 hours time in service after the effective date of this AD. For paragraph b., compliance is required within 25 hours time in service after accomplishment of the requirements of paragraph a. of this AD and thereafter at intervals not to exceed 25 hours time in service.

ADDRESSES: The applicable service bulletin may be obtained upon request to the Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Tex. 76101. A copy of the service bulletin is contained in the rules docket (Room 916, 800 Independence Avenue SW., Washington, D.C. 20591), or at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: There have been reports of failure of the input spiral bevel gear used in the main transmission in Bell Helicopter Textron Model 212 helicopters. These failures can result in loss of power transmission to the helicopter's rotors and a subsequent emergency landing. Internal damage to the transmission from this gear failure could possibly interfere with normal autorotative descent and add significantly to the hazards to be expected from this failure. Since this condition is likely to exist or develop on other helicopters of this same design, an Airworthiness Directive is being issued which requires modification of the helicopter to remove the rotor brake, if installed, and repetitive inspections and possible replacement of the input spiral bevel gear on Bell Helicopter Textron Model 212 helicopters.

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

DRAFTING INFORMATION

The principal authors of this document are Wilbur F. Wells, Flight Standards Division, Southwest Region, and James O. Price, Office of the Regional Counsel, Southwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal

Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

BELL HELICOPTER TEXTRON (BHT). Applies to Model 212 helicopters certificated in all categories.

Compliance is required as indicated.

To minimize the possibility of failure of the input spiral bevel gear, P/N 204-040-701-3 or -101, used in the main transmission of Bell Helicopter Textron (BHT) Model 212 helicopters, accomplish the following:

a. Within the next 25 hours time in service after the effective date of this Airworthiness Directive (AD):

1. For helicopters with rotor brakes, remove the rotor brake quill assembly, P/N 205-040-300-1, as prescribed by paragraph 1 of part I of BHT Service Bulletin No. 212-78-8, dated July 28, 1978, or later FAA approved revision.

2. For helicopters without rotor brakes, remove the cover plate, P/N 204-040-174-1, from the left side of the transmission.

3. Utilizing the opening provided by step 1 or step 2, above, inspect all 62 teeth of the main spiral bevel gear, P/N 204-040-701-3 or -101, as prescribed by paragraph 2 of part I of BHT Service Bulletin No. 212-78-8, dated July 28, 1978, or later FAA approved revision.

4. Remove and replace any gear that does not meet the inspection requirements set forth in step 3, above. Utilize instructions in the appropriate maintenance and overhaul manual for this procedure.

5. Install cover, P/N 204-040-174-1, over rotor brake quill port, reinstall panels and cowling, and perform the ground run utilizing procedures prescribed by paragraphs 4, 5, and 6 of part I of BHT Service Bulletin No. 212-78-8, dated July 28, 1978, or later FAA approved revision.

6. Install adjacent to the limitation placard on the rotor brake handle in the crew compartment a decal or placard with the following words: ROTOR BRAKE INOPERATIVE. Letters are to be ⅛-inch minimum height printed or embossed on a contrasting background.

b. Within 25 hours time in service after accomplishment of the requirements of paragraph a. of this AD, and thereafter at intervals not to exceed 25 hours time in service, conduct the inspections and replacement, if appropriate, prescribed by part II of BHT Service Bulletin No. 212-78-8, dated July 28, 1978, or later FAA approved revision.

Bell Helicopter Textron Service Bulletin No. 212-78-8 pertains to and provides instructions for accomplishing the intent of this AD, except that in addition, paragraph a., step 6, of this AD must also be accomplished.

Except as specifically provided otherwise by this AD, the manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part thereof pursuant to U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Tex. 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106, and at the Federal Aviation Administration Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

Equivalent means of compliance with the requirements prescribed by this AD may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101.

(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.)

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

Issued in Fort Worth, Tex., on August 8, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-23834 Filed 8-23-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-22]

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

Redesignation of Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the legal description of the Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont. control zones to allow for changing the hours of operation of the control zones by notice to airmen (NOTAM) when weather or communications are not available. The effectiveness of these control zones coincides with the availability of weather reporting services and communications at these locations. Anticipation of shortage of personnel at the flight service stations at these locations for short periods of time necessitating periodic loss of services makes this amendment necessary.

EFFECTIVE DATE: 0501 G.m.t. September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joesph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

The control zones at Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont. are effective continuously based on the continuous operations of the associated flight service stations which provide the necessary weather reporting and communications necessary to support the control zones. Beginning September 7, 1978 it is anticipated that because of shortage of personnel at these locations, periodic closure of the flight service stations between the hours of 2200 and 0600 local will be necessary requiring part-timing of the control zones by NOTAM. Therefore, it is necessary to change the legal description of the control zones to allow for the issuance of a NOTAM when necessary to change the effective hours of the control zones.

Since effective periods for the Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont. control zones are contingent on the availability of weather reporting service and communications at these locations, it was further determined that issuance of a Notice of Proposed Rulemaking for this amendment would be impractical and not within the public interest.

RULE

This amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) revises the control zones at Akron, Colo., Eagle Colo., Rawlins, Wyo., and Cut Bank, Mont. The anticipated shortage of personnel at the associated flight service stations will reduce the hours of weather reporting and communications periodically necessitating the changing of the effective hours of operations for these control zones.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective September 7, 1978 as follows:

By amending Subpart F, § 71.171 by adding the following:

AKRON, COLO.

This control zone is effective during specific dates and times established in advance by a notice to airmen. The effective date

and time, thereafter, will be continuously published in the airport facility directory.

EAGLE, COLO.

This control zone is effective during specific dates and times established in advance by a notice of airmen. The effective date and time, thereafter, will be continuously published in the airport facility directory.

RAWLINS, WYO.

This control zone is effective during specific dates and times established in advance by a notice to airmen. The effective date and time, thereafter, will be continuously published in the airport facility directory.

CUT BANK, MONT.

This control zone is effective during specific dates and times established in advance by a notice to airmen. The effective date and time, thereafter, will be continuously published in the airport facility directory.

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

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

Issued in Aurora, Colo. on August 14, 1978.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc. 78-23673 Filed 8-23-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-15]

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

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Ogallala, Nebr. 1,200-foot transition area within the State of Colorado to provide controlled airspace for aircraft executing the new VOR standard instrument approach developed for the Searle Airport, Ogallala, Nebr.

EFFECTIVE DATE: 0901 G.m.t. November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 8, 1978, the FAA published for comment a notice of proposed rulemaking (NPRM) proposing to alter the Ogallala, Nebr. 1,200-foot transition area within the State of Colorado (43 FR 24852). The only comment received expressed no objection.

RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (FAR's) alters the Ogallala, Nebr. 1,200-foot transition area within the State of Colorado. This action is necessary to provide controlled airspace within the State of Colorado to contain the new VOR standard instrument approach developed for the Searle Airport, Ogallala, Nebr.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended effective November 2, 1978, as follows:

By amending subpart G, § 71.181 as follows:

OGALLALA, NEBR.

"* * * and that airspace within the State of Colorado extending upward from 1,200 feet above the surface within 9.5 miles south of the Ogallala Vor 258 radial extending to 18.5 miles west."

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

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

Issued in Aurora, Colo. on August 14, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-23465 Filed 8-23-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WE-27]

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

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Oxnard, Calif., 1,200-foot transition area to include the airspace extending southwest from Oxnard to the boundaries of the Pacific coastal air defense identification zone. This action will permit the control of air traffic to and from San Nichols Island.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 19, 1978, the FAA published for comment a proposal to alter the Oxnard, Calif., 1,200-foot transition area (43 FR 26319). Interested persons were invited to participate in this rule making proceding by submitting written comments on the proposal to the FAA. No comments were received. Section 71.181 of part 71 was published in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

THE RULE

This amendment to part 71 of the Federal Aviation regulations extends the Oxnard, Calif., offshore 1,200-foot transition area southwestward to the boundary of the Pacific coastal air defense identification zone (ADIZ). This action provides controlled airspace for vector routes to and from San Nichols Island.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air

Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 71.181 of part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

In § 71.181 (43 FR 440), under Oxnard, Calif., all after "Point Mugu RBN to point of beginning;" is deleted and "that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at Lat. 34°30'00" N., Long. 118°50'00" W., to Lat. 34°00'00" N., Long. 118°50'00" W., to Lat. 34°00'00" N., Long. 119°05'00" W., to Lat. 33°52'30" N., Long. 119°06'59" W., to Lat. 33°28'30" N., Long. 119°07'00" W., to Lat. 32°56'31" N., Long. 119°07'00" W., to Lat. 32°54'10" N., Long. 119°10'01" W., to Lat. 33°35'36" N., Long. 120°00'00" W., to Lat. 34°20'00" N., Long. 120°00'00" W., to Lat. 34°20'00" N., Long. 119°30'00" W., to Lat. 34°30'00" N., Long. 119°30'00" W., thence to point of beginning; and that airspace extending upward from 5,000 feet MSL bounded by a line beginning at Lat. 34°08'00" N., Long. 120°00'00" W., to Lat. 34°00'00" N., Long. 120°00'00" W., to Lat. 34°00'00" N., Long. 120°30'00" W., to Lat. 34°06'15" N., Long. 120°30'00" W., to Lat. 34°08'00" N., Long. 120°26'00" W., to point of beginning." is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-23763 Filed 8-23-78; 8:45 am]

[4910-13]

[Docket No. 18248, Amdt. No. 1118]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes standard instrument approach procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA regional office of the region in which the affected airport is located; or

3. The flight inspection field office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA regional office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked standard instrument approach procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation regulations (FAR's). The applicable FAA forms are identified as FAA forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the national airspace system or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. standard for terminal instrument approach procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking standard instrument approach procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

* * * effective November 2, 1978:

Alamosa, CO—Alamosa Muni, VOR-A, Amdt. 5
Alamosa, CO—Alamosa Muni, VOR/DME-B, Amdt. 3
Ft. Collins-Loveland, CO—Ft. Collins-Loveland, VOR/DME-A, Amdt. 3
Cassville, MO—Cassville Muni, VOR RWY 8, original
Roswell, NM—Roswell Industrial Air Center, VOR-A, Amdt. 3
Jamestown, TN—Jamestown Municipal, VOR/DME-A, original
Bluefield, WV—Mercer County, VOR Rwy 23, Amdt. 5
Bluefield, WV—Mercer County, VOR/DME Rwy 23, original
Bluefield, WV—Mercer County, VOR/DME A, original, canceled

* * * effective October 19, 1978.

Rockford, IL—Greater Rockford, VOR Rwy 12, Amdt. 15
Hebron, OH—Buckeye Valley, VOR-A, Amdt. 1
Tulsa, OK—Richard Lloyd Jones Jr., VOR Rwy 36L, Amdt. 2
Tulsa, OK—Richard Lloyd Jones Jr., VOR/DME-A, original
Tulsa, OK—Tulsa Riverside, VOR/DME Rwy 36L, Amdt. 3, canceled

* * * effective October 5, 1978:

Hope, AR—Hope Municipal, VOR/DME Rwy 4, Amdt. 3
Fort Smith, AR Now Named Van Buren, AR—Twin City now named Industrial Park, VOR-A, Amdt. 1, canceled
West Memphis, AR—West Memphis Muni, VOR/DME-A, Amdt. 1
Oakdale, CA—Oakdale, VOR Rwy 10, Amdt. 1
Ocala, FL—Ocala Muni (Jim Taylor Field), VOR Rwy 36, Amdt. 10
St. Louis, MO—Creve Coeur, VOR-A, Amdt. 1
Manchester, NH—Manchester Airport Grenier Industrial Airpark, VOR/DME Rwy 17, Amdt. 8
Charlotte, NC—Douglas Muni, VOR Rwy 18, Amdt. 8, canceled
Charlotte, NC—Douglas Muni, VOR Rwy 23, Amdt. 5, canceled
Charlotte, NC—Douglas Muni, VOR/DME Rwy 18, Original
Monroe, NC—Monroe, ' OR-A, Amdt. 5
Monroe, NC—Monroe, VOR/DME-B, Amdt. 3
Oklahoma City, OK—Wiley Post, VOR-C, Amdt. 1
Providence, RI—Theodore Francis Green State, VOR/DME Rwy 23L, Amdt. 4
Huntsville, TX—Huntsville Muni, VOR/DME-A, Amdt. 3
Chesterfield,VA—Chesterfield County, VOR Rwy 15, Amdt. 4
Hopewell, VA—Hopewell, VOR Rwy 26, Amdt. 3

* * * effective September 7, 1978:

Rocky Mount, NC—Rocky Mount Downtown, VOR-A, Amdt. 10
Rocky Mount, NC—Rocky Mount Downtown, VOR/DME-B, Amdt. 7

* * * effective August 24, 1978:

Pittsburgh, PA—Greater Pittsburgh Intl, VOR Rwy 10R (TAC), Amdt. 3, canceled

* * * effective August 14, 1978:

Madison, WI—Dane County Regional/Truax Field, VOR Rwy 18, Amdt. 11

NOTE.—The FAA published an amendment in docket No. 18072, Amdt No. 1114 to part 97 of the Federal Aviation regulations (Vol. 43 FR, No. 126, page 28175; dated June 29, 1978) under § 97.23 effective September 7, 1978, which is hereby amended as follows: Madill, OK—Madill Municipal, VOR/DME-A, original will be effective November 2, 1978, vice September 7, 1978.

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

* * * effective November 2, 1978:

Colorado Springs, CO—City of Colorado Springs Muni, LOC BC Rwy 17, Amdt. 1
Roswell, NM—Roswell Industrial Air Center, LOC BC Rwy 3, Amdt. 1

* * * effective October 19, 1978:

Rockford, IL—Greater Rockford, LOC BC Rwy 18, Amdt. 10
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, LOC BC Rwy 11L, Amdt. 3

* * * effective October 5, 1978:

Latrobe, PA—Westmoreland County, LOC BC Rwy 5, Amdt. 4

* * * effective August 14, 1978:

Madison, WI—Dane County Regional/Truax Field, LOC (BC) Rwy 18, Amdt. 7

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

* * * effective November 2, 1978:

Ft. Collins-Loveland, CO—Ft. Collins-Loveland, NDB Rwy 33, Amdt. 6
Sterling, CO—Crosson Field, NDB Rwy 33, Amdt. 2
Roswell, NM—Roswell Industrial Air Center, NDB Rwy 21, Amdt. 10
Cheyenne, WY—Cheyenne Muni, NDB Rwy 26, Amdt. 10

* * * effective October 19, 1978:

Rockford, IL—Greater Rockford, NDB Rwy 36, Amdt. 19
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, NDB Rwy 29L, Amdt. 19
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, NDB Rwy 29R, Amdt. 7

* * * effective October 5, 1978:

Morrilton, AR—Petit Jean Park, NDB Rwy 2, Amdt. 1
Russellville, AR—Russellville Muni, NDB-A, Amdt. 1
West Memphis, AR—West Memphis Muni, NDB Rwy 35, Amdt. 6
Charlotte, NC—Douglas Muni, NDB Rwy 23, original
Latrobe, PA—Westmoreland County, NDB Rwy 23, Amdt. 7
Atlanta, TX—Atlanta Muni, NDB Rwy 4, original
Huntsville, TX—Huntsville Muni, NDB Rwy 18, Amdt. 1
New Braunfels, TX—New Braunfels Muni, NDB Rwy 22, Amdt. 2
Rockport, TX—Aransas County, NDB Rwy 14, Amdt. 2
Wakefield, VA—Wakefield Muni, NDB Rwy 20, Amdt. 2

* * * effective September 7, 1978:

Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 16, original
Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 34, original
Petersburg, VA—Petersburg Muni, NDB Rwy 5, Amdt. 2
Emporia, VA—Emporia Muni, NDB Rwy 33, Amdt. 3
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, NDB Rwy 9L, Amdt. 5

4. By amending § 97.29 ILS-MLS SIAP's identified as follows:

* * * effective November 2, 1978:

Denver, CO—Jeffco, ILS Rwy 29R, Amdt. 5
Grand Junction, CO—Walker Field, ILS Rwy 11, Amdt. 9
Roswell, NM—Roswell Industrial Air Center, ILS Rwy 21, Amdt. 9
Bluefield, WV—Mercer County, ILS Rwy 23, Amdt. 3

* * * effective October 19, 1978:

Rockford, IL—Greater Rockford, ILS Rwy 36, Amdt. 22
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS BC Rwy 11R, Amdt. 6
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS Rwy 29L, Amdt. 35
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS Rwy 29R, Amdt. 2

* * * effective October 5, 1978:

Latrobe, PA—Westmoreland County, ILS Rwy 23, Amdt. 8

* * * effective September 7, 1978:

Andreafsky/St. Marys, AK—St. Marys, ILS/DME Rwy 16, original
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS Rwy 8, Amdt. 51
Atlanta, GA—The William B. Hartsfield Atlanta International, ILS Rwy 9L, original

* * * effective August 14, 1978:

Grand Rapids, MI—Kent County, ILS Rwy 8R, Amdt. 1

5. By amending § 97.31 RADAR SIAP's identified as follows:

* * * effective November 2, 1978:

Denver, CO—Jeffco, RADAR-1, Amdt. 5

* * * effective October 19, 1978:

Rockford, IL—Greater Rockford, RADAR-1, Amdt. 1

* * * effective October 5, 1978:

West Memphis, AR—West Memphis Muni, RADAR-1, Amdt. 7
Houston, TX—Andrau Airpark, RADAR-1, Amdt. 2
La Porte, TX—La Porte Muni, RADAR-1, Amdt. 6

* * * effective August 14, 1978:

Madison, WI—Dane County Regional/Truax Field, RADAR-1, Amdt. 5

NOTE.—The FAA published an amendment in docket No. 18143, Amdt. No. 1116 to part 97 of the Federal Aviation regulations (Vol. 43 FR, No. 145, page 32410; dated July 27, 1978) under § 97.31 effective September 7, 1978, which is hereby amended as follows: Knoxville, TN—McGhee Tyson, RADAR-1, Amdt. 18, is rescinded.

6. By amending § 97.33 RNAV SIAP's identified as follows:

* * * effective November 2, 1978:

Denver, CO—Jeffco, RNAV Rwy 29R, Amdt. 5
Ft. Collins-Loveland, CO—Ft. Collins-Loveland, RNAV Rwy 15, Amdt. 1
Ft. Collins-Loveland, CO—Ft. Collins-Loveland, RNAV Rwy 33, Amdt. 1
Roswell, NM—Roswell Industrial Air Center, RNAV Rwy 3, Amdt. 2, canceled
Roswell, NM—Roswell Industrial Air Center, RNAV Rwy 35, original

* * * effective October 19, 1978:

Wausau, WI—Wausau Municipal, RNAV Rwy 12, original

* * * effective October 5, 1978:

Meridian, MS—Key Field, RNAV Rwy 19, Amdt. 1
Charlotte, NC—Douglas Municipal, RNAV Rwy 23, original
Anderson, SC—Anderson County, RNAV Rwy 23, Amdt. 4

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); delegation: 25 FR 6489 and paragraph 802 of order FS P 1100.1, as amended March 9, 1973.)

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

Issued in Washington, D.C., on August 18, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-23764 Filed 8-23-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-295]

PART 159—LIQUIDATION OF DUTIES

Chain of Iron or Steel from Japan, Final Countervailing Duty Determination

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

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Japan has granted benefits on the manufacture, production or exportation of chain of iron or steel, and parts thereof, which are considered to be bounties or grants under the countervailing duty law. Consequently, countervailing duties in the amount of these benefits will be collected in addition to duties normally due on shipments of this merchandise.

EFFECTIVE DATE: August 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, U.S. Treasury Department, Office of Tariff Affairs, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20229, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: On February 7, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 5127). The notice stated that it had been preliminarily determined that benefits are available to Japanese manufacturers/exporters of chain of iron or steel or parts thereof which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act"). The benefits preliminarily determined to be bounties or grants were:

(1) Interest-free loans in the form of tax deferrals on funds held in the Overseas Market Development Reserve (OMDR).

(2) Export promotional assistance from the Japan External Trade Organization (JETRO). This assistance is general in nature and not oriented to the export promotion of specific products. However, these activities do defray costs which would otherwise be incurred by Japanese chain exporters and to that extent may subsidize that industry.

Programs which were investigated and determined preliminarily to be not applicable to or not used by the Japanese chain industry include:

(1) Government financing of new machinery and equipment under the provisions of the "Mechanical Industry Development Temporary Measure Law."

(2) Preferential financing to specifically designated industries provided by the Japan Development Bank.

(3) Preferential financing and export risk insurance provided by the Export-Import Bank of Japan.

The preliminary determination noted that the rebate of the Japanese commodity tax upon export was not considered by Treasury to be a bounty or grant. On June 21, 1978, the Supreme Court of the United States upheld that position in its decision in the case *Zenith Radio Corporation* v. *the United States.*

The merchandise subject to this investigation is chains of iron or steel, the links of which are of stock essentially round in cross section, and parts thereof, as provided for in item numbers 652.24, 652.27, 652.30, 652.33 and 652.35 of the Tariff Schedules of the United States, Annotated (TSUSA).

The preliminary determination indicated that before a final determination was to be made, consideration would be given to any relevant data, views or arguments submitted in writing within 30 days from the date of publication of the preliminary determination.

After consideration of the information received, it is hereby determined that the subject merchandise from Japan receives bounties or grants within the meaning of section 303 of the act. The bounties or grants are in the form of benefits conferred by the OMDR and JETRO. The other programs which were investigated, as enumerated above, are hereby determined to be not applicable or not used by the Japanese chain industry and, therefore, not bounties or grants. The rebate upon exportation of the Japanese Commodity Tax is, in accordance with the *Zenith* case, determined not to result in the payment or bestowal of a bounty or grant.

The aggregate estimated benefit to exports of chain of iron or steel and parts thereof is 2.0 percent ad valorem. This determination has been made in the absence of information regarding benefits specifically conferred upon the chain industry.

Accordingly, notice is hereby given that chain or chains of iron or steel, the links of which are of stock essentially round in cross section and parts thereof, classifiable under item numbers 652.24, 652.27, 652.30, 652.33, and 652.35 TSUSA, which are imported directly or indirectly from Japan, if en-

tered or withdrawn from warehouse, for consumption on or after August 24, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the act, until further notice, the net amount of such bounties or grants has been estimated and declared to be 2.0 percent of the f.o.b. price of export to the United States.

Effective on or after August 24, 1978, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable chain or chains imported directly or indirectly from Japan which benefit from these bounties or grants, where shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation of the merchandise.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for Japan the words "Chain and Parts Thereof, of Iron or Steel" in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "Bounty Declared-Rate" in the column headed "Action".

Pursuant to reorganization plan No. 26 of 1950 and Treasury Department Order 190 (revision 15), March 16, 1978, the provisions of Treasury Department Order 165, revised November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty order by the Commissioner of Customs, are hereby waived.

Date: August 16, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-23775 Filed 8-23-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Memorandum 78-1]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart J—Civil Rights Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Department's organizational regulations by deleting memorandum 75-2 and replacing it with memorandum 78-1 concerning delegation of authority respecting denials of Freedom of Information and Privacy Act requests. This memorandum delegates to the Principal Deputy Assistant Attorney General the authority previously granted to the Assistant Attorney General, Civil Rights Division, to deny requests made under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

EFFECTIVE DATE: Date of signature.

FOR FURTHER INFORMATION CONTACT:

Salliann M. Dougherty, Freedom of Information/Privacy Act Officer, Civil Rights Division, Department of Justice, Washington, D.C. 20530, 202-739-3925.

Pursuant to the authority vested in me by Subpart J of Part O of Chapter I of Title 28, Code of Federal Regulations, I issue the following memorandum which replaces memorandum 75-2 as an appendix to Subpart J of Part O of Chapter I of Title 28, Code of Federal Regulations: Delegation of Authority Respecting Denials of Freedom of Information and Privacy Act Requests.

1. The Deputy Assistant Attorney General, Civil Rights Division, who is authorized to assume the responsibilities of the Assistant Attorney General in his absence (the Principal Deputy Assistant Attorney General) will assume the duties and responsibilities previously assigned to the Assistant Attorney General by 28 CFR 16.5 (b) and (c) and 16.45(a), as amended July 1, 1977, and defined in those sections, for denying requests and obtaining extensions of time under the Freedom of Information Act, 5 U.S.C. 552, et seq., and the Privacy Act, 5 U.S.C. 552a, et seq.

2. In the absence or unavailability of the Principal Deputy Assistant Attorney General, the Deputy Assistant Attorney General for Policy and Planning or, in his absence or unavailability, the Chief of the Appellate Section, is authorized to assume the duties and responsibilities described in paragraph 1.

3. The Principal Deputy Assistant Attorney General, Deputy Assistant Attorney General for Policy and Planning or Chief of the Appellate Section, who signs a denial or partial denial of a request for records made under the Freedom of Information Act or the Privacy Act shall be the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a) and 5 U.S.C. 552a (j) and (k).

Dated: August 14, 1978.

DREW S. DAYS III,
Assistant Attorney General, Civil Rights Division.

[FR Doc. 78-23842 Filed 8-23-78; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 822—INFORMATION AUDIOVISUAL (AV) ACTIVITIES

Final Rule

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding a part on Information Audiovisual Activities to advise the public of Air Force information audiovisual policies and identify types of audiovisual requirements.

EFFECTIVE DATE: October 21, 1977.

FOR FURTHER INFORMATION CONTRACT:

Lt. Col. Terry Hemeyer, Office of the Secretary of the Air Force, Office of Information, the Pentagon, Washington, D.C. 20330, phone: 202-695-9657.

SUPPLEMENTARY INFORMATION: Part 822 is added to subchapter C, chapter VII, title 32 of the CFR. The proposed rule was published in the FEDERAL REGISTER on February 14, 1977 (42 FR 9036) inviting public comment. As outlined at that time, this rule states Air Force information AV policies; assigns who plans, coordinates, and expedites delivery of AV materials for information use. It also tells how to request AV information coverage of an event or production, and how AV material produced by an agency other than the Air Force may be adopted for official Air Force use. It applies to all people involved in AV Information activities in the Air Force. Since no public comments were

received, the rule is added with some editorial changes from the proposed rule, but no substantial text changes. The rule will read as follows:

Sec.
822.1 Purpose.
822.2 Air Force policy.
822.3 Air Force AV information material.
822.4 Types of AV information media.
822.5 Air Force help to industry or commercial producers.
822.6 Photography and the Privacy Act.
822.7 How to request an AV product or services.
822.8 How to adopt AV material for information.
822.9 SAF/OI responsibilities.
822.10 Major command responsibilities.
822.11 AAVS responsibilities.
822.12 Newsfilm.
822.13 How to request coverage for release through the DOD news-film pool.

AUTHORITY: Sec. 8012, 70A Stat. 488; U.S.C. 8012.

NOTE.—This part is derived from Air Force Regulation 190-23, October 21, 1977. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 822.1 Purpose.

This part states Air Force information AV policies; assigns who plans, coordinates, and expedities delivery of AV materials for information use; tells how to request AV information coverage of an event or production; and tells how AV material produced by an agency other than the Air Force may be adopted for official Air Force use. It applies to all people involved in AV information activities in the Air Force. For guidance on Air Force support of non-Government groups engaged in AV and Information activities, see part 837 of this chapter.

§ 822.2 Air Force policy.

(a) AV material may be used to show and explain Air Force activities. Planning is necessary to get and use such AV materials as films, still photos, audio and video tapes.

(b) AV coverage of such Air Force events as exercises, tests, and research and development, can be a part of the general information plan, or published in orders or test directives. If more than one command is involved, the Secretary of the Air Force Office of Information (SAFOI) names one of them as the prime agency, which is to set up coverage with the Aerospace Audiovisual Service (AAVS) through the command AVOPR.

(c) Coverage of Air Force events with news potential should stress the use of crews from AAVS (MAC). Local film crews may be used if AAVS cannot meet the need.

(d) Policy and guidance on release of AV material to non-Government groups engaged in information activities is in part 837 of this chapter. These groups include theatrical, film, television, and radio producers; news representatives; advertisers and contractors.

§ 822.3 Air Force AV information material.

(a) AV Information materials include those produced by the Air Force or industry to inform the public on Air Force subjects, or to achieve the motivational objectives stated in AFR 190-18, Air Force internal information program. Although other AV material may be useful in entertaining, educating, training, or informing selected audiences of some aspects of Air Force programs or procedures, they are considered "Information" materials only if they meet the requirements stated above.

(b) There are three main ways to get official Air Force AV material for Information use:

(1) Production or procurement under AFR 95-14, Programing and Producing Audiovisual Products and Services.

(2) Cooperation with industry (see § 822.5).

(3) Adoption of audiovisual material produced by other Government groups or commercial firms (see § 822.8).

§ 822.4 Types of AV information media.

(a) Documentation. Motion picture film, video and audio tape recordings, and still photographs.

(b) Air Force film, audio, and video tape production intended for information use.

(c) Certain films, audio or video tapes produced by other Government groups or commerical firms independently of the Air Force and later recommended for official Air Force use (see § 822.8).

§ 822.5 Air Force help to industry or commercial producers.

(a) There are two types of AV material resulting from Air Force help to industry or production groups.

(1) *Industrial AV materials.* These are commercially made with private funds for public relations or institutional advertising value to the sponsor and are of informational value to the Air Force and the public. Such materials normally are produced by groups or firms having mutual interest with the Air Force in the subject matter. When produced, and if used by the Air Force per AFR 95-14, this type of material becomes an official Air Force product for use through the Air Force Audio-visual Library Center.

(2) *Commercial materials.* These are theatrical, entertainment, or documentary materials produced by commercial companies for public, theatrical, television exhibition or sale.

(b) The Air Force policy to help producers of both industrial and commercial productions is in part 837 of this chapter.

§ 822.6 Photography and the Privacy Act.

Defense Privacy Board decision memorandum 76-1-17 states that official photographs of military and civilian DOD employees generally are releasable under the Freedom of Information Act (5 U.S.C. 552a(b)(2)). However, a photograph is not releasable if it depicts matters which, if disclosed to public view, would constitute a clearly unwarranted invasion of personal privacy. Generally, photographs of award ceremonies, routine news photographs of Air Force activities and personnel, chain of command photographs and similar photographs are releasable. These photographs are not considered to be a collection of information as contemplated by section (e)(3) of the Privacy Act, and no Privacy Act advice is required.

§ 822.7 How to request an AV product or services.

AFR 95-14 gives guidance on how to prepare and submit requests.

§ 822.8 How to adopt AV material for information use.

Forward a 16mm print, video tape, multi-media material, record, audio tape, etc., to SAF/OIP for review. Send the data required by AFR 95-14 with each audiovisual product recommended for adoption. If SAF/OI validates the request, it is sent to HQ USAF/XOODV with a recommendation for adoption per AFR 95-14.

§ 822.9 SAF/OI responsibilities.

SAF/OIP is the Air Force office of primary responsibility (OPR) for public release of AV material. SAF/OIS is OPR for security review of these materials. SAF/OI:

(a) Approves or disapproves the proposals for public information use of each AV production request, as required by AFR 95-14.

(b) Approves or disapproves public release of each script and advance print of AF material intended for public information use.

(c) Reviews and approves or disapproves information proposals for getting and releasing AF products, except those with only local interest.

(d) Reviews and evaluates other production needs to determine their value in an information program.

(e) Requests support for documentation needs according to part 811a of this chapter.

(f) Sends public information production needs to AF/XOODV per AFR 95-14.

(g) Coordinates with and gets the approval of the Office, Assistant Secretary of Defense (Public Affairs), to clear audio and video tapes, motion pictures, and still photography for public release. See AFR 190-17, review and clearance of Department of the Air Force Information, and AFR 94-14 for steps in submitting a request for security and policy review.

(h) Reviews request for Air Force help from non-Government groups engaged in information activities, as required in part 837 of this chapter.

§ 822.10 Major command responsibilities.

(a) Establishes an AV OPR in the command to be the AV focal point for information activities. (To ask for or to validate an AV need or to ask for public clearance, checks part 811a of this chapter. To ask for AV documentation checks part 811a of this chapter. To ask for AV materials or services at base level, checks AFR 95-7, Audiovisual Services.)

(b) Sets up procedures to validate requests for the production of information material.

(c) Recommends whether AV coverage is considered appropriate for national release through DOD Newsfilm Pool or for local release only.

(d) Forwards, with each proposed release, photographs and film clips that require clearance in advance for public release.

(e) Obtains a DOD newsfilm release number from SAF/OIP for motion picture film when release is to be made at locations other than Washington, D.C. (see § 822.14(b)).

(f) Expedites delivery of film to the media use points.

(g) Asks for documentary coverage of special events, humanitarian efforts, disaster relief, exercises, weapons tests, and other news events through the command AV OPR.

(h) Asks for AAVS coverage of those events that are closed.

(i) Plans AV coverage during the first phase of a project with the command AV OPR.

(j) Sends original photographic negatives or positives to the AV depositories per AFR 95-4, Audiovisual Records Disposition Program. All news photos are released to the media except photographs that are of purely local interest. Original negatives of local interest are handled under part 806 of this chapter.

(k) Coordinates with the command AV OPR and AAVS each plan for AV support. Sends a copy of the plan to MAC/XOZT and XPPV, AAVS, DOD, HQ USAF/XOODV, and SAF/OI.

§ 822.11 AAVS responsibilities.

As the Air Force agency of primary responsibility for AV recording (part 811a of this chapter), AAVS:

(a) Provides the means to get, process, and reproduce professional AV materials.

(b) Complies with the responsibilities for producing and procuring motion pictures outlined in AFR 95-14.

(c) Responds to requirements for documentation photography under part 811a of this chapter.

(d) Responds to AV targets of opportunity in keeping with its mission outlined in AFR 23-37, Aerospace Audiovisual Service.

§ 822.12 Newsfilm.

This includes two types of still photographs and motion picture film: Perishable, in which timely release is critical; and feature, in which the time element is of less importance.

(a) "Newsflash," as used here, is an immediate requirement to get and give film to a newsfilm pool.

(b) "Newsflash" requires fast response, processing, editing, and distributing limited quantities of pictorial material for immediate use by news media. News material may be released when time is critical.

(c) If time is not a factor, or if media deadlines permit, Air Force media requirements may be satisfied by using film copies of instrumentation or documentary coverage. Time is critical in deciding whether documentation or instrumentation photography can be used to satisfy media requirements.

(d) Air Force newsfilm photography of key activities is made except when:

(1) AV coverage is being planned by national news media. In this case, support to the news media is the prime objective. News media coverage does not eliminate the Air Force need to record such activities per part 811a of this chapter.

(2) The physical environment of technical limitation allows only one recording source. In this case, instrumentation or documentation recording has priority. Arrangements should be made with the recording agency to take film from the instrumentation or documentation material.

(e) The medium for motion picture coverage is 16mm color. The DOD newsfilm pool accepts either unprocessed or processed film. If film is to be sent in unprocessed, 16mm EF is preferred. If processed footage is sent, a 16mm "B" wind master is required. Color videotape may be used in place of a motion picture film.

(f) Still photography is done in black and white negative, 2¼" or 35mm format. Color negative or transparency in either format may be used if black and white is not available. Film may be sent in processed or unprocessed. If unprocessed, the photographer must note any special processing instructions on each roll. Photography must have background fact sheets, cover stories, and full captions on each shot, to include: (1) Personnel identification, military rank, and full name; (2) location, equipment, or facility identification; (3) brief description of each scene.

(g) If both motion picture and still photographs are sent for possible national release, send only one fact sheet, but caption each roll or photo.

(h) After their use, all original material must be sent to an Audiovisual Depository (see AFR 95-4).

§ 822.13 How to request coverage for release through the DOD newfilm pool.

(a) Spot news usually happens without notice. When events occur, the Office of Information closest to the scene must quickly decide to either ask for AAVS help or use its own resources for coverage. In these circumstances, the Office of Information:

(1) Determines if event is pictorially newsworthy for still or motion picture coverage.

(2) Contacts a SAF/OIPL action officer or the SAF/OI duty officer to discuss the event and determine how to get coverage. If time is critical, requests the MAJCOM to decide on the spot. Coordination between the MAJCOM/OI, AV OPR, and SAF/OIPL is required when time permits. If there is only time to use available resources, assigns coverage and then contacts SAF/OIPL or the command to consider followup coverage.

(3) Gives AAVS, if their support is needed, the name of local contact to discuss billeting, transportation, access requirements, arrival time, etc. The Office of Information of the base concerned assigns a liaison officer and arranges support requirements for the team, including aircrew positions or military transportation as required. Makes sure that SAF/OIPL, HQ USAF/XOODV, MAC/XPPV, and the command AV OPR are information addressees on all messages and correspondence.

(b) Shipping the film to a designated location is an important step. The liaison officer can help by providing information on commerical airline and military air mission schedules.

(c) Detailed plans to get and release documentation coverage of special events must be sent to SAF/OIP for approval at least 4 weeks before the event.

§ 822.14 How to release newsfilm through the DOD newsfilm pool.

(a) Newsfilm normally is released by SAF/OIP to the DOD newsfilm pool in Washington, D.C. However, when it is time critical, other distribution points may be designated by SAF/OIP.

(1) Coverage for release to the DOD newsfilm pool in Washington is rushed to SAF/OIPL under Operation Newsflash procedures. The command initiating the requirement must coordinate in advance with SAF/OIPL and confirm the use of newsflash, the mode of delivery, quantity of material, and the anticipated arrival time in Washington.

(2) If shipping film to SAF/OIPL from other than Air Force installations it may be shipped via commercial air freight collect. IMPORTANT: When possible, film must be shipped nonstop. The film must be shipped from the airlines air freight counter direct to Washington National Airport. (Dulles Airport may be used as an alternate if service is not available to Washington National.) The package must be marked: NEWSFLASH—DO NOT X-RAY. It must be addressed:

Secretary of the Air Force, Office of Information, hold at airport for pickup, please contact 695-9665 on arrival.

The waybill and shipping label must contain the following typed statement: "Convert to Government Bill of Lading at Andrews AFB, Md." Once the shipment has been made, the AV team chief telephones the waybill number, flight number, air carrier's name, departure and arrival times, stops en route, and destination airport to:

(i) SAF/OIPL immediately during duty hours, Autovon 225-9665, or

(ii) SAF/OI duty officer, after duty hours. The SAF/OI duty officer can be reached by calling the Pentagon Air Force Operations Center, 202-695-7220 or 202-695-2270.

(3) If the shipment is made by military air or United Parcel Service (UPS) Blue Label, the package should be addressed in the same number, but the conversion statement is not required. Special military airlift or "Cold Rush" procedures may be established for this requirement; however, coordination with MAC/XPPV is required for "Cold Rush" airlift.

(b) If the newsfilm is to be released to a DOD newsfilm pool other than Washington, D.C., the AV team chief:

(1) Coordinates in advance with SAF/OIP.

(2) Obtains from SAF/OIPL a DOD release number and the name and address of the DOD newsfilm pool recipient.

(3) Clearly marks each film package and all related caption material with the DOD release number.

(4) Confirms with SAF/OIPL the quantity and content of photography (motion picture footage and number of still photos), and the scheduled release time at the release point.

(5) Informs SAF/OIPL of the amount of 16mm film or videotape, and number of still photos released; identifies the news media showing an interest in the released material (if known), and content of accompanying written material released. A "B" wind master and print of motion picture film and five copies of still photos with original negatives must be forwarded to SAF/OIPL as soon as possible.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-23752 Filed 8-23-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD 3-78-5-R]

PART 127—SECURITY ZONES

Establishment of Security Zone, East River, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's security zone regulations establishes the waters of the East River as a security zone. This security zone is established because of the visit of the President of the United States to New York City.

EFFECTIVE DATE: This amendment is effective on August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Commander Lauridsen, COTP New York, Building 109, Governors Island, N.Y. 10004, phone 212-264-8750.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication, because good cause exists and this security zone involves the national security of the United States. Public procedures on this amendment are impractical due to the nature of the incident. Drafting information: The principal persons involved in drafting this rule are Lieutenant Bruce, project manager and Commander Walker, project attorney.

In consideration of the foregoing, part 127 of title 33 of the Code of Federal Regulations is amended by adding sec. 127.360 to read as follows: Sec. 127.360, East River, N.Y. The waters of the East River, N.Y. in the vicinity of the Wall Street Heliport, within 100 yards of Pier 6 Manhattan in the East River is a security zone, from 1400Q August 8, 1978, to 1600Q August 8, 1978.

(40 Stat. 220, as amended (50 U.S.C. 191), § 1, 63 Stat. 503 (14 U.S.C. 91), § 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR, 1964-1965 Comp. 349 (33 CFR Part 6) (40 CFR 1.46(b).)

Dated: August 8, 1978.

P. C. LAURIDSEN,
Commander, U.S. Coast Guard, All. Captain of the Port, New York.

[FR Doc. 78-23782 Filed 8-23-78; 8:45 am]

[4310-10]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart A—General, Office of Hearings and Appeals

AUTHORITY OF THE SECRETARY OVER THE ADMINISTRATIVE APPEALS PROCESS

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Final rule.

SUMMARY: 43 CFR 4.5 presently authorizes the Secretary of the Interior to take original jurisdiction over any administrative case and render a final decision in the matter. Uncertainty has arisen as to the exact scope of the authority of the Secretary under the rule, however. This revision of § 4.5 clarifies the scope of the Secretary's reserved authority by setting out specifically the authority of the Secretary to intervene in and review administrative proceedings. The revision also clarifies the power of the Director of the Office of Hearings and Appeals to intervene in or review cases before any board of that Office.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

John D. Trezise, Acting Assistant Solicitor, General Legal Services, Division of General Law, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-5216.

SUPPLEMENTARY INFORMATION:

USE OF THE RULE

In the past, the Secretary has exercised his reserved authority under 43 CFR 4.5 only on rare occasions. Promulgation of this rule should not be construed as a change of that practice.

The sole purpose of the revision is to clarify the scope of the reserved authority of the Secretary and the Director of the Office of Hearings and Appeals so that the Secretary and the Director have full authority to intervene in or review administrative proceedings when they deem it in the public interest to do so.

PROPOSED RULEMAKING

The changes prescribed by this rule are not substantive revisions of the authority of either the Secretary or the Director. Since the rule is strictly limited to agency procedures, proposed rulemaking is not required. 5 U.S.C. 553(b)(A).

DRAFTING INFORMATION

This rule was drafted by John D. Trezise, Acting Assistant Solicitor, General Legal Service, Division of General Law, Office of the Solicitor.

Pursuant to authority granted by section 2 of Reorganization Plan 3 of 1950 and 5 U.S.C. 301, 43 CFR 4.5 is revised to read as follows:

§ 4.5 Power of the Secretary and Director.

(a) *Secretary.* Nothing in this part shall be construed to deprive the Secretary of any power conferred upon him by law. The authority reserved to the Secretary includes, but is not limited to:

(1) The authority to take jurisdiction at any stage of any case before any employee or employees of the Department, including any administrative law judge or board of the Office, and render the final decision in the matter after holding such hearing as may be required by law; and

(2) The authority to review any decision of any employee of employees of the Department, including any administrative law judge or board of the Office, or to direct any such employee or employees to reconsider a decision.

(b) *The Director.* Pursuant to his delegated authority from the Secretary, the Director may assure jurisdiction of or review any case before any board of the Office or direct reconsideration of any decision by any board of the Office.

LEO M. KRULITZ,
Acting Secretary of the Interior.

AUGUST 17, 1978.

[FR Doc. 78-23825 Filed 8-23-78; 8:45 am]

[4910-58]

Title 49—Transportation

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 845—RULES OF PRACTICE IN SURFACE TRANSPORTATION ACCIDENT HEARINGS AND REPORTS

Requests for Reconsideration and Modification and Editorial Changes

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: These amendments extend the applicability of the rules of practice in part 845 to surface accident reports, as well as hearings. A new subpart C is added to provide for a procedure for the submission of requests for reconsideration or modification of the Board's reports, including its determinations of probable cause, by parties or other persons having a direct interest in the accident investigation. In addition, these amendments make an editorial change to § 845.14, designation of parties, to clarify the fact that no party shall be represented at the hearing by any person who also represents claimants or insurers. Also, a new provision is added to make it clear that witnesses at Board hearings are accorded the right to be accompanied, represented, or advised by counsel, or any other qualified representative. Finally, these amendments make numerous editorial changes, including a change to the title of the part and a renumbering of the sections in the part.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Fritz L. Puls, General Counsel, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, telephone 202-472-6034.

SUPPLEMENTARY INFORMATION: In addition to adding a new subpart C to part 845 to provide for a procedure for the submission of requests for reconsideration or modification of the Board's reports, a new section is added to subpart B of part 845 to provide for hearing officers who assist in the proper conduct of Board hearings under part 845. In addition, § 845.14(b) is rewritten in the interest of clarity, and a new § 845.24 is added to emphasize the rights of witnesses to representation. Finally, clarifying changes have been made to certain sections to extend their applicability to reports as well as hearings and, where necessary, sections have been renumbered.

Since these amendments are clarifying in nature, and the addition of subpart C is the expression of an existing right to petition for reconsideration or modification, the Board finds that notice and public procedure on these amendments are unnecessary.

Accordingly, part 845 of title 49 of the Code of Federal Regulations is revised and the title is changed to read as follows:

Sec.

845.1 Applicability.
845.2 Nature of hearing.

Subpart A—Initial Procedure

845.10 Determination to hold hearing.
845.11 Board of inquiry.
845.12 Technical panel.
845.13 Notice of hearing.
845.14 Designation of parties.

Subpart B—Conduct of Hearing

845.20 Powers of chairman of board of inquiry.
845.21 Hearing officer.
845.22 Prehearing conference.
845.23 Sessions open to public.
845.24 Right of representation.
845.25 Examination of witnesses.
845.26 Evidence.
845.27 Recommendations by parties.
845.28 Stenographic transcript.
845.29 Public docket.
845.30 Payment of witnesses.

Subpart C—Board Reports

845.40 Surface accident reports.
845.41 Requests for reconsideration and modification.

AUTHORITY: Sec. 304(b) of the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2169 (49 U.S.C. 1903(b)).

SOURCE: 40 FR 30254, July 17, 1975, unless otherwise noted.

§ 845.1 Applicability.

Unless otherwise specifically ordered by the National Transportation Safety Board (Board), the provisions of this part shall govern all surface transportation accident investigation hearings conducted under the authority of section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(b)) and surface accident reports issued by the Board.

§ 845.2 Nature of hearing.

Surface transportation accident hearings are convened to assist the Board in determining cause or probable cause of an accident, in reporting the facts, conditions, and circumstances of the accident, and in ascertaining measures which will tend to prevent accidents and promote transportation safety. Such hearings are factfinding procedures with no formal issues and no adverse parties and are not subject to the provisions of the

Administrative Procedure Act (Pub. L. 89-554, 80 Stat. 384 (5 U.S.C. 554)).

Subpart A—Initial Procedure

§ 845.10 Determination to hold hearing.

The Board may order a public hearing as part of a surface accident investigation whenever such hearing is deemed necessary in the public interest; provided that if a quorum of the Board is not immediately available in the event of a catastrophic accident, the determination to hold a public hearing may be made by the Chairman.

§ 845.11 Board of inquiry.

The board of inquiry shall consist of a member of the Board who shall be chairman of the board of inquiry, a hearing officer when assigned, the Director of the Bureau of Accident Investigation, or his designee, and, where appropriate, the General Counsel or his designee. Assignment of a member to serve as the chairman of each board of inquiry shall be determined by the Board. It shall be the duty of the board of inquiry to examine witnesses and to secure, in the form of a public record, all known facts pertaining to the accident and surrounding circumstances and conditions from which cause or probable cause may be determined and recommendations for corrective action may be formulated.

[40 FR 30254, July 17, 1975, as amended at 41 FR 39759, Sept. 16, 1976]

§ 845.12 Technical panel.

The Director, Bureau of Accident Investigation, shall designate members of the Board's technical staff to participate in the hearing and initially develop the testimony of witnesses.

[41 FR 39759, Sept. 16, 1976]

§ 845.13 Notice of hearing.

The chairman of the board of inquiry shall designate a time and place for the hearing which meets the needs of the Board. Notice to all known interested persons shall be given.

§ 845.14 Designation of parties.

(a) The chairman of the board of inquiry shall designate as parties to the hearing those persons, agencies, companies, and associations whose participation in the hearing is deemed necessary in the public interest and whose special knowledge will contribute to the development of pertinent evidence.

(b) No party shall be represented by any person who also represents claimants or insurers. Failure to comply with this provision shall result in loss of status as a party.

(c) Prior to the prehearing conference, as provided in § 845.21, the board of inquiry shall furnish the parties a list of witnesses and the areas in which they will be examined, and a list of all available exhibits (or copies as available) that the Board intends to introduce at the hearing. Following receipt of designation, and no later than the date established by the chairman of the board of inquiry, said parties shall furnish the board of inquiry with names of any additional witnesses they desire to examine, a statement of the areas in which such witnesses should be examined, and copies of any additional exhibits they may desire to offer in evidence.

Subpart B—Conduct of Hearing

§ 845.20 Powers of chairman of board of inquiry.

The Board member acting as chairman of the board of inquiry, or, in his absence, his designee, shall have the following powers:

(a) To designate parties to the hearing and revoke such designations;

(b) To open, continue, or adjourn the hearing;

(c) To determine the admissibility of and to receive evidence and to regulate the course of the hearing;

(d) To dispose of procedural requests or similar matters; and

(e) To take any other action necessary or incident to the orderly conduct of the hearing.

§ 845.21 Hearing officer.

The hearing officer, upon designation by the Chairman of the Board, shall have the following powers:

(a) To give notice concerning the time and place of hearing;

(b) To administer oaths and affirmations to witnesses; and

(c) To issue subpenas requiring the attendance and testimony of witnesses and production of documents.

§ 845.22 Prehearing conference.

(a) The chairman of the board of inquiry shall hold a prehearing conference with the parties to the hearing at a convenient time and place prior to the hearing. At such prehearing conference, the presiding officer shall advise the parties of the witnesses to be called at the hearing, the areas in which they will be examined, and the exhibits which will be offered in evidence.

(b) Parties shall submit at the prehearing conference copies of any additional documentary exhibits they desire to offer. (Copies of all exhibits proposed for admission by the board of inquiry and the parties shall be furnished to the board of inquiry and to all parties, insofar as available at that time.)

(c) A party who, at the time of the prehearing conference, fails to advise the chairman of the board of inquiry of additional exhibits he intends to submit, or additional witnesses he desires to examine, shall be precluded from introducing such evidence unless the chairman of the board of inquiry determines for good cause shown that such evidence should be admitted.

§ 845.23 Sessions open to public.

(a) All hearings shall normally be open to the public (subject to the provision that any person present shall not be allowed at any time to interfere with the proper and the orderly function of the board of inquiry).

(b) Sessions shall not be open to the public when evidence of a classified nature or which affects national security is to be received.

§ 845.24 Right of representation.

Any person who appears to testify at a public hearing shall be accorded the right to be accompanied, represented, or advised by counsel or by any other duly qualified representative.

§ 845.25 Examination of witnesses.

(a) Witnesses shall be initially examined by the board of inquiry or its staff. Following such examination, parties to the hearing shall be given the opportunity to examine such witnesses.

(b) Materiality, relevancy, and competency of witnesses' testimony, exhibits, or physical evidence shall not be the subject of objections in the legal sense by a party to the hearing or any other person. Such matters shall be controlled by rulings of the chairman of the board of inquiry on his own motion. If the examination of a witness by a party is interrupted by a ruling of the chairman of the board of inquiry, opportunity shall be given to show materiality, relevancy, or competency of the testimony or evidence sought to be elicited from the witness.

§ 845.26 Evidence.

The chairman of the board of inquiry shall receive all testimony and evidence which may be of aid in determining the cause of accident. He may exclude any testimony or exhibits which are not pertinent to the investigation or are merely cumulative, as well as testimony which a party is precluded from introducing by § 845.21(c), unless he determines that for good cause shown such testimony should be admitted.

§ 845.27 Recommendations by parties.

Any party may submit proposed conclusions and recommendations to be drawn from the testimony and exhibits submitted at the hearing. Such recommendations shall be submitted

within the time specified by the presiding officer at the close of the hearing, and shall be made a part of the docket. Parties to the hearing shall serve copies of such recommendations on all other parties to the hearing.

§ 845.28 Stenographic transcript.

A verbatim report of the hearing shall be taken. Copies of the transcript may be obtained by any interested person from the Board or the court reporting firm preparing the transcript upon payment of the fees fixed therefor. (See Part 801, Appendix—Fee Schedule.)

[41 FR 39759, Sept. 16, 1976]

§ 845.29 Public docket.

The public docket shall include the transcript, exhibits, briefs, and all other pertinent information concerning the accident. A copy of the docket shall be made available to any person for review at the Washington office of the Board. Photographic copies of exhibits in the public docket may be obtained, upon payment of the cost of reproduction, from the Public Inquiries Section, Bureau of Administration, National Transportation Safety Board, Washington, D.C. 20594.

[40 FR 30254, July 17, 1975, as amended at 41 FR 39759, Sept. 16, 1976]

§ 845.30 Payment of witnesses.

Any witness subpenaed to attend the hearing under this part shall be paid such fees for his travel and attendance as shall be certified by the chairman of the board of inquiry.

Subpart C—Board Reports

§ 845.40 Surface accident report.

(a) The Board will issue a detailed narrative accident report in connection with the investigation into those surface accidents which the Board determines to warrant such a report. The report will set forth the facts, conditions and circumstances relating to the accident and the probable cause thereof, along with any appropriate recommendations formulated on the basis of the investigation.

(b) The probable cause and facts, conditions, and circumstances of all other surface accidents will be reported in a manner and form prescribed by the Board.

§ 845.41 Requests for reconsideration or modification.

(a) Requests for reconsideration or modification of the Board's determination of probable cause by parties to an investigation or hearing or other persons having a direct interest in the accident investigation will be entertained only if based on the discovery of new evidence or on a showing that the Board's findings, as to the facts, conditions, and circumstances of the accident, are erroneous. Such requests shall be in writing. Requests which are repetitious of recommendations made pursuant to § 845.27, or of positions previously advanced, and requests by parties to the hearing who fail to submit recommendations pursuant to § 845.27, will not be entertained. Any such requests based on the discovery of new matter shall identify the new matter; shall contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and shall state why such new matter was not available prior to the Board's adoption of its findings. Requests based on the claim of erroneous findings shall set forth in detail the grounds relied upon.

(b) If a request for reconsideration or modification if filed by a party to a hearing, designated under § 845.27, copies of such request and any supporting documentation shall be served on all other parties similarly designated.

Signed at Washington, D.C., on August 18, 1978.

ELWOOD T. DRIVER,
Acting Chairman.

[FR Doc. 78-23840 Filed 8-23-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Fourteenth Revised Service Order No. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (fourteenth revised service order No. 1234).

SUMMARY: Because of a severe shortage of high-capacity cars, railroads are unable to furnish all of the large-capacity cars to transport the minimum quantities of freight required to be transported by their tariffs. Supplies of smaller cars are often available except for capacity for transporting the required minimum quantities. Service order No. 1234 authorizes railroads to furnish sufficient smaller cars to transport the shipments regardless of tariff limitations as to the number of cars that must be tendered or specifying minimum weights per car. Minimum weights per shipment must be maintained. Fourteenth revised service order No. 1234 adds coal, electrode binder pitch, pencil pitch and perlite to the list of commodities for which smaller cars may be substituted.

DATES: Effective 11:59 p.m., August 20, 1978. Expires 11:59 p.m., November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: August 18, 1978.

There is an acute shortage of high capacity freight cars for transporting shipments of barium sulphate (crude barite, ground or not ground), beet pellets, citrus pellets, citrus pulp, clay, coal,[1] cottonseed hulls, electrode binder pitch,[1] fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch,[1] perlite,[1] phosphate (dried or ground, treated or untreated), salt, soybeans, soybean hulls, soybean products or sunflower seeds, caused by certain tariff provisions specifying the minimum quantities that must be loaded into cars offered to the carriers for transport. At the same time smaller cars, suitable except as to capacity, are available for transporting these products. The inability of the carriers and shippers to utilize the smaller capacity cars in place of the larger cars required by tariff provisions is resulting in great economic loss to both shippers and carriers. In the opinion of the Commission, an emergency exists requiring immediate action to modify existing rules, regulations and practices with respect to car service to secure maximum utilization of the available supply of freight cars and to alleviate shortages of cars. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1234 Service Order No. 1234.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of barium sulphate (crude barite, ground or not ground), beet pellets, citrus pellets, citrus pulp, clay, coal,[1] cottonseed hulls, electrode binder pitch,[1] fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch,[1] perlite,[1] phosphate (dried or ground, treated or untreat-

[1] Additions.

ed), salt, soybeans, soybean hulls, soybean products or sunflower seeds regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions (b) and (c).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of ( ) cu. ft. and of ( ) lb. or greater capacity ordered. Smaller cars furnished authority fourteenth revised ICC service order No. 1234.

(f) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 11:59 p.m., August 20, 1978.

(k) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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

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

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23838 Filed 8-23-78; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293; Sub-No. 8]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Publication of Interpretation No. 9.

SUMMARY: The Rail Services Planning Office (RSPO) has concluded that it has jurisdiction to determine the allocation of costs between freight and commuter rail passenger operations over a given line regardless of ownership as long as commuter rail passenger operations are operated over the line and subsidies are provided for the commuter operation by a public entity. RSPO agrees with the final system plan principle that the dominant user of a facility should own the facility. Thus, if the 900-day option to purchase a line were exercised by a commuter authority, the commuter service would become the dominant user and therefore would bear the base costs associated with the line. RSPO believes that a rulemaking is required to adequately develop the specific changes to the standards which are necessary to reflect the conceptual issue resolved with this interpretation.

EFFECTIVE DATE: August 15, 1978.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, 1900 L Street NW., Washington, D.C. 20036, 202-254-7552.

SUPPLEMENTAL INFORMATION:

INTERPRETATION No. 9

On June 7, 1978, the Southeastern Pennsylvania Transportation Authority (SEPTA) requested that the Rail Services Planning Office (RSPO) interpret the standards for determining commuter rail service continuation subsidies (the standards)[1] to provide that in the event a commuter authority such as SEPTA acquires certain lines of railroad over which a rail commuter service is operated,[2] that the only change in the standards would be the elimination of a requirement that the subsidizer pay a rate of return on the properties used in the service. On July 18, 1978, the Commuter Operating Authority of the New Jersey Department of Transportation (NJDOT) concurred in this request and supported the proposed interpretation. On July 27, 1978, ConRail filed a reply in opposition to the request by SEPTA.

This interpretation was handled on an expedited basis. The 900-day option under which the commuter authorities may acquire lines from ConRail expires on September 18, 1978. In its initial request for interpretation, SEPTA emphasized the need for an expeditious handling of its request. Subsequent procedural discussions with the parties confirmed the need for resolving the basic issue early enough to permit the commuter authorities to weigh the potential impact of our findings in their decisions on whether or not to acquire lines under the 900-day option. There was consensus among the parties that a decision should be issued by mid-August in order to permit adequate time for the commuter agencies to decide on their courses of action prior to the September 18, 1978, deadline.

RSPO established a procedural schedule to assure a decision by August 15, 1978. Because RSPO did not believe the initial filings covered the issues in sufficient depth to rule on the request, the matter was set for oral argument in Philadelphia on August 10, 1978. There was a prehearing conference on the morning of the hearing, at which the issues to be decided and the procedures to be followed were agreed to by all of the parties. RSPO committed itself to rendering a decision by August 15, 1978. Although only 1 week was available to the parties to prepare for oral arguments and only 1 day to prepare final briefs after the oral arguments, we be-

[1] These standards were issued pursuant to section 807 of the Railroad Revitalization and Regulatory Reform Act (4R Act) of 1976, which amended section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973 (3R Act), 45 USCA 716(d)(5)(C).

[2] Section 206(d)(5)(C) of the 3R Act provides a 900-day period for commuter authorities to exercise an option to purchase certain rail lines used in providing commuter rail service.

lieve that, in this situation, such short time frames were both justified and adequate. All of the principal parties participated and were familiar with and qualified to address the issues.

There are three issues. First, does the RSPO have jurisdiction to apply the standards to lines purchased pursuant to the 900-day option. Second, if RSPO has jurisdiction, does ownership have any impact on the avoidable cost elements of the standards. Finally, can RSPO, if it has jurisdiction, and has not previously considered ownership by the authorities, determine how operating and maintenance costs on a subsidized line should be shared without a rulemaking proceeding.

JURISDICTION

SEPTA takes the position that RSPO has jurisdiction to determine the application of the commuter service standards after execution of the 900-day option by a commuter authority. It notes RSPO's broad statutory authority under section 205(d)(5) of the 3R Act, as amended, to issue regulations governing the computation of subsidies for rail passenger service. It further emphasizes the absence of any statutory language in the 4R Act that would exclude or prohibit application of the standards to properties acquired by commuter authorities pursuant to the 900-day option. SEPTA also notes that when Congress enacted the 900-day option, it had full opportunity to prevent RSPO's application of the standards to properties so conveyed, but chose not to do so.

SEPTA further noted that payments of emergency operating assistance by UMTA is directly related to the subsidy payments made pursuant to section 205(d)(5). Accordingly, if RSPO were found to lack authority to regulate the commuter subsidy amount, such a finding could seriously jeopardize payment of Federal funding to the commuter authorities.

NJDOT concurs with SEPTA that RSPO has jurisdiction to determine the applicability of the standards. NJDOT found a statutory base for RSPO's jurisdiction pursuant to sections 205(d)(5) and 304(e)(4), which require ConRail, regardless of ownership of the property, to continue providing commuter service as long as a subsidy payment is made in accordance with the standards. NJDOT was also in agreement with the other arguments made by SEPTA concerning the appropriateness of RSPO's jurisdiction.

The Pennsylvania Department of Transportation (PennDOT) concurred with SEPTA and NJDOT on the issue of jurisdiction.

It is ConRail's view that RSPO lacks jurisdiction. Essentially, ConRail maintains that exercise of the 900-day option takes these properties out of the sphere of RSPO's authority, and that the standards contemplate the computation of commuter subsidies only over properties owned by ConRail and are not intended to apply to properties owned by commuter authorities pursuant to the 900-day option. ConRail further emphasizes that the language of the Final System Plan (FSP) contemplates that the terms of the trackage rights that must be afforded ConRail over any of the properties acquired by the commuter authorities are to be resolved by negotiation and execution of a standard trackage rights agreement. If the parties are unable to reach agreement, it is ConRail's position that the special court has jurisdiction to resolve the matter.

In written comments, the United States Railway Association (USRA) took no position as to RSPO's jurisdiction in this matter. Amtrak's comments concentrated on the allocation of costs and did not express a position on RSPO's jurisdiction.

RSPO believes that one of the reasons the jurisdiction issue has become so complex and confusing is that several different concerns of the parties have been discussed simultaneously under the heading of "jurisdiction." The central theme of ConRail's jurisdiction argument is that the FSP and Congress did not intend for ConRail to be burdened with ownership-related costs on lines it did not own.

We do not believe, however, that ConRail's argument addresses the jurisdiction issue directly. The question of jurisdiction should hinge on the statutory scheme developed for assuring certainty in joint freight-commuter cost sharing, rather than on the decision anticipated from RSPO if its jurisdiction is conceded. ConRail's concerns regarding the impact of ownership on the workings of the standards are explored and addressed in our discussion of impact of ownership, which follows. In this section we shall address the jurisdiction issue in isolation.

RSPO's authority in the area of resolving cost issues associated with joint freight-commuter operations comes from congressional action to assure equity in contracts negotiated to continue those commuter services jeopardized by the FSP's finding that certain commuter contracts did not qualify for automatic continuation under the provisions of the 3R Act. The 3R Act included a provision which obligated ConRail to assume long-term commuter contracts which were in effect on the date of the 3R Act's enactment. In the FSP, at page 45, USRA found that some existing commuter contracts, covering SEPTA's lines and most of NJDOT's lines, would fail to compensate ConRail adequately for providing continued service. In discussing these services, the FSP stated:

> There are, however, a number of other services which, because of the nature of existing arrangements, will require new contracts prior to conveyance if present services are to be continued. * * * For these services, USRA recommends that ConRail negotiate with the appropriate authorities for a new operating agreement. These negotiations must be completed prior to conveyance if services are to be continued.

Because of the threatened discontinuance of some commuter services, Congress developed, in the 4R Act, what is commonly referred to as the "commuter subsidy program" and assigned substantial responsibility to RSPO for administering the program.

In remarks discussing the general approach subsequently enacted in the 4R Act, Senator Harrison stated in hearings on October 30, 1975 (reported in Railroads 1975, serial No. 94-31, part 5, pages 1887-1888):

> The only way to assure fair and equitable contracts is to have a neutral third party develop standards and, if necessary, arbitrate disputes. The Rail Services Planning Office has already developed freight subsidy standards. I feel the same office would be most appropriate to determine passenger subsidy standards. These standards could be developed during the 6-month moratorium, and new contracts could be negotiated to go into effect by the end of that period.

Senator Harrison's remarks indicate a concern that without the involvement of a third party, such as RSPO, there may be no way to assure equity in the required new contracts between the commuter agencies and ConRail.

The House was also addressing the commuter service situation in the development of the 4R Act. Pages 94 and 95 of the House Report (H. Rep. 94-725) accompanying H.R. 10979 (December 12, 1975) include the following discussion of the commuter subsidy program:

Assistance for Commuter Rail Passenger Service

> The Final System Plan submitted by the Association places in jeopardy a significant amount of commuter passenger service now being provided by bankrupt railroads in the region. Following the Association's Board of Directors' established policy of no "cross-subsidization" of service as between passenger and freight, the Final System Plan stated that unless increased assistance was provided for commuter service to adequately cover the cost of providing that service, ConRail would not continue it. The Committee agrees with this basic policy.
>
> * * * * *
>
> When the Regional Rail Reorganization Act of 1973 was passed it included a provision that obligates ConRail to assume long-term commuter contracts in effect on the date of enactment. Since it has found those contracts to be reasonably compensatory, the Association has stated that it does not

recommend any change in that provision of the Act. However, the Association has also found that other commuter contracts would fail to compensate ConRail adequately for providing continued service.

Based on 1973 data, it appears that 183,000 weekly passenger trips would be in jeopardy, with most of the service located in northern New Jersey and Philadelphia, Pennsylvania, area. The Committee has thus included in this bill a special impact program to be funded by the Urban Mass Transit Administration.

Section 915 of the reported bill provides that, for the first 6 months after the date on which the properties are conveyed to ConRail (February 27, 1976), ConRail is obligated to continue to provide commuter passenger service at the same level being provided immediately prior to conveyance. During that 6 month period, the Rail Services Planning Office is obligated to develop commuter passenger assistance standards under which ConRail must be reimbursed for the provision of service during the first 6 months. The House Public Works Committee is considering legislation to provide the authorization in the UMTA Act for this program.

The standards to be set by the Rail Services Planning Office for commuter passenger service must provide for the recovery of avoidable costs, the payment of a management fee and an allowance for the depreciation of equipment. The Committee expects that the standards will be formulated in such a way so as to provide that costs will be shared equitably by the users of any individual line.

* * * * *

Finally, the reported bill provides a mechanism through which State or local commuter authorities can acquire those lines on which commuter service is being provided but which are not designated for inclusion in the restructured rail system.

It is important to note that the House report supported the policy of no cross-subsidization, was concerned with the jeopardized commuter services, expected RSPO's standards to equitably share the costs on any line, and made no exception to RSPO's jurisdiction for nonconveyed lines.

The Senate was also addressing the commuter service problem. In discussing the commuter service provisions of S. 2718, the Senate Report (S. Rep. 94-499) states at page 114 (S. 2718 proposed assigning to the ICC the responsibilities ultimately assigned to RSPO and thus the report language refers to the "Commission"):

> The standards promulgated by the Commission must be consistent with the compensation principles described in the Final System Plan relative to the concept of "dominant user" and "avoidable cost" and must avoid cross-subsidization." While the Commission would have discretion as to whether long-term avoidable costs or short-term avoidable costs are the appropriate measure in any given situation, section 808 does require reference to compensation principles described in the Final System Plan. Therefore, the standards will reflect the relative use of any line by the type of service being provided thereon and will also provide that the costs will be shared equitably by the users of any individual line. For the most part, the services receiving assistance under this section will be continued after the assistance provided herein is ended. Since the compensation principles set forth in the Final System Plan were formulated from the long range cost perspective, they are most appropriately used for determining the level of assistance required to continue service.

* * * * *

Subsection (b)

Amends section 205(d)(5) of the Regional Rail Reorganization Act to allow States, commuter authorities, or the National Railroad Passenger Corporation to acquire properties for rail passenger service from the Consolidated Rail Corporation at a reasonable value at any time within 900 days after the date of conveyance of those properties to the Corporation.

The Senate report indicates that broad discretion and authority was to be granted to the Commission (RSPO) in this area. The Senate anticipated that the services would continue beyond the Federal assistance, but did not limit in any way the application of the cost-sharing standards after the Federal assistance period. Finally, in specifically discussing the 900-day option, the Senate report made no exception regarding the applicability of the cost-sharing standards.

RSPO concludes that Congress found the negotiation concept contained in the FSP unacceptable and enacted sections 304 and 205(d)(5) in an effort to eliminate the danger that commuter operations would cease on conveyance date, and that RSPO was given broad jurisdiction to provide that costs be shared equitably by the users of any line involving commuter service. We do not believe that Congress intended this responsibility for assuming equitable cost-sharing to be inapplicable simply because the properties involved changed ownership (but not users) after a period of 2½ years. Such a conclusion would lead to the very uncertainties of the negotiation process which Congress rejected from the FSP with the enactment of sections 304 and 205(d)(5).

In RSPO's opinion, the adoption of ConRail's argument on jurisdiction would base RSPO's jurisdiction and the provision of subsidies to maintain commuter services on the question of what party holds title to a particular line. RSPO does not believe that Congress intended that the welfare of the commuting public would turn on ownership, but on the willingness of the commuter agency to provide ConRail adequate compensation.

As a demonstration that ownership is not the criterion for service, it should be noted that sections 304(e)(2), (3), and (4) enable a State or local commuter authority to compel ConRail to continue in operation those commuter rail services which were in operation "immediately prior to the date of conveyance," whether or not that service was provided over a line that was designated to ConRail for freight purposes in the FSP. In fact numerous lines listed in chapter 8 of the FSP were not conveyed to ConRail, but were acquired by State and local governments for use in commuter operations. Among those lines conveyed to ConRail and thereafter simultaneously conveyed to the States were the Gladstone line in New Jersey and the Media line in Pennsylvania. Service is presently provided over these lines pursuant to the standards despite the fact the lines are owned by the State and there is no dispute that ConRail has an obligation to provide this service. ConRail is also providing commuter service over lines it owns and over which it conducts freight operations. Section D of the appendix to chapter 8 of the FSP explicitly provides that if a State acquires a line designated for possible acquisition by a State or local commuter authority, all interest in the line in question "will be transferred from ConRail to the State or local or regional transportation authority except for appropriate trackage rights for freight operations which ConRail will retain."

ConRail appears to argue that its ability to continue freight operations depends on having a trackage rights agreement executed before the commuter authority exercises its 900-day option. This is not the case. ConRail's right to conduct operations over the lines conveyed to it for freight operations is preserved to it by the FSP. The commuter authorities' right to exercise the option is absolute and ConRail's right to operate freight trains over the line is similarly absolute. To hold otherwise is to place one party or the other at the mercy of the other and negate the facile transfer of real property and operating interests that is contemplated by other portions of the FSP.

The careful balancing of designations in the FSP and the emphasis on the negotiation of an operating agreement on page 45 of the FSP precludes any other conclusion. The requirement to negotiate an operating agreement discussed at page 45 contains no implication that the lack of such an agreement would limit the access of either party to the facilities or its right to operate once an agreement was reached. However, the need for the agreement was eliminated by Congress' grant of jurisdiction to RSPO to prevent the very type of deadlock that would arise if RSPO did not have jurisdiction in this case. A 900-day delay in transfer of assets is not to be con-

strued as affecting either the obligation of ConRail to provide service if a subsidy is offered nor its rights to operate trains. In turn, the shift in title does not affect RSPO's jurisdiction to determine the apportionment of costs among different services operating over the same facilities. The issue is not the determination of the fees or charges to be assessed ConRail for freight operations usage, but the appropriate allocation of joint costs once title passes. RSPO was granted jurisdiction to determine the allocation of costs among joint services prior to the exercise of the option and retains it after the exercise of the option.

In addition to the statutory basis, there are practical considerations which dictate that a single entity has jurisdiction. If ConRail's argument were to prevail, the special court would be involved in the allocation of costs between ConRail and the commuter authorities. If the special court adopted a formula for freight costs which differed from RSPO's formula for commuter costs, it is possible that the sum of the two operations' costs would not equal the total costs on the line. RSPO does not believe Congress contemplated such an administratively unwieldy arrangement. For the reasons stated, RSPO determines it has jurisdiction over costing disputes between the parties which may arise after the exercise of the 900-day option.

IMPACT OF OWNERSHIP

This is the central issue of SEPTA's request for interpretation and is the substantive issue debated in the oral arguments. RSPO agrees with ConRail that the situation in which a commuter authority might purchase a line on which ConRail has common carrier responsibility for freight service was not addressed in the development of the standards. The language of the standards, particularly in the application of the speed factor gross tons (SFGT) formula for assigning maintenance costs, used the terms "freight service" and "commuter service," and did not assign costs to "dominant users" and "minority users" or to "owners" and "tenants." Our review of the development of the standards, prompted by SEPTA's request for interpretation, leads us to the realization that in using the terms "freight service" and "commuter service," we were reflecting the FSP concepts of "dominant" and "minority" users. Unfortunately, because the only situations at hand at that time were situations in which ConRail was the owner, the terminology in the standards was written in the specific terms "freight service" and "commuter service" rather than the broader conceptual terms "dominant user" and "minority user." Had we exercised greater care in the initial drafting of these standards, we would have framed them in terms of "dominant" and "minority" users, rather than making the presumption in our terminology that freight service would always be the dominant user.

The standards were developed in accordance with section 205(d)(5)(A) of the 3R Act, which states, among other things, that the standards to be promulgated by RSPO were to be consistent with the compensation principles in the FSP and were to avoid cross subsidization among commuter, intercity, and freight rail services.

The FSP compensation principles are: First, ConRail has the responsibility to provide satisfactory passenger service on all lines in the system in accordance with certain policies; second, the provision of those services should not be subsidized by freight services and ConRail should not be burdened with any passenger deficit; third, passenger operations should have priority over freight operations; and fourth, the exclusive or dominant user of a facility (or in some special cases a State or public agency) should be its owner. From these principles, the FSP (see pages 40 and 41) developed the following policies regarding ownership and allocation of costs:

Where facilities exist or are built for the exclusive use of one type of service, i.e., passenger or freight, that entity should bear the full cost of those facilities.

In instances where two or more passenger entities jointly use an exclusive passenger facility, the responsibility for allocating costs on an equitable basis should lie with the users.

Where freight and passenger operations both use a facility, the dominant user should own the facility and bear all the costs of that facility except those which could be avoided if the minority user were not present. To determine the dominant user, all passenger services, both intercity and commuter, should be considered as one entity and all freight services, regardless of carrier, should be considered as one entity.

The minority user should bear exclusively the cost of any additional facilities it requires, both existing and proposed.

Where passenger and freight operations both use a facility on an equal basis, the costs of owning and using the facility should be shared equitably.

Thus, the FSP principles and policies clearly state that the dominant user of a facility should own the facility and bear all the costs of that facility except those which could be avoided if the minority user were not present.

RSPO agrees with the FSP principle that the dominant user of a facility should own the facility. RSPO presumes that ownership of a facility is an indication by the owner that it is the dominant user of the facility. Such a presumption is necessary, if for no other reason, because of the administrative impossibilities associated with trying to decide, on a line-by-line basis, which service is the dominant user and which is the minority user. Regardless of the criteria selected to make that determination, some lines with nearly equal usage would constantly be changing from commuter-dominant to freight-dominant and back. The uncertainty of each party's cost liability in such a case could make the subsidy program unworkable.

Instead of line-by-line assessments of dominant usage, we believe that the standards should address broader based concepts. It is within this framework that we are convinced that a presumption of dominant use by the owner of a facility is necessary. Thus, we would not expect a commuter authority to purchase a line unless it was or intended to be the dominant user of the line. We see no workable alternative to the approach we have chosen. For the purposes of the standards, the owner of a facility will be presumed to be the dominant user of the facility and, as such, will bear the base costs of the facility.

If the 900-day option were exercised by a commuter authority on a line, commuter service would become the dominant user on that line and therefore would bear any fixed costs associated with this property. Freight service would become the minority user and would bear the costs that could be avoided if the freight service were not operated. The basis premise in the assignment of costs is that the owner would configure the facilities to meet its service needs and that only those additional facilities or maintenance levels required to satisfy the needs of minority users would be assigned to the minority users.

One further argument was presented that, by virtue of its common carrier obligation on a line which may be purchased under the 900-day option, ConRail should bear the base costs of the line. We find nothing in the 3R Act, the 4R Act, or the FSP which would lead us to believe that the base costs of a facility flow with the common carrier obligation on that facility. Indeed, the 900-day option addressed this issue by guaranteeing that, in the event the 900-day option were exercised, ConRail would retain the right (by trackage rights) to operate over the line in order to fulfill its common carrier obligation on that line.

INTERPRETATION VERSUS RULEMAKING

In its July 27, 1978 written comments, ConRail presented the argument that the resolution of the issue of the application of the standards on lines acquired by commuter authorities could require a rulemaking rather than an interpretation. ConRail stated that the acquisition of lines represented a change from the situation contemplated when the regulations were promulgated and the parties commented on the proposed rules. SEPTA presented the argument that the issue could be resolved by an interpretation, based in part upon SEPTA's anticipation that RSPO would need only to reaffirm the applicability of the standards as written. All parties agreed that if the standards were to be modified so as to significantly affect the obligations of the parties that a rulemaking procedure should be followed.

RSPO does not believe that its decision on the issue of the impact of ownership on the application of the standards reflects a basic change in concept. This decision is consistent with our earlier determinations of which entity should bear the base cost of a line, although the earlier decisions were based on the assumption that the freight service was the dominant user. We do not believe that our decision here is a change of conceptual approach, but only a clarification restating the basic concept in broad terms, rather than in the specific terms originally presented. This interpretation is a logical extension of the rationale which underlies the standards.

Even if this decision represents a substantive change in the regulations, the procedures followed have developed an adequate record on which to base such a change at the conceptual level. Each of the parties was provided the opportunity to comment on SEPTA's initial petition for interpretation, to participate in oral hearings exploring the basic issues in depth, and to file briefs after the oral hearings. The principal parties to this issue (SEPTA, NJDOT, and ConRail) participated in the written comments, in the prehearing conference and the oral arguments, and made rebuttal statements at the oral hearing.

Formal rulemaking would not have provided any better opportunity for the parties to present their positions on the conceptual issue. Furthermore, the RSPO believes that a timely decision as to the conceptual approach is a necessity in order for SEPTA and NJDOT to have a basis upon which to base their decision as to whether to exercise their option to purchase. As a practical matter, if formal rulemaking procedures were adopted at this stage, it would be impossible to resolve the issue on a timely basis.

The RSPO does believe, however, that rulemaking is necessary to adequately develop the specific changes to the standards which are necessary to reflect the major conceptual issues resolved with this interpretation. An expedited procedure is not necessary to develop the detailed changes to the regulations. This decision on the major issue is sufficient to provide guidance to the parties in evaluating the implications of exercising the 900-day option. Additional detail developed in a crisis atmosphere would not provide any further guidance to the parties, but instead would tend to draw their resources away from the analysis required to determine whether to exercise the 900-day option.

Therefore, rulemaking will be reopened on the standards to make the changes necessary to reflect the interpretations. A formal notice of proposed rulemaking will be issued in the near future.

This decision does not significantly affect the quality of the human environment.

Issued August 15, 1978 by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23774 Filed 8-23-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Benton Lake National Wildlife Refuge, Mont., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Benton Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978 through November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Pearson, P. O. Box 450, Black Eagle, Mont. 59414, 406-727-7400.

SUPPLEMENTAL INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of geese, ducks, coot and mergansers on the Benton Lake National Wildlife Refuge, Mont., is permitted only on areas designated by signs as open to public hunting. These areas comprising 4100 acres are delineated on maps available at the refuge headquarters and from the office of the regional director, P.O. Box 25486, Denver, Colo. 80225.

Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of the aforementioned species subject to the following special regulations:

1. The refuge will be open to hunting from sunrise to 12 noon on September 30 and October 1, 1978, only. On October 2 and thereafter, hunting hours will be from sunrise to sunset each day.

2. Refuge roads and dikes are closed to hunting.

3. Access to and from refuge hunting areas will be on designated roadways only. (This prohibits access from the refuge onto adjacent private lands.)

4. Vehicle travel will be restricted to designated roadways and parking will be restricted to designated parking areas.

5. Hunters are prohibited from constructing permanent blinds on the refuge. Hunting blinds are provided by the refuge. Daily occupancy of the blinds will be on a first come—first served basis.

6. Boats without motors may be used in conjunction with waterfowl hunting activities.

7. Hunters are granted access to the area opened to hunting on and after September 15, 1978, for the purpose of examining hunting sites. Boats without motors may be used.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

ROBERT L. PEARSON,
Refuge Manager, Benton Lake National Wildlife Refuge, Great Falls, Mont.

AUGUST 11, 1978

[FR Doc. 78-23827 Filed 8-23-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in the States of Arizona, California, New Mexico, Oklahoma, and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for hunting mourning and white-winged doves and for the early (September) teal duck season.

EFFECTIVE DATES: September 1, 1978 through January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

The refuge manager at the address or telephone number listed below in the body of these special regulations.

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on hunting leaflets available at the individual refuge headquarters. Vehicular travel is restricted to designated roads and trails.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Listed migratory game birds may be hunted on the following refuges:

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225, telephone number 714-922-4433.

Mourning and white-winged doves.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Pits and/or permanent blinds are prohibited. (3) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling and/or 250 yards of any farm field worker. (4) Entrance into closed areas by hunters or dogs for retrieval of game or for any other reason is prohibited.

Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92362, telephone number 714-326-3853.

Mourning and white-winged doves.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Pits and/or permanent blinds are prohibited. (3) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling or concession area and/or 250 yards of any farm field worker. (4) Entrance into closed areas by hunters or dogs for retrieval of game or for any other reason is prohibited. (5) The Pintail Slough Management Unit will be open to hunting only on Fridays, Saturdays, and Sundays. (6) Parking is limited to designated areas. (7) Entrance to the Pintail Slough Management Unit is permitted only from the designated parking area.

Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Ariz. 85364, telephone number 602-783-3400.

Mourning and white-winged doves.

Special conditions: (1) In Arizona there will be no hunt during the first segment of the State selected dove season. During the second (last) segment of the State selected dove season, mourning doves only may be hunted on the Imperial National Wildlife Refuge. (2) In California there will be no hunt during the first segment of the State selected dove season. During the second (last) segment of the State selected dove season, mourning and white-winged doves may be hunted on the Imperial National Wildlife Refuge. (3) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (4) Pits and/or permanent blinds are prohibited.

NEW MEXICO

Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201, telephone number 505-622-6755.

Mourning and white-winged doves and teal ducks.

Special conditions: (1) Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (area C) during any period when a duck or waterfowl season runs concurrently with a dove season. (2) Steel (iron) shot shotgun ammunition only may be used for the taking of teal ducks on the South Refuge Unit (area C) and it will not be permissible to possess shotgun ammunition containing other than steel (iron) shot in this unit during any waterfowl season. (3) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (4) Pits and/or permanent blinds are prohibited. (5) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone number 505-835-1828.

Mourning and white-winged doves.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Sevilleta National Wildlife Refuge, General Delivery, San Acacia, N. Mex. 87831, telephone number 505-864-4021.

Mourning and white-winged doves and teal ducks.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited. (3) Pits and/or permanent blinds are prohibited. (4) When a dove season runs concurrently with a waterfowl season, dove hunting is permissible only on those days and during those hours designated as waterfowl hunting days and hours.

OKLAHOMA

Sequoyah National Wildlife Refuge, P.O. Box 398, Sallisaw, Okla. 74955, telephone number 918-775-4931.

Mourning doves and teal ducks.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Entering into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited. (3) Pits and/or permanent blinds are prohibited. (4) Unloaded firearms and longbows that are dismantled (unstrung for longbows) or cased may be carried in boats while directly in the Kerr-McClellan Navigation Channel including those segments of the channel that lie outside of the designated refuge hunting areas. (5) All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes at the entrance and throughout the public hunting area.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460, telephone number 405-371-2402.

Mourning doves and teal ducks.

Special conditions: (1) The open season for hunting mourning doves on the refuge is limited to September 1 through September 30, 1978. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited. (4) Pits and/or permanent blinds are prohibited. (5) A Federal

permit is not required to enter the public hunting area, but hunters, upon entering or leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as required.

TEXAS

Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Tex. 75090, telephone number 214-786-2826.

Mourning doves.

Special conditions: (1) The open season for hunting mourning doves on the refuge is limited to September 1 through September 30, 1978. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Brazoria National Wildlife Refuge and San Bernard National Wildlife Refuge, P.O. Box 1088, Angleton, Tex. 77515, telephone number 713-849-6062.

Teal ducks.

Special conditions: (1) The "special permit waterfowl hunting area" will not be open for hunting teal ducks. All other designated public hunting areas on these two (2) refuges will be open for hunting teal ducks. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited. (4) Pits and/or permanent blinds are prohibited. (5) Due to being landlocked by private holdings and for other reasons, the only assured access to these open hunting areas for hunting teal ducks is by boat by way of public waters.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joshua J. Harman, Albuquerque Regional Office: telephone number FTS 474-2036, commercial number 505-766-2036.

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, N. Mex.

AUGUST 17, 1978.

[FR Doc. 78-23828 Filed 8-23-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Arapaho National Wildlife Refuge, Colo. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Arapaho National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 23, 24, and 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Eugene C. Patten, Refuge Manager, Arapaho National Wildlife Refuge, Box 457, Walden, Colo. 80480, telephone, 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting of antelope is permitted on Arapaho National Wildlife Refuge, Colo., in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 12,180 acres. Maps delineating these areas are available at the Refuge Headquarters in Walden, Colo. All portions of the Refuge are open except areas within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in title 50, code of Federal Regulations, part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

EUGENE C. PATTEN,
Refuge Manager.

AUGUST 17, 1978.

[FR Doc. 78-23829 Filed 8-23-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Arapaho National Wildlife Refuge, Colo., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Arapaho National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 9-24, 1978.

FOR FURTHER INFORMATION CONTACT:

Eugene C. Patten, Refuge Manager, Arapaho National Wildlife Refuge, Box 457, Walden, Colo. 80480, telephone 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting of sage and sharp-tailed grouse is permitted on Arapaho National Wildlife Refuge, Colo. in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 12,180 acres. Maps delineating these areas are available at the Refuge Headquarters in Walden, Colo. All portions of the refuge are open except within 300 yards of residences.

Hunting shall be in accordance with all applicable State regulations covering the hunting of sage and sharp-tailed grouse.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

AUGUST 9, 1978.

EUGENE C. PATTEN,
Refuge Manager.

[FR Doc. 78-23830 Filed 8-23-78; 8:45 am]

[4310-55]

PART 32—HUNTING

National Wildlife Refuges in Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Washington is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATE: September 1, 1978, to June 30, 1979.

ADDRESSES: Contact the refuge manager at the address and/or telephone number listed below in the body of special regulations.

FOR FURTHER INFORMATION CONTACT:

Joseph R. Blum, Area Office Manager, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Building A, Olympia, Wash. 98502, telephone: FTS 434-9578 or 9579, Com'l 206-753-9578 or 9579.

SUPPLEMENTARY INFORMATION: Hunting is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 32 and the following special regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 Northeast Multnomah Street, Portland, Oreg. 97232. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas

1. Migratory game birds may be hunted on the following refuge areas:

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Wash. 98619. Contact refuge manager at 509-364-3410.

Special condition: No Canada goose hunting permitted.

2. Migratory game birds except doves and pigeons may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Wash. 99344. Contact refuge manager at 509-488-3831.

Special condititions: (1) Hunters using field 226-227 near Royal Lake must register before hunting and may shoot from designated sites only. Hunters are required to provide and use a minimum of one dozen waterfowl decoys while hunting from designated sites. (2) On Crab Creek and impoundments from Goose Lake Road to Goldeneye Lake, hunting will be permitted on Wednesday and Saturday only.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Wash. 98948. Contact refuge manager at 509-865-2405.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact refuge manager at 503-922-3232.

Columbian White-Tailed Deer National Wildlife Refuge, Route 1, Box 378C, Cathlamet, Wash. 98612. Contact refuge manager at 206-795-4915.

Ridgefield National Wildlife Refuge, P.O. Box 457, Ridgefield, Wash. 98642. Contact refuge manager at 206-887-8276.

Special condititions: (1) Hunting will be allowed on Saturday, Sunday, and Wednesday during the regular waterfowl season. Hunting will not be allowed on Federal holidays. (2) A Federal permit, available from the refuge office, is required to enter the public hunting area. Permits will be issued by mail, only on a first-come, first-served basis. Only one regular permit may be held by a hunter at any one time. (3) Hunters may shoot only from blinds assigned by drawing at the checking station. A recreational use fee of $3 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $1.50. (4) Steel shot only may be possessed or used on the refuge hunting area. (5) Hunters may possess and use not more than twenty (20) shells on the north hunting area or twelve (12) shells on the south hunting area per hunter per day.

3. Migratory game birds except snipe and pigeons and doves may be hunted on the following refuge areas:

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Wash. 99323. Contact refuge manager at 509-547-4942.

Special conditions: (1) Hunters are required to park vehicles in designated parking areas only. (2) On Burbank Slough, hunting will be permitted on Wednesday, Saturday, Sunday, and Thanksgiving Day only. No additional hunting will be permitted during the State extended goose hunting season. In the north and south one-thirds of hunting area, hunting is from marked sites only. Reservations are required for use of goose hunting sites in fields 5 and 6. (3) On the Hanford Island Division, hunting is permitted only on the five upstream islands from opposite the Hanford 300 area-Sagemoor Road upstream to BPA powerline crossing. The Hanford Island offshore from the Graduate Center, Sprout Road is closed to hunting. (4) All public use on the Strawberry Island Division is prohibited.

Willapa National Wildlife Refuge, Ilwaco, Wash. 98624. Contact refuge manager at 206-484-3482.

Lewis and Leadbetter Point units

Special conditions: Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after close of general season.

Riekkola unit

Special conditions: (1) Hunter registration is required. (2) Hunting will be permitted on Wednesday and Saturday only. (3) Hunting will not be permitted on Federal holidays. (4) Hunting will be from designated blinds only with no more than three (3) hunters per blind. Blind selection is by drawing each hunt morning at check station. (5) Hunters may possess and use not more than ten (10) shells per hunter per day. (6) This area closes at the end of the regular waterfowl season. No extension of the season is provided for the hunting of black brant.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Wash. 99344. Contact refuge manager at 509-488-3831.

Special conditions: (1) Open to the hunting of rabbits in addition to game birds. (2) Upland game birds and rabbits may be hunted during State seasons running concurrently with the waterfowl season. (3) Hunters using field 226-227 near Royal Lake must register before hunting and may shoot from designated sites only. (4) On Crab Creek and impoundments from Goose Lake Road to Goldeneye Lake hunting will be permitted on Wednesday and Saturday only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact refuge manager at 503-922-3232.

Special condition: Only those areas posted "Public Hunting Area" are open to upland game bird hunting.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Wash. 98619. Contact refuge manager at 509-363-3410.

Special condition: Cottontail rabbit and snowshoe hare may also be hunted during the State season concurrent with the waterfowl season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Wash. 98948. Contact refuge manager at 509-865-2405.

Special condition: Rabbits and upland game may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Wash. 98624. Contact refuge manager at 206-484-3282.

Long Island unit

Special condition: (1) Archery hunting for blue and ruffed grouse only. (2) Permits for the opening weekend will be limited and obtained in advance. Applications are available from the refuge manager. (3) After opening weekend, hunters may possess regular hunting permit available at refuge headquarters and at the Nahcotta Dock. (4) All nonburnable garbage must be removed from the island.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Wash. 99323. Contact refuge manager at 509-547-4942.

Special conditions: (1) Pheasants only may be hunted during the first half of the State's split season or through November 6, whichever is earlier. (2) Pheasant hunting will be restricted to Wednesday, Saturday, and Sunday. (3) Hunters are required to park vehicles in designated parking areas only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. Big game hunting is permitted on the following refuge area:

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Wash. 99114. Contact refuge manager at 509-684-2824.

2. Deer hunting only is permitted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Wash. 99344. Contact refuge manager at 509-488-3831.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Wash. 98619. Contact refuge manager at 509-364-3410.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact refuge manager at 503-922-3232.

3. Bear, deer, and elk may be hunted on the following refuge areas:

Willapa National Wildlife Refuge, Ilwaco, Wash. 98624. Contact refuge manager at 206-484-3482.

Long Island unit

Special conditions: (1) Archery hunting only is permitted. (2) Permits for opening weekend will be limited and obtained in advance. Applications are available from the refuge manager. (3) After opening weekend, hunters must possess regular hunting permit available at refuge headquarters and at the Nahcotta Dock. (4) Use of bait or baiting for bears is prohibited. (5) All nonburnable garbage must be removed from the island.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in title 50 CFR part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joseph R. Blum, Area Office Manager, Telephone: FTS 434-9578 or 9579, Com'l 206-753-9578 or 9579.

Dated: August 17, 1978.

WILLIAM H. MEYER,
Acting Regional Director, Fish and Wildlife Service, FTS: 429-6118.

[FR Doc. 78-23831 Filed 8-23-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Prime Hook National Wildlife Refuge, Del., To Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1978 through February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

George O'Shea, Prime Hook National Wildlife Refuge, R.F.D. No. 1, Box 195, Milton, Del. 19968, telephone 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots, is permitted on the 1,180-acre waterfowl hunting area.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Permits will be issued by a ticket-lottery system at 2 hours before legal shooting time. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3 p.m. Permits will be surrendered at the checking station within 1 hour after sunset. When leaving a blind unoccupied for any reason the permit must be turned in and a new permit must be completed at the check station before hunting again.

2. Hunting shall be only from blinds at locations designated by refuge personnel. The possession of an uncased gun or shooting while outside of a blind is prohibited except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled waterfowl. Three hunters per blind permitted.

3. The area is open each Monday, Wednesday, Friday, and Saturday, throughout the duck hunting season.

4. Access to the waterfowl hunting area will be at designated boat access points.

5. Steel shotshells are required for all waterfowl hunters using 12-gauge shotguns. No waterfowl hunters using a 12-gauge shotgun shall have in their possession lead shotshells. Hunters may use lead shotshells in shotguns other than 12-gauge.

6. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

Public hunting of rails, gallinules, mourning doves, common snipe, woodcock, and crows is permitted only on the 2,185-acre north hunting area. Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails, gallinules, mourning doves, woodcock, common snipe, and crows.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game is permitted only on the 2,185-acre north hunting area. Hunting shall be in accordance with all State and Federal regulations covering the hunting of upland game subject to the following conditions:

1. Hunting hours will from one-half hour before sunrise to one-half hour after sunset.

2. Field possession of waterfowl or coots is prohibited on the north hunting area.

3. Practice and target shooting is prohibited.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on the 2,185-acre north hunting area. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

ARCHERY HUNT

1. Archery hunters must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in a 9 x 14 inch chest area of a standard size deer target at 25 yards. Hunters qualified in 1975 must requalify. The qualification is valid for 3 years only.

2. Seasonal permits are required for the north hunting area and will be issued at the Prime Hook Refuge office Mondays through Fridays between 7:30 a.m. and 4 p.m. Permits may also be requested by mail. Those permits must be returned to the refuge office by the end of the deer hunting seasons.

3. Only blinds, platforms or scaffolds that are erected and removed each day for the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structures.

FIREARMS HUNT

1. Primitive firearm and shotgun hunters must possess a valid firearms qualification card. The test for muzzleloaders will consist of placing three consecutive rounds in a 12-inch bullseye at 50 yards firing from the standing position. The test for shotgun hunters will consist of placing three consecutive slugs in a 12-inch target at a distance of 30 yards from the standing position.

2. Permits are required for all deer hunting. These permits are available free of charge and will be issued by mail to successful applicants selected by a preseason drawing.

3. The number of shotgun hunters admitted to the open area will be restricted to 25 preselected hunters per day.

4. Permits must be returned to the refuge office by the end of the deer hunting season.

5. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The waterfowl hunting area and the north hunting area are shown on maps available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Administrative needs require that Prime Hook Refuge hunting seasons be held concurrent with the Delaware State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 16, 1978.

[FR Doc. 78-23843 Filed 8-23-78; 8:45 am]

proposed rules

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

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 25 and 121]

[Docket Nos. 12274, 9611, 14230, and 14779; Reference Notice Nos. 74-16, 74-38, 75-3, and 75-31]

TRANSPORT CATEGORY TURBINE POWERED AIRPLANES FUEL SYSTEM EXPLOSION PREVENTION

Compartment Interior Materials

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Collective withdrawal of notices and advance notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw (1) an advance notice of proposed rulemaking dealing with the subject of toxic gas emissions from aircraft compartment interior materials and (2) certain proposals contained in three notices of proposed rulemaking dealing with the subjects of transport category turbine powered airplanes fuel system explosion prevention and aircraft compartment interior material flammability and smoke emission characteristics. This action is based on comments received in response to the notices and the FAA's determination that rulemaking action based on the notices is not appropriate at the present time. The withdrawal of these proposals is being taken in conjunction with the establishment of the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee whose purpose it is to develop a systematic program to examine the problem of post-crash occupant survivability. A notice of the establishment of the committee which fully describes its purpose and function was published in the FEDERAL REGISTER on June 8, 1978 (43 FR 24929).

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

DISCUSSION OF WITHDRAWALS

While the four notices, affected by this withdrawal, were issued separately, comments received in response to them demonstrated that the subject matters of fuel system explosion prevention and compartment interior materials constitute interrelated elements of the larger problem of post-crash occupant survivability. Information concerning the notices and proposals being withdraw, including a discussion of the significant public comments received and the reasons for withdrawal, is presented below under appropriate subject headings.

TRANSPORT CATEGORY TURBINE POWERED AIRPLANES FUEL SYSTEM EXPLOSION PREVENTION

On March 27, 1974, the FAA issued notice No. 74-16 (39 FR 12260; April 4, 1974), a notice of proposed rulemaking, in which the FAA invited comments on a proposed amendment to the Federal Aviation regulations that would have required an explosion prevention system for each fuel tank and fuel vapor and vent space for the type certification of turbine engine powered transport category airplanes. The proposal would have required all newly manufactured turbine engine powered transport airplanes and existing turbojet engine powered transport airplanes to be equipped with such explosion prevention systems by specified dates. While the proposed rule did not prescribe any specific system, it indicated in the preamble three possible means that were available. They were—(1) a liquid nitrogen inerting system; (2) a polyurethane foam filler method; and (3) an explosion suppression system. On May 20, 1974, notice No. 74-16A was issued (39 FR 18288; May 24, 1974) to extend the comment period. Notice No. 74-16B, issued on April 20, 1977 (42 FR 21202; April 25, 1977), announced the reopening of the comment period and a public hearing on transport category airplane post-crash fuel systems fire and explosion hazard reduction. The hearing was held in Washington, D.C., on June 13-16, 1977.

During the comment period prior to the public hearing, the FAA received approximately seventy comments, including comments from trade associations representing airlines, aircarft manufactures, aircraft operators, and consumers, and foreign airworthiness authorities, aircraft operators, government agencies, and other interested persons. Slightly more than a quarter of the comments were generally in favor of the proposed amendment and slightly less than a quarter were generally in opposition. Approximately half of the comments could not be classified as either favorable or unfavorable but presented a variety of suggestions, qualifications, and objections relating to specific aspects of the proposal. Four major objections raised concerned the capabilities of the three systems recommended in the preamble, the high cost of compliance, the applicability of the requirement to smaller turbojet-powered airplanes certificated in the transport category, and the retrofit requirements for transport airplanes currently in service.

Several commentators questioned the capabilites in general of the three systems in achieving their intended purpose and suggested that more testing be performed on all three means before final rule making. Moreover, a number expressed the view that the proposal failed to focus on the area needing the most attention, i.e., fires caused by fuel spills from ruptured tanks under post-crash conditions, and that the three recommended systems are ineffective in preventing or suppressing these types of fire. Several commentators also felt that the recommended systems would result in serious weight penalities and a few expressed concern regarding the pressure effects of nitrogen in fuel tanks. In this connection, a few felt that the explosion suppression systems cited in the preamble may be hazardous to fuel tank and wing structures. It was the opinion of a number of commentators that other more effective systems are being explored and developed and that further research should be conducted on these potential systems. Specific potential systems mentioned included anti-misting additives and on-board nitrogen-generating inerting systems. It was indicated that anti-misting additives could reduce the hazard of fires due to fuel spills from ruptured tanks and that on-board nitrogen-generating inerting systems could result in large weight savings in comparison with the liquid nitrogen inerting system.

It was the opinion of a number of commentators that airplanes under 75,000 pounds gross weight do not

present the same hazard as the larger airplanes in the transport category and should be excluded from the requirements of the proposed rule. With respect to the retrofit requirement, many commentators felt that modification of previously constructed airplanes to incorporate an explosion prevention system would entail a number of penalities and disadvantages which would tend to offset the safety benefits to be gained.

Approximately 200 persons attended the hearing on fire and explosion hazard reduction including representatives from various United States and foreign government agencies and industry and consumer groups. Presentations were made by ten United States Government representatives, three foreign government representatives, and seventeen industry and consumer groups. The general view of the participants was that while the liquid nitrogen fuel tank inerting system, the reticulated polyurethane foam fuel tank filler, and the explosion suppression system cited in notice No. 74-16 can prevent internal fires and explosions in undamaged fuel systems, they cannot prevent external fires caused by ignition of fuel released from damaged fuel tanks under post-crash conditions. Also, it was argued that the liquid nitrogen fuel tank inerting system would be difficult to service at civil airports used in air carrier operations.

Participants at the hearing pointed out the existence of a number of potential systems which show promise for future application. They noted that anti-misting fuels may reduce the post-crash fire hazard due to fuel spillage from damaged tanks and that fuel tank inerting systems using nitrogen generated on-board an aircraft may provide reliable in-flight and post-crash protection of undamaged tanks without the logistics and servicing problems associated with liquid nitrogen systems. It was indicated that additional development work will be required for both of these concepts. A new concept of passive protection consisting of an expanded metal tank filler was discussed as a potential sucessor to foam, and it was noted that means to eliminate associated weight disadvantages are under current development. Another possibility raised at the hearing was the development of crashworthy fuel tanks and breakway fittings for transport airplane fuselage tanks. Such systems would eliminate the weight and volume penalties that would result from application of military crash-resistant fuel system technology for the wing tanks of transport airplanes. The FAA received approximately twenty written comments subsequent to the public hearing. A few of the commentators were in favor of immediate rulemaking as proposed in notice No. 74-16. Many, however, favored further development of the promising systems discussed at the hearing and evaluation of prototype installations of these new approaches under full-scale conditions in order to determine their feasibility and effectiveness before final rulemaking. Two commentators suggested that certain specific measures be adopted and that development of other potential systems also be pursued.

In view of the comments received and the testimony at the hearing, the FAA has determined that there are a number of promising systems for fire and explosion protection which, with adequate development, should be more effective and practical than those cited in the preamble of Notice No. 74.16. The FAA believes that the three systems cited in the notice have been shown by the public comments to be ineffective in preventing external fires caused by fuel spills from ruptured tanks under post-crash conditions. Furthermore, the liquid nitrogen inerting system, which is the most practical of the three systems, would be difficult to service.

The FAA agrees that additional development and testing is needed on the several promising systems discussed in the comments and presentations before the FAA determines what, if any, standards should be proposed. The FAA intends to pursue all promising concepts for improved and practical fire and explosion protection through adequate research, development and testing. In this light, the FAA believes that the issuance of final rules at this time would be premature and would act to impede the development of improved concepts, and that the public interest would best be served by the withdrawal of Notice No. 74-16.

Compartment Interior Materials

Notice No. 74-38 (39 FR 45044; December 30, 1974), Compartment Interior Materials Toxic Gas Emission, was issued as an advance notice of proposed rulemaking by the FAA to invite public participation in developing standards governing the toxic gas emission characteristics of compartment interior materials used in transport category airplanes when subjected to fire conditions. In this connection, the FAA indicated the desire to review the technical and cost situations before determining the form of a toxicity standard and invited all relevant information. Numerous comments were received from persons having expertise in the materials state-of-the-art as it pertains to aircraft cabin interiors. These comments, when considered with the results of research and development on toxic gas emission that have been completed to date by the FAA, do not provide sufficient basis on which to propose adequate regulatory standards on this subject. However, the comments are useful in that they serve to identify various courses of action available to the FAA and indicate those areas requiring further investigation.

Notice No. 75-3 (40 FR 6506; February 12, 1975), Smoke Emission from Compartment Interior Materials, was issued as a notice of proposed rule making in which the FAA solicited comments on proposed amendments of parts 25 and 121 of the Federal Aviation regulations concerning standards for the smoke emission characteristics of compartment interior materials in transport category airplanes. Many of the commentators presented arguments containing considerable merit against the adoption of smoke emission standards at this time.

Several commentators stated that the problems of emissions by compartment interior materials could be handled more effectively through means other than those proposed by the FAA in notices 74-38 and 75-3. The commentators suggested that regulatory emphasis be concentrated on the prevention of fuel and cabin fires including fuel containment and on emergency evacuation including improvements in interior lighting, individual respiratory and visual aid devices, cabin venting systems, and evacuation procedures.

Commentators to both the advance notice on toxic gas emission and to the proposed smoke emission standards suggested that smoke emission, toxic gas emission, and flammability should be handled more systematically. Many commentators argued effectively that the problems of smoke emission and toxic gas emission are inseparable. Some commentators suggested the FAA should give further consideration to the relationship of fire resistance, heat stability, smoke emission, and toxic gas emission and to the need to develop more comprehensive standards once this relationship has been considered.

Proposal 8-118 in airworthiness review program; Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals, Notice 75-31 (40 FR 29410; July 11, 1975), included a proposed new paragraph (b) of § 121.312 that would require after 3 years, that materials, finishes, and decorative surfaces used in crew or passenger compartments must conform to the current flammability standards of § 25.853. For certain aircraft operated under part 121 of the Federal Aviation regulations a replacement of some materials, finishes, or decorative surfaces used in the crew or

passenger compartment would be necessary to meet the proposed standards.

A number of comments were received in response to proposed paragraph (b) of § 121.312, all but one of which were either opposed to the issuance of the proposed amendment or opposed to significant portions thereof. Comments relating to the other proposed amendments of § 121.312 will be considered with the disposition of airworthiness review program, notice No. 8. The principal objection made by the commentators to proposed § 121.312(b) was that the amendment should not be made until a comprehensive standard for flammability, smoke emission, and toxic gas emission was developed. Several commentators stated that it would place an undue and unnecessary burden on air carriers if they are required to replace materials to meet new flammability standards and then later expected to replace these new materials with other materials meeting smoke emission and toxic gas emission standards that are yet to be developed.

On July 11, 1977, the FAA issued notice No. 77-11 (42 FR 36976; July 18, 1977) to announce a public hearing on compartment interior materials in transport category airplanes and to reopen the comment period for notice No. 74-38, notice No. 75-3, and proposal 8-118 of notice No. 75-31. The purpose of the public hearing, which was held on November 14-18, 1977, was to gather information on the feasibility of developing a comprehensive set of integrated flammability, smoke emission, and toxic gas emission standards for compartment interior materials in transport category airplanes.

Oral presentation and written comments were made by interested parties, including aircraft and materials manufacturers, foreign airworthiness authorities, research laboratories, consumer interest organizations, and government agencies. Most presentors advocated a comprehensive, rather than a piecemeal approach to the problem of safeguarding cabin materials against fire. It was felt that a piecemeal approach could misdirect resources without providing any significant improvements. It was recommended that a full understanding of the detailed problems associated with fire hazards of materials used in aircraft interior be achieved before final rule making. It was also urged that a combined government and industry working group be established to deal with the overall problem. In this connection, presentors indicated that the problems associated with compartment materials are, in fact, one element of the larger problem of aircraft occupant survivability in the post-crash environment.

Based on the comments received in response to the notices and the information presented at the hearing, the FAA believes that additional rule making on the outstanding notices at this time would be ill-advised. In this regard, the FAA believes that some trade off probably exists between smoke emission, toxic gas emission, and flammability qualities of compartment materials and that this relationship requires additional research. Without additional information on this relationship a decision by the FAA on this subject is not possible.

The FAA believes that additional consideration must be given to the cost-effectiveness of any new standards for only then can maximum use of available resources be made. In this connection, the most important information that has been emphasized to the FAA in comments and at the hearings is that post-crash occupant survivability presents a series of inter-related questions transcending any one descipline. It is evident to the FAA that probable solutions to the problem of post-crash occupant survivability involve, among others, questions of the materials used in aircraft structure and interiors, fuel system integrity, aircraft operating procedures, type and quantity of special equipment available within the cabin, cabin crew procedures and training, and materials used in cabin crew garments. In this light, the FAA believes that continued rule making under the outstanding notice and limited to specific areas of the overall problem would not result in reasonable or effective regulatory standards. Therefore, notice No. 74-38, notice No. 75-3, and proposal 8-118 of notice No. 75-31 should be withdrawn.

With respect to the overall goal of improving post-crash occupant survivability, the FAA believes that a forum must exist to allow for the fullest and most effective participation of nongovernmental entities in the first stage development of a comprehensive regulatory program. In order to provide for this participation, the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee, has been established. A notice of the establishment of the committee which aslo describes its purpose and function was published in the FEDERAL REGISTER on June 8, 1978 (43 FR 24929). It is the opinion of the FAA, that the establishment of this committee together with the ongoing research and development both in the public and private sectors will enable the FAA in the near future to develop comprehensive standards, directed at improving post-crash occupant survivability, that will be both feasible and effective considering both their safety and economic consequences.

By reason of the foregoing, the FAA has determined that rule making action on the proposals is not appropriate at the present time and that they should be withdrawn. This withdrawal, however, does not preclude the FAA from issuing similar notices in the future nor does it commit the FAA to a particular course of action.

DRAFTING INFORMATION

The principal authors of this document are Henri P. Branting, E. P. Burke, and Richard W. Nelson, Flight Standards Service, and Darlene F. Romanias, office of the Chief Counsel.

WITHDRAWAL OF PROPOSED RULE MAKING

Accordingly, the following notices and advance notices of proposed rulemaking are withdrawn by the Federal Aviation Administration:

Notice No. 74-16 (39 FR 12260; April 4, 1974) entitled "Transport Category Turbine Powered Airplanes Fuel System Explosion Prevention".

Notice No. 74-38 (39 FR 45044; December 30, 1974) entitled "Compartment Interior Materials Toxic Gas Emission".

Notice No. 75-3 (40 FR 6506; February 12, 1975) entitled "Smoke Emission from Compartment Interior Materials".

Proposed § 121.312(b) as set forth in proposal No. 8-118 of airworthiness review program, notice No. 75-31 (40 FR 29410; July 11, 1975) entitled "Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals".

(Sec. 313(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in Washington, D.C. on, August 15, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-23498 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-38]

TRANSITION AREA, CLARENDON, TEX.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Clarendon, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Clarendon Municipal Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument weather conditions to the airport.

DATES: Comments must be received on or before September 25, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 FR 440) of FAR part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Clarendon, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must be also submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) to designate a transition area at Clarendon, Tex. The FAA believes this action will enhance IFR operations at the Clarendon Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the newly established nondirectional radio beacon (NDB) located on the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) as republished (43 FR 440) by adding the Clarendon, Tex., transition area as follows:

CLARENDON, TEX.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Clarendon Municipal Airport (latitude 34°54'34" N., longitude 100°52'20" W.), and within 3.5 miles each side of the 219° bearing from the NDB (latitude 34°54'37" N., longitude 100°52'03" W.), extending from the 5.5-mile radius area to 11.5 miles southwest of the NDB.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 11, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-23462 Filed 8-23-78; 8:45 am]

[4910-13]

[14CFR Part 71]

[Airspace Docket No. 78-ASW-39]

TRANSITION AREA, JONESBORO, LA.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Jonesboro, La. The intended effect of the proposed action is to realign controlled airspace for aircraft executing instrument approach procedures to the Jonesboro Municipal Airport. The circumstances which created the need for the action were relocation of the Jonesboro navigational aid (NDB) located on the airport and realignment of instrument approach procedures designated on the facility.

DATES: Comments must be received on or before September 25, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In subpart G 71.181 (43 FR 440) of FAR part 71, the description of the Jonesboro, La., transition area reflects controlled airspace designated on the Jonesboro NDB. Recent relocation of the NDB requires realignment of instrument approach procedures and associated controlled airspace.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Jonesboro, La., transition area. The FAA believes this action will properly aline controlled airspace for aircraft executing instrument approach procedures established for the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by altering the Jonesboro, La., transition area as follows:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jonesboro Municipal Airport, Jonesboro, La., (latitude 32°12'10" N., longitude 92°44'10" W.) and within 3.5 miles each side of the 202° bearing from the Jonesboro MDB (latitude 32°12'10" N., longitude 92°43'45" W.) extending from the 6.5-mile radius area to 12 miles south of the NDB.

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

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

Issued in Fort Worth, Tex., on August 11, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-23463 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78—ASW-40]

TRANSITION AREA, CROSBYTON, TEX.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Crosbyton, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Crosbyton, Municipal Airport. The circumstance which created the need for the action is the scheduled establishment of a navigational aid (NDB) at the airport to provide capability for flight under instrument weather conditions to the airport.

DATES: Comments must be received on or before Septmeber 25, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 FR 440) of FAR part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Crosbyton, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communication should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the

Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Crosbyton, Tex. The FAA believes this action will enhance IFR operations at the Crosbyton Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the NDB scheduled for establishment at the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on Janurary 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by adding the Crosbyton, Tex., transition area as follows:

CROSBYTON, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Crosbyton Municipal Airport (latitude 33°37'30" N., longitude 101°14'30" W.), and 3.5 miles each side of the 189° bearing from the Crosbyton NDB (latitude 33°37'25" N., longitude 101°14'17" W.), extending from the 7-mile radius to 11.5 miles south of the NDB.

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

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

Issued in Fort Worth, Tex., on August 11, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-23464 Filed 8-23-78 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-41]

TRANSITION AREA

Proposed Designation: Levelland, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Levelland, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Levelland Municipal Airport. The circumstances which created the need for the action is the scheduled establishment of a navigational aid (NDB) at the airport to provide capability for flight under instrument weather conditions to the airport.

DATES: Comments must be received on or before September 25, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G, § 71.181 (43 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Levelland, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) to designate a transition area at Levelland, Tex. The FAA believes this action will enhance IFR operations at the Levelland Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the NDB scheduled for establishment at the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 440) by adding the Levelland, Tex., transition area as follows:

LEVELLAND, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (latitude 33°33'32" N., longitude 102°22'20" W.), and within 3.5 miles each side of the 170° bearing from the Levelland NDB (latitude 33°33'20" N., longitude 102°22'29" W.), extending from the 7-mile radius to 11.5 miles south of the RBN.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Forth Worth, Tex., on August 14, 1978.

HENRY L. NEWMAN,
Director,
Southwest Region.

[FR Doc. 78-23758 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-66]

SUMMERSVILLE, W. VA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Summersville, W. Va., transition area, over Summersville Airport, Summersville, W. Va. This designation will provide protection to aircraft executing the new SDF RWY 4 and NDB RWY 4 standard instrument approaches which have been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 26, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone 213-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in tripicate to the Director, Eastern Region, Attention: Chief, Air traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before October 26, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of advisory circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Summersville Airport. The area will be designated by establishing controlled airspace within a 6.5-mile radius arc of the airport and an extension 9 miles wide reaching to approximately 14 miles to the southwest.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of part 71 of the Federal Aviation Regulations by designating a Summersville, West Virginia, 700-foot floor transition area as follows:

SUMMERSVILLE, W.VA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 38°13'50" N., 80°52'15" W., of Summersville Airport, Summersville, W.Va.; within 4.5 miles each side of a 035° bearing and a 215° bearing from the Nicholas, W. Va., RBN (38°10'30" N., 80°55'13" W.), extending from 4.5 miles northeast of the RBN to 9 miles southwest of the RBN; within 3.5 miles each side of a 214° bearing from the Nicholas, W.Va. RBN, extending from the RBN to 11 miles southwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Jamaica, N.Y., on August 9, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23759 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR PART 71]

[Airspace Docket No. 78-EA-63]

FORT INDIANTOWN GAP, PA.

Proposed Designation of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Fort Indiantown Gap, Pa., control zone over Muir Army Air Field, Fort Indiantown Gap, Pa. This designation will provide protection at the request of the Army Air Field to aircraft executing instrument approaches which have been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 26, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedure Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administra-

tion, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before October 26, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rule docket for examination by interested persons.

AVAILABILITY OF NPRM

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

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of advisory circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart F of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone over Muir Army Air Field. The zone will be designated by establishing additional controlled airspace within approximately a 7-8 mile radius arc of the airport from approximately West thru North to East, with lesser designation of from 4-5 miles around to the West again.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by designating a Fort Indiantown Gap, Pa. control zone as follows:

FORT INDIANTOWN GAP, PA.

Within a 5-mile radius of the center 40°26'00" N., 76°34'00" W., of Muir AAF, Fort Indiantown Gap, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 215° bearing to a 255° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise a 255° bearing to a 059° bearing from the airport; within 9-mile radius of the center of the airport, extending clockwise from a 059° bearing to a 075° bearing from the airport; within 2.5 miles each side of the 097° bearing from the Bellgrove, Pa. RBN, extending from the RBN to 6 miles east of the RBN; excluding the portion within 1 mile each side of a 030° bearing and a 210° bearing from the center, 40°31'33" N., 76°27'22" W., of Pine Grove Airport, Pine Grove, Pa., extending from the 10-mile radius arc to ½ mile southwest of the center of Pine Grove Airport. This control zone is effective from 0800 to 1630 hours, local time, Sunday and Monday and from 0800 to 2300 hours, local time, Tuesday through Saturday, excluding Federal legal holidays, or during the specific dates and times established in advance by a notice to airmen which thereafter wil be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

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

Issued in Jamaica, N.Y., on August 9, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23760 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-61]

NEW YORK, N.Y.

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the New York, N.Y., transition area. This designation will provide protection to aircraft executing the new Copter RNAV-241 instrument approach which has been developed for the New York Terminal area. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 26, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

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

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before October 26, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Cicular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) to alter the transition area for the New York Terminal area. The area will be altered by establishing additional controlled airspace 4 miles wide and 6 miles long approximately 7 miles to the northeast of J.F.K. International Airport.

DRAFTING INFORMTION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of part 71 of the Federal Aviation regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of part 71 of the Federal Aviation regulations by amending the description of the New York, N.Y., 700-foot floor transition area by adding after, "a point 40°36'21" N., 74°04'34" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point;" the following, "within 3 miles northwest and 5.5 miles southeast of 229° bearing from a point 40°56'27" N., 73°38'43" W., extending from said point to 8.5 miles southwest of said point;"

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Jamaica, N.Y., on August 9, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23761 Filed 8-23-78; 8:45 am]

[4910-13]

[14 CFR PART 71]

[Airspace Docket No. 78-EA-55]

BECKLEY, W. VA.

Proposed Alteration of Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Beckley, W. Va., control zone and transition area, over Raleigh County Memorial Airport, Beckley, W. Va. This alteration will provide protection to aircraft executing the new VOR/DME RWY 1 standard instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 26, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Divison, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before October 26, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

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

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subparts F and G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and transition area over Raleigh County Memorial Airport. The proposed control zone alteration will add a south extension having a total width of 8 miles and extending beyond the basic radius zone for a distance of approximately 4 miles. The proposal additional 700-foot floor transition area is small, adding an area approximately 2 square miles south of the present transition area.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations by deleting the description of the Beckley, W. Va. control zone and inserting the following in lieu thereof: "Within a 6.5-mile radius of the center, 37°46'54" N., 81°07'27" W., of Raleigh County Memorial Airport, Beckley, W. Va.; within 3 miles each side of the Beckley VORTAC 284° radial, extending from the 6.5-mile radius zone to 8.5 miles west of the VORTAC; within 3 miles each side of the Beckley VORTAC 001° radial, extending from the 6.5-mile radius zone to 8.5 miles north of the VORTAC, and within 4 miles each side of the Beckley VORTAC 200° radial, extending from the 6.5-mile radius zone to 10.5 miles south of the VORTAC.".

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations by deleting the description of the Beckley, W. Va., 700-foot floor transition area and by inserting the following in lieu thereof; "That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 37°46'54" N., 81°07'27" W. of Raleigh County Memorial Airport, Beckley, W. Va.; within a 14-mile radius of the center of Raleigh County Memorial Airport, extending clockwise from a 025° bearing to a 215° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Beckley VORTAC 284° radial, extending from the VORTAC to 18.5 miles west of the VORTAC and within 4.5 miles each side of the Beckley VORTAC 200° radial, extending from the VORTAC to 11.5 miles south of the VORTAC.".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

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

Issued in Jamaica, N.Y., on August 9, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23762 Filed 8-23-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 751 0026]

NATIONAL FIRE HOSE CORP., ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Compton, Calif. manufacturer and seller of fire hose and accessories to cease, in connection with the sale and distribution of their products, from entering into agreements, or taking any other action that would impose territorial or customer restrictions on their distributors.

DATE: Comments must be received on or before October 23, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Regional Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

NATIONAL FIRE HOSE CORP., ET AL.

[File No. 751 0026]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of National Fire Hose Corp., a corporation, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of the corporation, hereinafter sometimes referred to as proposed responents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between National Fire Hose Corp., by its duly authorized officer, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Respondent National Fire Hose Corp., is a corporation existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 516 East Oaks Street, Compton, Calif. Respond- ent Raymond L. Pepp is an individual and director of the corporation. Respondent Dudley H. Pepp is an individual and officer of the corporation. Raymond L. Pepp and Dudley H. Pepp jointly formulate, direct and control the acts and practices of the corporation. Their address is the same as that of the corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive;

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of 60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, after the 60 days period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement comtemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained the terms of the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued they will be required to file one or more complaince reports showing that they have fully complied with the order, and they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered*, That respondents National Fire Hose Corp., its subsidiaries, successors, assigns, officers, and directors and Raymond L. Pepp and Dudley H. Pepp individually and as officers or directors of National Fire Hose Corp., and respondents' agents, representatives, and employees, directly or indirectly, or though any corporate or other device, in connection with the manufacturing, distribution, offering for sale or sale of fire hose or fire hose accessories (hereinafter "products") in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Entering into, maintaining, preserving or enforcing any contract, agreement, combination, or understanding which fixes, establishes, limits, or restricts the territory in which a distributor may sell any of respondents' products;

2. Requiring any distributor or potential distributor to enter into a writ-

ten or oral agreement or understanding, concerning the territory in which such distributor or potential distributor may sell any of respondents' products, as a condition to receiving or retaining a distributorship;

3. Refusing to sell, delaying shipment, threatening to refuse to sell or to delay shipment, or taking any other action to limit or restrict the territory in which a distributor may sell any of respondents' products;

4. Consulting or communicating with any distributor of respondents' products concerning the establishment of a new distributorship;

5. Entering into, maintaining, preserving or enforcing any contract, agreement, combination, or understanding which limits or restricts the customers to whom a distributor may sell any of respondents' products;

6. Restricting or attempting to restrict, in any manner, the customers to whom a distributor may sell any of respondents' products or the territory in which a distributor may sell such products.

II. *It is further ordered,* That respondents, for a period of 3 years from the date of service upon them of this order, establish and maintain a file of all records referring or relating to respondents' refusal to sell any product to any distributor or respondents' termination of any distributor, which file shall contain a copy of any written communication to any such distributor concerning such refusal to sell or such termination. The file shall be made available for Commission inspection upon reasonable notice.

III. *It is further ordered,* That respondents shall, within 30 days after service upon them of this order, distribute a copy of the order to each of the corporate respondent's operating divisions, to its present corporate officers, to its present sales representatives, and to its future corporate officers and sales representatives within 5 days of their assumption of office or employment with respondent corporation.

IV. *It is further ordered,* That respondents shall:

1. Within 30 days after service upon them of this order, distribute a copy of the letter attached as appendix "A" to each existing distributor who has purchased municipal type fire hose from respondents within the past 3 years;

2. Distribute a copy of the letter attached as appendix "A" to each newly established distributor who purchases municipal type fire hose from respondents within the 3 year period commencing from the date of service of this order upon respondents; this letter to be distributed prior to the first such sale;

3. The distribution of copies of the letter attached as appendix "A" as provided in this part of the order shall not be construed as a limitation on the other parts of this order;

V. *It is further ordered,* That respondents shall notify the Commission at least 30 days prior to any proposed change in the organization of the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

VI. *It is further ordered,* That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. In addition, for a period of 10 years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the manufacture, distribution or sale of fire hose, or fire hose accessories, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the manufacture, distribution or sale of fire hose or fire hose accessories. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That the respondents herein shall within 60 days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

NATIONAL FIRE HOSE CORP.

[File No. 751 0026]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from National Fire Hose Corp., Compton, Calif., a manufacturer and seller of fire hose, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of National.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days the Commission will review the agreement along with comments received and will decide whether to make final the agreement's proposed order or withdraw from the agreement.

The proposed complaint alleges that respondents have established agreements with their distributors which (1) restrict the territories in which such distributors may sell National's products; (2) foreclose the establishment of new distributors; and (3) restrict the customers to whom distributors may sell respondents' products.

The proposed consent order prohibits respondents from (1) requiring their distributors to enter into agreements restricting the territory in which they may sell National's products; (2) entering into agreements with their distributors concerning the territory in which they may sell National's products or the customers to whom such products may be sold; (3) taking any unilateral action to restrict its distributors territories or to restrict the customers to whom such products may be sold; and (4) communicating with their existing distributors concerning the establishment of new distributors.

The order further requires respondents to maintain a file, for the next three years, of all records relating to any refusal to sell to a distributor. Additionally, respondents are required to send a letter to each of their municipal fire hose distributors explaining the terms of the order.

The terms of the consent order will have the effect of removing restraints on competition between National's distributors thereby encouraging such competition. Ultimately this action should lead to lower prices to the purchasers of fire hose, many of which are funded by the public.

The purpose of this analysis is to facilitate public comments on the proposed order and it is not intended to constitute a official interpretation of the terms of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-23753 Filed 8-23-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1306]

UNVENTED GAS-FIRED SPACE HEATERS

Extension of Time to Consider Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time.

SUMMARY: This notice extends for a 3-month period, from August 29, 1978 to November 29, 1978, the period in which the Commission must either publish a final ban of unvented gas-

fired space heaters or withdraw the rule proposed on February 14, 1978. This extension is necessary for testing a temperature limiting device, for considering the results of the tests, and for helping determine whether a standard for this product is feasible.

FOR FURTHER INFORMATION CONTACT:

Rory S. Fausett, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: On February 14, 1978, the Commission published a proposal to ban unvented gas-fired space heaters (43 FR 6235). Based on information discussed in the proposal, the Commission concluded that the hazard of carbon monoxide (CO) poisoning associated with this product presents an unreasonable risk of injury to the public and that no feasible standard could adequately protect the public from the unreasonable risk. Therefore, as provided by section 8 of the Consumer Product Safety Act (15 U.S.C. 2057), the Commission proposed a rule to declare that unvented gas-fired space heaters are banned hazardous products.

During the period provided for public comment on the proposed ban and review of the comments, the Commission was advised that mandatory standards adopted by several foreign countries require the use of a component which can detect the depletion of oxygen in the living space and stop the flow of gas to the heater before CO buildup can create a hazardous atmosphere. Such a device had not, to the Commission's knowledge, ever been adopted for use on unvented gas-fired space heaters by American manufacturers. Therefore, the Commission asked the National Bureau of Standards (NBS) to perform a series of tests of the device, known as an oxygen depletion system (ODS).

Since additional time was needed, in light of the NBS tests of ODS, to help determine whether there could be a feasible standard for addressing the hazard of CO poisoning associated with unvented gas-fired space heaters, the Commission, on July 5, 1978, extended until August 29, 1978 the period in which it would have to publish a final banning rule on this product or withdraw the proposal to ban (43 FR 29011).

During this period, the Commission received information about an article, known as a temperature limiting device, which is purported to avoid a hazardous atmosphere in the living space from the buildup of carbon monoxide by shutting off the gas supply when a certain temperature is reached. In addition, the Commission was advised that a temperature limiting device is expected to become a requirement in the voluntary industry standard for unvented gas-fired space heaters of the American National Standards Institute (ANSI). Very little test data is available to the Commission on this device and the Commission believes that further information is needed on the efficacy of a temperature limiting device for protecting against carbon monoxide poisoning associated with unvented gas-fired space heaters. Therefore, the Commission has requested that NBS perform a series of tests on the temperature limiting device.

Additional time will be needed to perform such tests, analyze their results, and correlate this information with information on the ODS to help the Commission determine what further action is needed on the matter of regulating unvented gas-fired space heaters. Therefore, pursuant to section 9(a)(1) of the CPSA (15 U.S.C. 2058(a)(1)), the Commission, for good cause, finds that the period of time in which it must either publish a consumer product safety rule declaring that unvented gas-fired space heaters are banned hazardous products or withdraw the proposal to ban, should be and is extended for three months from August 29, 1978 to November 29, 1978. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: August 21, 1978.

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

[FR Doc. 78-23848 Filed 8-23-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 16]

CONTRACT MARKET REPORTING REQUIREMENTS

Publication of Futures Prices

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission is proposing amendments to its contract market reporting requirements. The proposed amendments would require contract markets to publish for each business day certain price information for each futures contract of a commodity, including the opening range, the high, the low, the closing range and the settlement price. The purpose of these amendments is to provide the public and the Commission with uniform price information for all contract markets. Information of this nature will be particularly useful in the Commission's market surveillance and economic analysis programs.

DATES: Comments to be received on or before: October 23, 1978. Proposed effective date: Not yet determined.

ADDRESS: Comments on the proposal should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Wayne Olson, Division of Surveillance and Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C 20581 telephone 202-254-3312.

SUPPLEMENTARY INFORMATION. The Commission proposes to add a new subsection to § 16.02 of its regulations which would require contract markets to publish for each business day the following price information for each contract of a commodity:

(1) The opening range;
(2) The highest price;
(3) The lowest price;
(4) The closing range; and
(5) The settlement price.

DISCUSSION OF THE COMMISSION PROPOSAL

In order to conduct effective market surveillance and economic analysis, the Commission needs, among other things, uniform [1] futures price information for all commodities. At the present time, the Commission's staff collects this data in a variety of ways. For the most part, the staff relies on the daily market reports published by the exchanges. Some of these reports contain all of the information that the Commission needs. Others, however, do not. In these cases, the staff obtains the information either directly from the exchanges or from their records. Because of the growth in the number of contract markets under regulation since 1975, and the diverse nature of their recordkeeping and publication practices, it is no longer practicable for the Commission to continue to obtain futures prices in this manner. The Commission is therefore proposing that the required information be published by each for each business day.

[1] The Commission is aware that the definitions of the terms "opening range", "closing range" and "settlement price" vary somewhat from contract market to contract market. When comparisons are necessary between data obtained from exchanges which use different definitions, the Commission presently believes that adjustments can be made for the differences. The Commission is, however, interested in public comment on this issue.

The publication of uniform and, in some cases, more extensive price data by each exchange should also benefit the public. An increase in the amount of relevant information available to market participants should lead to more informed trading decisions.

This change will be effectuated by redesignating the first paragraph of § 16.02 as paragraph (a), and subparagraphs (a), (b), (c), and (d) of that paragraph as subparagraphs (1), (2), (3), and (4), respectively. The proposed price information publication requirement will be contained in a new paragraph (b). Certain other technical changes to §16.02 will also be made. The text of these proposed amendments is set forth in full below.

In consideration of the above, the Commission, pursuant to its authority under 4g and 8a(5) of the Act, 7 U.S.C. 6g and 12a(5) (1976), proposes to amend part 16 of title 17 of the Code of Federal Regulations as follows:

By revising § 16.02 to read as follows:

§ 16.02 Publication of volume, open contracts and futures prices.

(a) Each contract market shall publish for each business day the following information by commodity and by future within each such commodity:

(1) The total volume of trading, excluding transfer trades or office trades;

(2) The total quantity of futures for cash transaction which are included in the total volume of trading;

(3) The total gross open contracts; and

(4) The total quantity of the commodity delivered in fulfillment of such contracts.

(b) Each contract market shall publish for each business day the following price information for each futures contract of a commodity:

(1) The opening range;

(2) The highest price;

(3) The lowest price;

(4) The closing range; and

(5) The settlement price.

(c) The information required by this section shall be made readily available to the news media and the general public in printed form and without charge at the office and trading floor of the contract market not later than the business day following the day for which publication is made.

(7 U.S.C. 6g and 12a (1976).)

Issued in Washington, D.C., on August 18, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-23751 Filed 8-23-78; 8:45 am]

[6351-01]

[17 CFR Part 32]

REPORTING REQUIREMENTS FOR DEALER OPTIONS

Proposed Rule Change

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule change.

SUMMARY: The purpose of this proposed amendment to rule 32.12 (exemption from suspension of commodity option transactions) is to establish the form and content of reporting requirements for options on physical commodities (so-called dealer options). Under the proposed reporting system the dealers who grant and the futures commission merchants (FCM's) who well options under § 32.12 of the interim commodity option regulations would be required to submit monthly reports to the Commission and to provide the Commission with additional data, as needed, on special calls. The proposed reporting system for dealer options would provide the Commission with data needed for monitoring the market, compliance audit, and/or analyses of the extent to which commerical interests use dealer options for purposes related to their businesses.

DATES: Written comments to be received before September 8, 1978. Tentative proposed effective date is undetermined.

ADDRESS: Written comments to Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Paula Tosini or Blake Imel, Office of Chief Economist, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-7847 or 202-254-6124, respectively.

SUPPLEMENTARY INFORMATION: Rule 32.11 of the interim commodity option regulations generally suspends the solicitation or acceptance of orders for, or the acceptance of payment for, the pruchase or sale of commodity options on and after June 1, 1978 (43 FR 16153 et seq. (April 17, 1978)). Rule 32.12 provides an exemption from the general suspension of the offer or sale of commodity options on physical commodities where the grantor and the seller of an option satisfy certain conditions set forth in the rule which the Commission believes essential for the protection of option customers (43 FR 23704 et seq. (June 1, 1978)). Section 32.12(b)(1) provides that the grantor of options offered pursuant to the exemption shall "* * * make such reports to the Commission as the Commission by rule or regulation may require." (43 FR 23708.) Further, in accordance with § 32.12(a)(6)(iii) the person offering or selling an option to an option customer must provide "* * * such reports to the Commission as the Commission by rule or regulation or order may require." (43 FR 23708.) The Commission is not proposing the form and content of those reporting requirements.[1]

Under the proposed reporting system a person who grants and an FCM who sells dealer options would be required to submit monthly reports to the Commission and to provide the Commission with additional data, as needed, on special calls. The proposed reports would provide the Commission with data on: (1) The extent and composition of the dealer market; (2) the level of markups charged by retailers of dealer options; (3) the level of dealer option premiums; (4) the extent to which dealer options are exercised, expire, or are resold to the dealer; (5) the volume and open interest reported by FCM's in comparison with the volume and open interest attributed to each FCM by the reporting dealer; and (6) the extent to which commerical interests use the dealer option market, either by granting options to an option dealer or by purchasing options either directly from a dealer or indirectly through FCM's.

By commericial interests are meant producers, processors, merchants and other persons which, as part of their business, handle or utilize the commodity or a closely related commodity (including the products, byproducts or source commodity thereof) on which the option is traded. See proposed § 32.12(i).

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[1] Reporting requirements are being proposed even though rule 32.12(d) provides that the exemption contained in rule 32.12 will expire 60 days after the effective date of any amendment to section 4c(b) of the Commodity Exchange Act of 1974 as amended (the "act"). Both the Senate and the House of Representatives have passed bills (S. 2391 and H.R. 10285, respectively) which would amend section 4c(b), necessitating that the exemption expire unless specifically extended by the Commission. Nevertheless, much of the information which the Commission is proposing to collect will continue to be needed for a considerable period after the termination of the exemption. In particular, option customers could hold open positions until the expiration of the most distant option series in which positions had been established before new sales were terminated. On the other hand, if the act is amended to mandate the exemption of certain classes of grantors from the general option suspension (as provided in S. 2391), the Commission would have a reporting system in place and functioning.

FUTURES COMMISSION MERCHANT'S REPORTS

It is proposed that once a month each FCM which, during the reporting month, carried customer and/or proprietary accounts that trade options granted by a dealer, would be required to report to the Commission the following information by option dealer and option contract (an option contract is either a put or a call on a specified weight and form of a commodity):

1. Monthly volume and open interest as of the end of the month, reported separately for customer and proprietary accounts.

2. Monthly volume and open interest as of the end of the month attributed to commercial interests.

3. Total payments (e.g., premiums, fees, commission, etc.) made by option customers.

4. Total payments made to the grantor, reported separately for customer and proprietary accounts.

See proposed § 32.12(f).

These proposed reporting requirements for FCM's selling dealer options are similar to the reporting requirements the Commission had proposed as part of its pilot program for FCM's selling London options (42 FR 55563 (October 17, 1977)) before the general suspension of the offer or sale of commodity options in the United States.

OPTION GRANTORS' REPORTS

The Commission is proposing that each grantor be required to submit monthly reports to the Commission which contain the following data:

1. The number of options bought from and sold directly to commercial interests during the month, the open interest held by commercial interests as of the end of the month, the number and value of option repurchases during the month and the value of new sales during the month—each item reported by option contract and expiration date.

2. The volume of monthly option sales and purchases, and outstanding positions and premium levels as of the end of the month—each item reported by option contract, expiration date, and strike price.

3. The number of options exercised and expired during the month—both items reported by option contract.

4. End-of-month open interest, monthly volume, and the value of premiums and fees received during the month—each item reported by option contract and FCM.

See proposed § 32.12(g).

The monthly reports proposed for option grantors are also similar to the monthly reports proposed for domestic option exchanges as part of the Commission's proposed pilot program (42 FR 55562).

SPECIAL CALLS

Special call provisions are a necessary part of the dealer option reporting system since they would enable the Commission to acquire certain data, as needed, which are not available in the regular monthly reports. Such data may be required for more timely monitoring of the market, compliance audits and/or analyses of the extent and nature of commercial use of the market.

The special call provisions of proposed § 32.12(h) would enable the Commission to obtain data, as needed:

1. For a period of time shorter than, or a point in time different from, that used in the monthly reports.

2. In greater detail than in the monthly reports; for example, information on individual accounts or data disaggregated by option expiration dates or strike prices.

3. On the occupations or businesses of option customers and whether accounts are traded for other than speculative purposes (which data would provide an indicator of commercial interests' use of dealer options for purposes related to their businesses).

In order to assure that the information mentioned in item 3 above is available, it is proposed in § 32.12(a)(6)(iv) that FCM's selling dealer options maintain records of: (1) Their option customers' principal businesses or occupations, (2) the names of other persons exercising trading control over or having financial interest in such accounts, and (3) indicators of whether the account is traded for other than speculative purposes.

Because § 32.12 provides a very limited exemption from the general option suspension, it is important that the Commission promptly be in a position to evaluate the effectiveness and continuing necessity of such an exemption. The information proposed for collection will aid the Commission in making these determinations. Interested persons have been on notice of the pendency of these reporting requirements for some time and, in some cases, have been consulted by the Commission staff in drawing up these proposals. Accordingly, the Commission believes that a 15-day comment period is appropriate in this instance.

In consideration of the foregoing, the Commission, pursuant to the authority contained in sections 2(a)(1), 4c(b), and 8a of the act, 7 U.S.C. 2, 6c(b), and 12a (1976), hereby proposes to amend Part 32 of the Title 17 of the Code of Federal Regulations by amending § 32.12 as follows:

§ 32.12 Exemption from suspension of commodity option transactions. [Amended]

1. By amending § 32.12(a)(6) to read as follows:

(a) * * *

(6) Each person who is offering and selling the option to an option customer: (i) is fully in compliance with each and every requirement of this part 32, (ii) includes in the confirmation statement required by § 32.5(d) to be furnished to option customers the transaction identification number provided by the grantor, (iii) makes such reports to the Commission as are provided for in paragraphs (f) and (h) of this section, and (iv) keeps a record in permanent form which shows, for each commodity option account carried by him: (A) the principal occupation or business of such person, (B) the name and address of any other person having a financial interest in such account, (C) the name, address, and principal business or occupation of any other person exercising any trading control with respect to such account, and (D) an indicator of whether the account is traded for other than speculative purposes.

* * * * *

2. By revising the first sentence of § 32.12(b)(1) to read as follows:

* * * * *

(b)(1) The grantor of any option publicly offered pursuant to paragraph (a) shall keep full, complete, and systematic records together with all pertinent data and memoranda of or relating to such transactions and make such reports to the Commission as provided for in paragraphs (g) and (h) of this section. * * *

3. By adding a new § 32.12(f) to read as follows:

* * * * *

(f) Each person which is offering and selling an option to an option customer shall file a report with the Commission if such person has engaged in an option transaction during the reporting month for an option customer or for a proprietary account. Such reports shall be filed with the Commission office in New York, N.Y., by the 10th business day of the month following the reporting month and shall contain the following information by option grantor and option contract:

(1) For customer accounts:

(i) The number of open contracts, end of month.

(ii) The number of open contracts held by commercial interests, end of month.

(iii) The number of option contracts purchased during the month.

(iv) The number of option contracts purchased by commercial interests during the month.

(v) The aggregated purchase price of all option contracts purchased during the month as defined in § 32.1(d).

(vi) The total amount paid to the grantor for option contracts granted during the month, including premiums and fees charged by the grantor.

(2) For proprietary accounts of FCM's, as defined in § 1.3(y):

(i) The number of open option contracts, end of month.

(ii) The number of option contracts purchased during the month.

(iii) The total amount paid to the grantor for options purchased during the month, including premiums and fees charged by the grantor.

* * * * *

4. By adding a new § 32.12(g) to read as follows:

* * * * *

(g) The grantor of any option publicly offered pursuant to paragraph (a) of this section shall file a report with the Commission office in New York, N.Y., by the 10th business day of the month following the reporting month. Such reports shall contain the following information:

(1) By option contract and expiration date:

(i) The number of option contracts bought from or sold directly to (i.e., not through an FCM) commercial interests during the month.

(ii) The number of option contracts, granted or brought by commercial interests, open as of the last business day of the month.

(iii) The number and value of option contracts repurchased during the month.

(iv) The value of new sales of option contracts during the month.

(2) By option contract, expiration date, and strike price:

(i) The number of option contracts bought or granted during the month.

(ii) The number of option contracts, bought or granted, open as of the last business day of the month.

(iii) The level of bid and ask option premiums as of the last business day of the month.

(3) By option contract:

(i) The number of option contracts exercised during the month.

(ii) The number of option contracts which expired during the month.

(4) By option contract and vending FCM:

(i) The value of premiums and fees received by the grantor during the month.

(ii) The number of option contracts open as of the last business day of the month.

(iii) The volume of option contract sales during the month.

* * * * *

5. By adding a new § 32.12(h) to read as follows:

* * * * *

(h) All information required upon special call shall be prepared in such form and manner, and summarized in accordance with such instructions, and shall be transmitted at such time and to such office of the Commission, as may be specified in the call.

(1) Upon call by the Commission, each futures commission merchant shall furnish to the Commission for the grantor(s), the option contract(s), the expiration date(s), the strike price(s), and the date(s) any of the following information that is specified in such call for any accounts, including house accounts, in which open dealer-option contracts are carried on the records of such futures commission merchant:

(i) The name(s) and address(es) of the account owner(s).

(ii) The principal business or occupation and industry of the account owner.

(iii) The kind of account.

(iv) The name(s), address(es), and principal business or occupation and industry of any other person(s) who controls the trading of the account.

(v) The name(s) and address(es) of any other person(s) having a financial interest in the account.

(vi) Identification of those accounts that trade dealer options for other than speculative purposes.

(vii) The open dealer-option contract(s) held or controlled by such traders.

(viii) The aggregate purchase price (as defined in § 32.1(d)) paid by customers to the futures commission merchant for purchase of the open dealer-option contract(s).

(ix) The premiums and fees paid by the futures commission merchant to the grantor for the open dealer-option contracts.

(2) Upon call by the Commission, each grantor shall furnish to the Commission for the option contract(s), the expiration date(s), the strike price(s), and the date(s) any of the following information which is specified in such call:

(i) Premium levels.

(ii) For any accounts, including accounts owned or controlled by the grantor, in which open option contracts are carried on the records of such option grantors:

(A) The name(s) and address(es) of the account owner(s);

(B) The principal business or occupation and industry of the account owner, other than the account of an FCM selling dealer options to the public;

(C) The kind of account, other than the account of an FCM selling dealer options to the public;

(D) Identification of those accounts, other than the account of an FCM selling dealer options to the public, that trade dealer options for other than speculative purposes;

(E) The open option contracts in the account;

(F) The number of option contracts exercised.

* * * * *

6. By adding a new § 32.12(i) to read as follows:

* * * * *

(i) The term "commercial interest" as used in paragraphs (f), (g), and (h) of this section shall include producers, processors, merchants, and other persons which, as part of their business, handle or utilize the commodity or a closely related commodity (including the products, byproducts, or source commodity thereof) on which an option is traded.

Issued in Washington, D.C., on August 18, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-23731 Filed 8-23-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

[LR-189-76]

MINIMUM EXEMPTION FROM LEVY

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating principally to amounts payable to a delinquent taxpayer which are exempt from a levy for the collection of unpaid tax. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations would provide the public guidance needed to comply with that act, and would principally affect employees whose wages or salary are the subject of levy, as well as their employers who must comply with the terms of the levy.

DATES: Written comments and requests for public hearing must be de-

livered or mailed by October 23, 1978. The amendments are proposed to be effective for levies made after February 28, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:LR-189-76, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Kyllikki Kusma 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:LR-189-76), 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the regulations on procedure and administration (26 CFR Part 301) under sections 6331, 6332, and 6334 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1209 of the Tax Reform Act of 1976 (90 Stat. 1709) and are to be issued under the authority contained in section 6334(d)(2) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1710 and 68A Stat. 917; 26 U.S.C. 6334(d)(2) and 7805).

CONTINUING LEVIES

If a delinquent taxpayer neglects or refuses to pay the tax within 10 days after notice and demand, it may be collected by levy upon his property or rights to property, including amounts payable to him as wages or salary. A levy upon wages or salary is continuous from the date the levy is first made until the liability giving use to the levy is satisfied or becomes unanforceable by reason of lapse of time.

EXEMPT AMOUNTS

Not only in the case of a continuing levy on wages or salary, but also in the case of a levy on other income, certain amounts payable to the taxpayer are exempt from levy. Amounts so exempt are determined by taking into account: (1) The taxpayer's payroll period, that is, the basis (whether daily, weekly, biweekly, semimonthly, monthly, or otherwise) on which the taxpayer is paid, and (2) the number of persons dependent upon the taxpayer for their support.

DELETIONS OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the regulations which merely reproduce provisions of the Internal Revenue Code are being deleted.

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 was Richard Johnson 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 participated in developing the regulation, both on matters of substance and style

PROPOSED AMENTMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 301 are as follows:

§ 301.6331 [Deleted]

PARAGRAPH 1. Section 301.6331 is deleted.

PAR. 2. Paragraph (a)(1) of § 301.6331-1 is revised to read as follows:

§ 301.6331-1 Levy and distraint.

(a) *Authority to levy.*—(1) *In general.* If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the district director to whom the assessment is charged (or, upon his request, any other district director) may proceed to collect the tax by levy. The district director may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The district director may also levy upon property with respect to which there is a lien provided by section 6321 or 6324 for the payment of the tax. For exemption of certain property from levy, see section 6334 and the regulations thereunder. As used in section 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with costs and expenses. Property subject to a Federal tax lien which has been sold or otherwise transferred by the taxpayer may be seized while in the hands of the transferee or any subsequent transferee. However, see provisions under sections 6323 and 6324 (a)(2) and (b) for protection of certain transferees against a Federal tax lien. Levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy, including receivables, bank accounts, evidences of debt, securities, and salaries, wages, commissions, or other compensation. Except as provided in § 301.6331-2(c) with regard to a levy on salary or wages, a levy extends only to property possessed and obligations which exist at the time of the levy. Obligations exist when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date. For example, if on the first day of the month a delinquent taxpayer sold personal property subject to an agreement that the buyer remit the purchase price on the last day of the month, a levy made on the buyer on the 10th day of the month would reach the amount due on the sale, although the buyer need not satisfy the levy by paying over the amount to the district director until the last day of the month. Similarly, a levy only reaches property in the possession of the person levied upon at the time and levy is made. For example, a levy made on a bank with respect to the account of a delinquent taxpayer is satisfied if the bank surrenders the amount of the taxpayer's balance at the time the levy is made. The levy has no effect upon any subsequent deposit made in the bank by the taxpayer. Subsequent deposits may be reached only by a subsequent levy on the bank.

§ 301.6331-1 [Amended]

PAR. 3. Paragraph (a)(4) (i), (ii), and (iii) of § 301.6331-1 is amended by striking out "accrued" each place is appears therein.

PAR. 4. Paragraph (c) of § 301.6331-1 is deleted.

PAR. 5. A new § 301.6331-2 is added immediately after § 301.6331-1:

§ 301.6331-2 Levy and distraint on salary and wages.

(a) *Notice of intent to levy.* Levy may be made upon the salary or wages of a taxpayer for any unpaid tax only after the district director or the director of the service center has notified the taxpayer in writing of the intent to levy. The notice must be given in person, left at the dwelling or usual place of business of the taxpayer, or be sent by mail to the taxpayer's last known address, no less than 10 days before the day of levy. The notice of intent to levy is in addition to, and may be given at the same time as, the notice and demand described in § 301.6331-1.

(b) *Jeopardy.* Paragraph (a) of this section does not apply to a levy if the district director or director of the service center has made a finding under § 301.6331-1(a)(2) that the collection of tax is in jeopardy.

(c) *Continuing effect of levy.* A levy on salary or wages is continuous from the time of the levy until the liability out of which the levy arose is satisfied or becomes unenforceable by reason of lapse of time. For this purpose, the term "salary or wages" includes compensation for services paid in the form of fees, commissions, bonuses, and similar items. The levy attaches to both salary or wages earned but not yet paid at the time of the levy, and salary or wages earned and becoming payable (or paid in the form of an advance) subsequent to the date of the levy, until the levy is released pursuant to paragraph (d) of this section. In general, salaries or wages that are the subject of a continuing levy, if not exempt from levy under section 6334(a) (8) or (9), become payable to the district director as the payor would otherwise be obligated to pay over the money to the taxpayer. For example, if the wage earner is paid on the Wednesday following the close of each workweek, a levy made upon his employer on any Monday would reach both his wages due for the prior workweek and his wages for succeeding workweeks as such wages become payable. In such a case the levy would be satisfied if the employer, on the first Wednesday after the levy and on each Wednesday thereafter, pays over to the district director wages which would otherwise be paid to the employee on such Wednesday, until the employer receives a notice of release from levy described in paragraph (d) of this section. See, however, § 301.6334-5(d) for rules which permit a delayed payment to the district director in certain cases where amounts payable to the taxpayer are exempt from levy under section 6334(a)(9) and (d).

(d) *Release and notice of release from levy.* The district director will promptly release a continuing levy on salary or wages when the liability out of which the levy arose is satisfied or becomes unenforceable by reason of lapse of time. The district director will also promptly notify the person upon whom the levy was made that it has been released.

(e) *Effective dates.* Paragraphs (a) and (b) of this section apply to levies made after March 31, 1972. Paragraphs (c) and (d) of this section apply to levies made after February 28, 1977.

§ 301.6332 [Deleted]

PAR. 6. Section 301.6332 is deleted.

PAR. 7. Paragraph (b)(1) of § 301.6332-1 is amended to read as follows:

301.6332-1 Surrender of property subject to levy.

* * * * *

(b) *Enforcement of levy—(1) Extent of personal liability.* Any person who, upon demand of the district director, fails or refuses to surrender any property or right to property subject to levy is liable in his own person and estate in a sum equal to the value of the property or rights not so surrendered, together with costs and interest. The liability, however, may not exceed the amount of the taxes for the collection of which the levy was made. Interest is to be computed at the annual rate referred to in regulations under section 6621 from the date of the levy, or, in the case of continuing levy on salary or wages (see section 6331(d)(3)), from the date the person would otherwise have been obligated to pay over the wages or salary to the taxpayer. Any amount recovered, other than cost, will be credited against the tax liability for the collection of which the levy was made.

§ 301.6333 [Deleted]

PAR. 8. Section 301.6333 is deleted.

§ 301.6334 [Deleted]

PAR. 9. Section 301.6334 is deleted.

PAR. 10 Paragraph (a) of § 301.6334-1 is amended by revising the subparagraph heading for subparagraph heading for subparagraph (8) and by adding a new subparagraph (9). These amended and added provisions read as follows:

§ 301.6334-1 Property exempt from levy.

(a) *Enumeration.* There shall be exempt from levy—

* * * * *

(8) *Judgments for support of minor children.* * * *

(9) *Minimum exemption for wages, salary, and other income.* Amounts payable to or received by the taxpayer as wages or salary for personal services, or as other income, to the extent provided in § 301.6334-2 through § 301.6334-6.

PAR. 11. The following new sections are added immediately after § 301.6334-1:

§ 301.6334-2 Wages, salary, and other income.

(a) *In general.* Under section 6334 (a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b)) and how exempt amounts are to be paid to the taxpayer (paragraph (c)). Section 301.6334-3 describes the sum which will be exempt from levy for each of the taxpayer's payroll periods. Payroll periods are described in § 301.6334-4. Amounts exempt from levy are determined in part by the number of persons claimed by the taxpayer as dependents. Section 301.6334-5 defines the term "dependent" for purposes of determining amounts exempt from levy, and describes the manner in which the taxpayer is to claim any dependent exemptions.

(b) *Eligible taxpayer income.* Only wages, salary or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under section 6334(a)(9). No amount of wages, salary or other income which is paid to the taxpayer before levy is made on the payor will be so exempt from levy. The provisions of this subparagraph may be illustrated by the following example:

Example. Delinquent taxpayer A, an individual, is employed by the M Corp. and is paid wages on the 1st and 15 day of each month. Accordingly, A is paid wages on Monday, August 15, 1977. On Wednesday, August 17, A deposits these wages in his personal checking account at Bank X. On Friday, August 19, levy is made on the M Corp. and also on Bank X. Amounts payable to A as wages on September 1, 1977, and any payday thereafter may be exempt from levy under section 6334(a)(9). No amount of the wages A deposited in his account at Bank X on August 17, 1977, are exempt from levy under section 6334(a)(9).

(c) *Payment of exempt amounts to taxpayer.—(1) From wages, salary or other income not subject to levy.* In the case of a taxpayer who has more than one source of wages, salary or other income, the district director may elect to levy on only one or more such sources while leaving other sources of income free from levy. If these wages, salary or other income which the district director leaves free from levy equal or exceed the amount to which the taxpayer is entitled as an exemption from levy under 6334 (a)(9) and (d) § 301.6334-3 (and are not otherwise exempt), then no amount of the taxpayer's wages, salary or other income on which the district director elects to levy is exempt from levy. The provisions of this subparagraph may be illustrated by the following example:

Example. Delinquent taxpayer C is a full-time employee of the X corporation and is paid wages totaling $450 on the 1st and 15th day of each month (semimonthly). C also performs services for the Y corporation and is paid a salary of $290 each month. C has one dependent as defined in § 301.6334-5. Levy is served on the X corporation with respect to wages payable to C. Levy is not served on the Y corporation. Under § 301.6334-3(d), C is entitled to an exemption from levy totaling $140.83 for each semimonthly pay period (or $281.66 per month). However, because levy has not been

made on C's salary paid by the Y corporation ($290 per month) and that salary exceeds the amount to which C is entitled monthly as an exemption ($281.66), no amount of C's wages paid by the X corporation is exempt from levy.

(2) *From wages, salary, or other income subject to levy.* If the taxpayer's income upon which the district director does not levy is less than that amount to which the taxpayer is entitled as an exemption, then an amount determined pursuant to § 301.6334-3 is to be paid to the taxpayer from those wages, salary or other income which are subject to levy. The district director will designate those wages, salary or other income subject to levy from which such amount will be paid to the taxpayer. The district director will generally make this designation by delivering to the employer or other person levied upon the form upon which the taxpayer is to claim any dependent exemption. The form will accompany the notice of levy. The person receiving the form from the district director must promptly deliver it to the taxpayer. In the case of some employers having a large number of employees, however, the district director will send the form upon which an employee is to claim any dependent exemption directly to the employee. In such a case, the notice of levy will indicate that the form for claiming dependent exemptions has been sent to the taxpayer. If a notice of levy is not accompanied by the form for claiming dependent exemptions and does not indicate that the form was sent directly to the taxpayer, then the person levied upon must make payment to the district director without regard to amounts prescribed by § 301.6334-3 as exempt from levy. If a notice of levy is accompanied by the form for claiming dependent exemptions or indicates that the form was sent directly to the taxpayer, then the person levied upin is to pay over to the taxpayer amounts determined to be exempt from levy pursuant to § 301.6334-3 and § 301.6334-5 (b) and (c) (relating to the requirement that the taxpayer submit a claim for any dependent exemption). Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy.

§ 301.6334-3 Determination of exempt amount.

Amounts payable to the taxpayer as wages, salary, or other income for each payroll period described in § 301.6334-4 are exempt from levy as follows:

(a) If the payroll period is daily: $10, plus $3 for each person who is claimed as a dependent pursuant to § 301.6334-5.

(b) If the payroll period is weekly: $50, plus $15 for each person who is claimed as a dependent pursuant to § 301.6334-5.

(c) If the payroll period is biweekly: $100, plus $30 for each person who is claimed as a dependent pursuant to § 301.6334-5.

(d) If the payroll period is semimonthly: $108.33 plus $32.50 for each person who is claimed as a dependent pursuant to § 301.6334-5.

(e) If the payroll period is monthly: $216.67, plus $65 for each person who is claimed as a dependent pursuant to § 301.6334-5.

(f) If the payroll period is not daily, weekly, biweekly, semimonthly, or monthly: A proportionate amount based upon the sum of an annual exemption of $2,600 plus $780 for each person who is claimed as a dependent pursuant to § 301.6334-5.

§ 301.6334-4 Determination of payroll period.

For purposes of determining the amount of wages, salary or other income exempt from levy under section 6334(a)(9)—

(a) *Regularly used calendar periods.* In the case of wages, salary or other income paid to the taxpayer on the basis of an established calendar period regularly used by the employer or other person levied upon for payroll or payment purposes (e.g., daily, weekly, biweekly, semimonthly, or monthly), that period is the taxpayer's payroll period.

(b) *Amounts paid on recurrent but irregular basis.* In the case of wages, salary, or other income paid to the taxpayer on a recurrent but irregular basis, the first day of the taxpayer's payroll period is that day following the day upon which the wages, salary, or other income were last paid to the taxpayer. The last day of the payroll period is that day upon which the current payment becomes payable to him. However, in any case in which: (1) Amounts are paid to the taxpayer on a recurrent but irregular basis, and (2) the last payment was paid to the taxpayer more than 60 days before the current payment becomes payable, the current payment will be deemed a one-time payment (see paragraph (c)).

(c) *Nonrecurrent payments.* In the case of wages, salary or other income paid to the taxpayer on a one-time basis, the taxpayer's payroll period is deemed to be weekly (i.e., the 1-week period ending on the day of payment).

§ 301.6334-5 Dependent exemption.

(a) *Dependent defined.* For purposes of §§ 301.6334-2 through 301.6334-4, a person is a dependent of the taxpayer for any payroll period of the taxpayer, if—

(1) Over half of that person's support for the payroll period was received from the taxpayer, and

(2) The person is the taxpayer's spouse, or bears a relationship to the taxpayer specified in section 152(a) (1) through (9) (relating to definition of dependent) on the last day of the payroll period, and

(3) The person is not the taxpayer's minor child with respect to whom amounts are exempt from levy under section 6334(a)(8) (relating to exemption from levy for judgements for support of minor children) at any time during the payroll period.

For purposes of subparagraph (2) of this paragraph "payroll period" should be substituted for "taxable year" each place it appears in section 152(a) (9).

(b) *Claim for dependent exemption.* No amount prescribed as being exempt from levy for each person who is claimed as a dependent will be so exempt unless a claim for dependent exemption is submitted to the employer or other person levied upon. A claim for dependent exemption shall be made by either—

(1) Completion of the form provided for this purpose by the Internal Revenue Service, or

(2) A written statement that: (i) Identifies by name and by relationship to the taxpayer each person for whom a dependent exemption is claimed, (ii) is signed by the taxpayer, and (iii) contains a declaration that it is made under the penalties of perjury.

(c) *Submission of claim for dependent exemption.* The taxpayer must submit the claim for dependent exemption to the employer or other person levied upon no later than the latter of—

(1) The third day before the last day of the payroll period for which the exemption is claimed (that is, the third day before payday), or

(2) If the district director delivers the forms for claiming a dependent exemption to the employer or other person levied upon (see § 301.6334-2(c)(2)), the second day after the date the taxpayer receives the form.

For purposes of subparagraphs (1) and (2) of this paragraph, the term "day" does not include Saturdays, Sundays or a legal holiday within the meaning of section 7503. Failure on the part of the taxpayer to submit a timely claim for dependent exemption will result in the loss of the dependent exemption for the applicable pay period, except that the employer or other person levied upon may accept a claim for dependent exemption not timely submitted in accordance with this paragraph, and may prepare a disbursement to the taxpayer based upon a dependent exemption claimed therein, if payment to the district director in accordance with the levy is not thereby delayed.

(d) *Payment of amounts not exempt from levy to district director.*—(1) *Delayed payment in certain cases.* In general, wages, salary, or other income the subject of a levy are payable to the district director on the date the payor is otherwise obligated to pay the taxpayer (see § 301.6331-2(c)). If, however, as described in paragraph (c)(2) of this section, the taxpayer may submit a claim for dependent exemption after the third day before payday, amounts payable to the taxpayer on that payday, to the extent not exempt from levy, are payable to the district director on the third day following the date on which the taxpayer may timely submit the claim for dependent exemption under such paragraph (c)(2). For purposes of this rule, the term "day" does not include Saturday, Sunday or a legal holiday within the meaning of section 7503.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

The taxpayer is paid wages on the Wednesday following the close of each work week. Levy is made on his employer on Monday. The form for claiming a dependent exemption, which accompanied the notice of levy (see § 301.6334-2(c)), is delivered to the taxpayer by the employer on the following day, Tuesday. Under paragraph (c)(2) of this section, the taxpayer may timely submit a claim for dependent exemption as late as Thursday, the day after the first payday to which the levy applies. Under this paragraph, wages payable to the taxpayer on that first Wednesday payday, to the extent not exempt from levy, are payable to the district director on the following Tuesday. Thereafter, wages payable to the employee on each Wednesday, to the extent not exempt from levy, are payable to the district director on such Wednesday (see § 301.6331-2(c)).

§ 301.6334-6 Effective dates.

Sections 301.6334-2 through 301.6334-5 apply with respect to levies on wages, salary, and other income made after February 28, 1977.

§ 301.6334-7 Supersession of temporary regulations.

Sections 301.6334-2 through 301.6334-5 supersede § 404.6334(d)-1 of the temporary regulations on procedure and administration under the Tax Reform Act of 1976.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-23826 Filed 8-23-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Chapter IV]

MEDICARE PROGRAM

End-Stage Renal Disease Program

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

ACTION: Notice of decision to develop regulations.

SUMMARY: These regulations will implement the End-Stage Renal Disease (ESRD) Amendments of 1978 (Pub. L. 95-292, enacted June 13, 1978). They are designed to encourage the use of lower cost methods of treating kidney disease, when doing so is medically feasible.

FOR FURTHER INFORMATION CONTACT:

GENERAL COORDINATOR

Eugene J. Rubel, Office of the Administrator, Health Care Financing Administration, Room 5112, Switzer Building, Washington, D.C. 20201, 202-245-1724.

ENTITLEMENT

John B. Russell, Medicare Bureau, Health Care Financing Administration, Room I-H-5, East High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21335, 301-594-8260.

CERTIFICATION

Janet Harryman, Health Standards and Quality Bureau, Health Care Financing Administration, Room 301, East High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9712.

COVERAGE

Mary Louise McIntyre, Medicare Bureau, Health Care Financing Administration, Room 1-D-5, East Low Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9465.

ESRD NETWORK ORGANIZATION

C. J. Denion, Medicare Bureau, Health Care Financing Administration, Room 1-O-3, East Low Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9029.

REIMBURSEMENT

Hugh McConville, Medicare Bureau, Health Care Financing Administration, Room 412,, East High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9430.

SUPPLEMENTARY INFORMATION: The regulations will extend medicare entitlement based on ESRD to the relatively few patients who were previously ineligible because they were 65 years of age or older, permit entitlement to begin earlier for patients who receive renal transplants or training in self-dialysis, and lengthen the duration of medicare payments following a renal transplant.

They will also establish requirements for the certification of self-dialysis facilities and for medicare reimbursement of services related to self-dialysis, a method in which the patient performs most of the activities of the dialysis process in special facilities or at home.

With respect to medicare payment, the regulation will:

1. Provide an incentive reimbursement method for outpatient renal dialysis services furnished by proprietary and nonprofit facilities;

2. Establish an optional target rate reimbursement method for providers and facilities who agree to this payment method for home dialysis supplies and equipment, and home self-dialysis support services furnished to medicare patients;

3. Provide for reimbursing under an agreement, the full reasonable cost of furnishing and maintaining home dialysis equipment, without regard to deductible and coinsurance amount that are usually required from medicare beneficiaries;

4. Provide for reimbursement of home self-dialysis supplies and services;

5. Stipulate reasonable cost reimbursement as the method of paying for services furnished by an organ procurement agency or histocompatibility laboratory in obtaining the matching kidneys for transplantaton; and

6. Set out a method for paying donor expenses incurred in connection with donating kidneys, without deductible and coinsurance requirements.

With respect to ESRD networks, the regulations will require at least one patient representative on each coordinating council and executive committee, and require disclosure of information when members (or their relatives) own or have a controlling interest in a renal dialysis facility, or have received compensation in excess of what could be considered reasonable for any services or goods they have supplied to the facility.

The intent is to encourage more extensive use of lower cost treatment methods, reduce medicare expenditures, make ESRD services available to more patients, give patients a voice in decisions about patient care practices, and deal with potential conflict of interest of members in ESRD network organizations.

Since many of the provisions of the new law are effective on October 1, 1978, we will be publishing several of the required regulations in final form with opportunity to comment. All comments will be considered and changes made to the regulations if appropriate. Regulations covering the following provisions fall in this category:

1. Entitlement.
2. Coverage and certification of self-care dialysis facilities.
3. Reasonable cost reimbursement for self-dialysis equipment.
4. Coverage and reimbursement for home dialysis supplies and services.
5. Reimbursement for histocompatibility laboratories and organ procurement agencies.
6. Reimbursement for kidney donor expenses.

Drafts of all ESRD regulations will be made available when they are completed, and comments will be considered before publication within the timeframes available.

Dated: August 15, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-23849 Filed 8-23-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-249; RM-3120]

FM BROADCAST STATION IN RIPLEY, W. VA.

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ripley, W. Va., as that community's first FM assignment. Petitioner, Calvin E. Dailey, Jr., states the proposed channel could provide a first local aural broadcast service to Ripley.

DATES: Comments must be filed on or before October 3, 1978, and reply comments must be filed on or before October 22, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1978.

Released: August 15, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ripley, W. Va.), BC Docket No. 78-249, RM-3120.

1. *Petitioner, Proposal, Comments.* (a) Petition for rulemaking,[1] filed April 21, 1978, by Calvin E. Dailey, Jr. ("petitioner"), proposing the assignment of Channel 252A to Ripley, W. Va., as a first FM assignment to that community. No responses to the proposal were received.

(b) The channel can be assigned to Ripley, West Virginia, in conformity with the minimum distance separation requirements if the transmitter site is located 6.4 kilometers (4 miles) southeast of the community.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community data*—(a) *Location.* Ripley, seat of Jackson County, is located in the west central part of West Virginia, approximately 48 kilometers (30 miles) south of Parkersburg, W. Va.

(b) *Population.* Ripley 3,244; Jackson County—20,903.[2]

(c) *Local broadcast service.* There is no local broadcast service in Ripley, but the community is served by a weekly newspaper.

3. *Economic data.* Petitioner states that manufacturing is the predominant industry in the Ripley area, employing half the working force in Jackson County. We are told that some of the employers are Kaiser Aluminum and Chemical Corp., Martini Sportswear, Star Printing Co. and Cloverleaf Construction. Petitioner asserts that the most recent figures compiled by the Ripley Chamber of Commerce indicate that Ripley's population has increased 8 percent since 1970, and that this trend can be expected to continue. In support of his petition, petitioner also has submitted information with respect to the form of government, education, medical and recreational facilities and civic organizations.

4. Since Ripley is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 252A to Ripley, W. Va., requires coordination with the Canadian Government before it can be adopted.

5. In view of the fact that the proposed FM station could provide the community with a first local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Ripley, W. Va., as follows:

City, and Channel No
Ripley, W. Va. present—proposed 252A.

[1] Public Notice of the petition was given on June 7, 1978, Report No. 1125.

[2] Population figures are taken from the 1970 U.S. Census.

6. Authority to institute rulemaking procedures; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated below.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 3, 1978, and reply comments on or before October 22, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-23781 Filed 8-23-78; 8:45 am]

[6712-01]

[47 CFR-PART 73]

[BC Docket No. 78-256; RM-3081]

FM BROADCAST STATION IN DECATUR, ILLINOIS

Proposed changes in Table of Assignments

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign a Class A FM channel to Decatur, Ill. Petitioner, Decatur Christian Radio, states the assignment could provide for a station which would respond to the needs of the community.

DATES: Comments must be filed on or before October 9, 1978. Reply comments must be filed on or before October 30, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 9, 1978.

Released: August 16, 1978.

In the matter of amendment of § 72.202(b), Table of Assignments, FM Broadcast Stations. (Decatur, Ill.)

1. *Petitioner, Proposal, Comments.* (a) Petition for rulemaking [1], filed March 3, 1978, by Decatur Christian Radio, proposing the assignment of Channel 252A to Decatur, Ill., as its third FM assignment.

(b) The channel may be assigned in conformity with the minimum distance separation requirements, provided the transmitter site is located at least 5 kilometers (3 miles) east of the community.

2. *Community Data.*—(a) *Location.* Decatur, seat of Macon county, is located approximately 250 kilometers (155 miles) southwest of Chicago and 70 kilometers (37 miles) east of Springfield, Ill.

(b) *Population.* Decatur—87,000; Macon County—125,010.[2]

(c) *Present Local Aural Services.* Decatur presently receives local service from full-time AM Station WSOY, daytime-only AM Station WDZ, and Class B FM Stations WDZQ (Channel 236) and WSOY-FM (Channel 275).

3. *Economic Considerations.* Petitioner asserts that the population of Decatur has increased 15.4 percent between 1960 and 1970 and adds that Decatur ranks fifth in population among the cities of Illinois. It states that there is a strong religious element in the community which presently has no access to any significant amount of religious programming. Activation of a new channel, it says, could serve this and other needs of the community. Petitioner has submitted detailed information with respect to population, housing, education, employment, and retail sales in order to demonstrate a need for an additional FM assignment in Decatur.

4. *Preclusion Studies.* A preclusion study shows that the proposed assignment would cause preclusion only on the co-channel in a small area northeast of Decatur. There are four communities (all in Illinois) of greater than 1,000 population in this area: Farmer City (pop. 2,217), Maroa (pop. 1,467), Orana (pop. 1,092) and Argenia (1,034). None of these has an FM assignment or an AM station. Petitioner should indicate whether alternate FM channels are available for assignment to these communities. Since two Class B stations are already in operation in Decatur, it can be presumed that the proposed Class A station would provide no first or second FM or nighttime aural service.

5. *Additional Considerations.* The proposed assignment would result in intermixing a Class A channel with Class B channels. The Commission has a policy against intermixture of classes of FM channels, but an exception can be made when a Class B channel is unavailable and a petitioner is willing to apply for the Class A channel in spite of the intermixture. *Yakima, Washington,* 45 F.C.C. 2d 548, 550 (1973); *Key West, Florida,* 45 F.C.C. 2d 142, 145 (1974). Since petitioner is willing to apply for and operate on Channel 252A at Decatur, Illinois, this assignment could be made.

6. In light of the above information and the fact that the proposed channel assignment would provide the community with an opportunity to develop a third local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Decatur, Illinois, as follows:

City and Channel No

Decatur, Ill., Present 236, 275, Proposed 236, 252A, 275.

7. The Commission's authority to institute rule making proceeding; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 9, 1978, and reply comments on or before October 30, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on

[1] Public Notice of the petition was given on April 4, 1978, Report No. 1112.

[2] Population figures are taken from the 1970 U.S. Census.

the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-23776 Filed 8-23-78; 8:45 am]

[6712-01]

[47 CFR PART 73]

[BC Docket No. 78-257; RM-3079; RM-3122]

FM BROADCAST STATIONS IN LAKE PLACID, SARANAC LAKE, AND TUPPER LAKE, N.Y.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of class A FM channels to Tupper Lake and Lake Placid, N.Y., as first FM assignments to those communities. It also substitutes a class A channel for another class A channel at Saranac Lake, N.Y. The proposed stations would provide for first full-time local broadcast service at Tupper Lake and Lake Placid.

DATES: Comments must be filed on or before October 9, 1978. Reply comments must be filed on or before October 30, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 9, 1978.

Released: August 16, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM broadcast stations. Tupper Lake and Saranac Lake, N.Y., BC Docket No. 78-257, RM-3079, RM-3122.

1. The Commission herein considers a petition for rulemaking [1] filed by DeHart Broadcasting Corp. ("DeHart"), licensee of AM and FM stations elsewhere in New York, proposing the deletion of FM channel 237A from Saranac Lake, N.Y., and its assignment to Tupper Lake, N.Y. An application (BPH-11092) is pending for the use of channel 237A at Lake Placid, N.Y., under the provisions of section 73.203(b), the "10-mile rule."

2. An opposition was filed by WIRD, Inc. ("WIRD"), licensee of AM station WIRD, Lake Placid, N.Y., and applicant for channel 237A at Lake Placid.[2] WIRD, among other things, proposes the assignment of channel 269A rather than channel 237A to Tupper Lake.

3. Although the assignment of channel 269A could be made to Tupper Lake without affecting any existing FM assignments and in conformity with the minimum distance separation requirements, it is noted that it can also be used at Saranac Lake. It is further noted that channel 272A can be utilized at Tupper Lake, but not at Saranac Lake. Thus, it appears that the public interest would be served if channel 272A were to be proposed for Tupper Lake, and channel 269A is substituted for channel 237A at Saranac Lake. Then channel 237A could be assigned to Lake Placid where interest has been shown by an application filed therefor.

4. Tupper Lake (pop. 4,854) in Franklin County (pop. 43,931),[3] is located approximately 88 kilometers (55 miles) south of the Canadian border and 105 kilometers (65 miles) west-southwest of Burlington, Vt. It has no local aural broadcast service.

5. Petitioner states that Tupper Lake has a yearly population of 7,515, and a summer population of over 12,000. Petitioner asserts that the community receives little or no service from any broadcast station and is presently served only by a weekly newspaper. It asserts that the residents of Tupper Lake, want to be informed of daily happenings and news in their area as well as regional, state, national and world news. Petitioner has submitted numerous letters from local citizens supporting the need and interest for an FM assignment.

6. Since the three communities are located within 420 kilometers (250 miles) of the United States-Canadian border, the proposed assignments require coordination with the Canadian Government before they can be adopted.

7. In view of the apparent need for a first full-time local aural broadcast service in Tupper Lake, and Lake Placid, the commission proposes to amend the FM table of assignments (§ 73.202(b) of the Rules) as follows:

City	Channel No.	
	Present	Proposed
Lake Placid, N.Y.	—	237A
Saranac Lake, N.Y	237A	269A
Tupper Lake, N.Y.	—	272A

8. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated below.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before October 9, 1978, and reply comments on or before October 30, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and

[1] Public notice of the petition was given on March 29, 1978, report No. 1111.

[2] Public notice of the counterproposal was given on June 7, 1978, report No. 1125.

[3] Population figures are taken from the 1970 U.S. Census.

reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-23777 Filed 8-23-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-251; RM-2712; FCC 78-602]

AIRING OF PUBLIC SERVICE ANNOUNCEMENTS BY BROADCAST LICENSEES

Instituting a Notice of Inquiry and Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order and notice of proposed rulemaking.

SUMMARY: This action proposes to change the requirements contained in the Primer on Ascertainment of Community Problems by Broadcast Renewal Applicants to indicate that broadcasters are required to consult with any group which is significant in their communities even if the group is not already included in the 19 elements on the Commodity Leader Checklist. This action, which would have the effect of requiring that all significant community groups be contacted by broadcasters, results from a petition filed by the National Gay Task Force.

DATES: Comments must be received on or before October 23, 1978, and reply comments on or before November 22, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In this same proceeding, the FCC denied a more narrowly drawn petition, filed by the National STOP E.R.A. Committee and the Eagle Forum, requesting that the Primer on Ascertainment of Community Problems by Broadcast Renewal Applicants be amended by the addition to the Community Leader Checklist of activist women's organizations whose views differ from feminist women's liberationist groups.

Memorandum Opinion and Order and Notice of Inquiry

Adopted: August 8, 1978.

Released: August 24, 1978.

By the Commission: Commissioner Washburn absent; Commissioner White concurring in the result.

In the matter of petition to institute a notice of inquiry and proposed rulemaking on the airing of public service announcements by broadcast licensees, BC docket No. 78-251, RM-2712.

1. The Commission has before it a petition for reconsideration filed by the Public Media Center et al. Petitioners seek reconsideration of the Commission's action, adopted October 11, 1977, by memorandum opinion and order (FCC 77-685), denying a petition to institute a notice of inquiry and proposed rulemaking on the airing of public service announcements ("PSA's") [1] by broadcast licensees.[2] Oppositions have been filed by Cosmos Broadcasting Corp. et al., Connecticut Television, Inc., et al., American Broadcasting Co., Inc., Radio Stations KNFM and KNAM, and the Advertising Council, Inc.[3] The Public Media Center filed both a reply and a motion to waive page limitation of reply to oppositions.[4]

BACKGROUND

2. The memorandum opinion and order denied petitioners' request that we adopt rules imposing specific obligations on television and radio broadcasters as to the number, duration, content and source of PSA's which they should present. Petitioners argued that the adoption of such rules would result in allocating more time (especially during more desirable time periods) for the airing of PSA's and in giving local citizens groups and public service organizations a greater proportion of PSA time than they presently receive. Petitioners expressed the view that broadcasters have not been meeting their public service obligation in this regard and contended that PSA's are often given inadequate exposure, usually in the least favorable hours. Moreover, they contended, local charities and citizens groups obtain little access to PSA time which, they argued, is largely monopolized by well-established charities and other entities by virtue of their connection with the Advertising Council.

3. Petitioners proposed to require that broadcasters present a minimum of three PSA's totaling a minimum of 90 seconds, every 2 hours throughout the broadcast day.[5] Petitioners also would impose a limitation on the number of these PSA's which a licensee or network could accept from a single entity and require that a certain percentage of PSA's be of local origin. It would also call for making station facilities and technical assistance available to local organizations for production of PSA's responsive to ascertained needs. Petitioners also recommended amending the application forms to enable the reporting of a broadcaster's efforts in these respects. Finally, petitioners suggested that the Commission initiate a wide-ranging study into current licensee and network practices with regard to the production and airing of PSA's. Opposing arguments were presented to the effect that the presentation of PSA's falls within an area of licensee programing discretion which the Commission should not disturb through adoption of the proposal. Moreover, these parties asserted that petitioners had not presented the necessary factual basis for taking the action requested.

4. After considering the arguments in favor and in opposition to the proposal, the Commission concluded in

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[1] A public service announcement is defined as follows: An announcement for which no charge is made and which promotes programs, activities, or services of Federal, State or local governments (e.g., recruiting, sales of bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g., UGF, Red Cross Blood Donations, etc.) and other announcements regarded as serving community interests excluding time signals, routine weather announcements, and promotional announcements. Sections 73.112, n. 4 (AM), 73.282, n. 4 (FM), 73.582, n. 3 (educational FM) and 73.670, n. 4 (TV) of the Commission's rules.

[2] Also before the Commission is a motion filed by petitioners on November 23, 1977, seeking to consolidate this matter with the U.S. Court of Appeals remand in *National Citizens Committee for Broadcasting et al.* v. *F.C.C.* (*"NCCB"*), Civil No. 74-1700 (D.C. Cir., Nov. 11, 1977). Since the issues involved in the *NCCB* case which concern the Fairness Doctrine and those involved here are not the same, they can be more appropriately and expeditiously handled in separate proceedings.

[3] The opposition pleadings submitted by the Advertising Council and stations KNFM and KNAM were filed a few weeks late. Since petitioners do not appear to have been inconvenienced, did not object to the receipt of these comments, and it is in the public interest to consider them, they will be accepted.

[4] The motion to waive the provisions of § 1.429(g), which limit the number of pages of reply pleadings, was not timely filed as prescribed by § 1.48(b) of the Commission's rules. We think that rejection of this request would be unwise, however, since consideration of the reply is of great importance especially in view of the complexity of the issues raised in this proceeding. Therefore, to permit consideration of the pleading, we are waiving the rule in question.

[5] Petitioners contend that such a rule would not only increase the time given to PSA's but would encourage broadcasters in meeting this requirement to fulfill another of petitioners' goals, viz. utilizing new and diverse sources for these announcements.

the memorandum opinion and order that adoption of the proposal would be an inappropriate intrusion into the sensitive area of programing. Because of this concern the Commission has regularly followed a practice of according the licensee broad discretion in programing matters, including the scheduling and selection of PSA's. We noted that decisions as to the quantity, nature, source and scheduling of PSA's aired depend on the community to be served and each licensee's individual situation. We found that petitioners had not substantiated their allegations that inadequate PSA time was being provided or that it was being scheduled improperly, that is customarily during times of little audience viewing. Regarding the allegation of Advertising Council dominance, all that could be said from the information given us on the Advertising Council's role in regard to PSA time was that Council endorsement might facilitate the airing of PSA's. No basis was given for concluding that without such support, PSA's would be denied access to the broadcast medium.

5. Nonetheless, the Commission did agree with petitioners that PSA's can offer an important public service, and we concluded the memorandum opinion and order with a statement stressing the Commission's expectation that licensees would make a good faith effort to tailor and schedule PSA's so as to enhance their effectiveness and to provide a meaningful, local, public service. Thus, we noted, the predominant scheduling of PSA's in "graveyard" hours or perfunctory treatment of such announcements could not be considered the type of reasonable effort expected by the Commission. Further, we indicated an expectation that a significant proportion of PSA's on television should be aired during prime time and on radio during drive time.

PETITION FOR RECONSIDERATION AND RELATED PLEADINGS

6. In the petition for reconsideration, the Public Media Center, et al. again seeks to demonstrate that problems exist in the current PSA practices of many broadcasters. They acknowledge that their proposals are neither the only solution to the alleged problems nor, for that matter, even necessarily the best solution to those problems. Rather, what is emphasized by petitioners is the need for an inquiry before the full dimensions of the problems can be ascertained and appropriate responses formulated. Petitioners argue that the Commission's exhortation in the memorandum opinion and order as to the broadcaster's PSA obligation is too vague to provide a meaningful guide to improved broadcaster performance. Such vagueness, it is submitted, is unfair to both the general public, which is the beneficiary of the PSA requirement and to the licensee, which is expected to fulfill this obligation. Petitioners further contend that the Commission's decision not to adopt quantitative standards to measure broadcaster performance in the area of PSA's is inconsistent with its approach to broadcaster public service obligations in other areas.

7. Petitioners also assert that it is difficult to gather statistical data on PSA practices because, among other reasons, the renewal application forms request a minimum of information and correct logging procedures for PSA's frequently are not followed. While petitioners argue that more complete and accurate[6] information about current PSA practices can only be acquired as a result of a notice of inquiry, petitioners do present data on the PSA practices of certain local broadcasters and of the Advertising Council which was not previously submitted in their petition. This information, in most part, was obtained from composite week logs provided in license renewal applications submitted to the Commission after the petition for rulemaking was filed and from a government report first available after the initial petition was filed.

8. Petitioners argue that the PSA data[7] for the April 1, 1977, television renewal group[8] attached to the memorandum opinion and order further substantiates their allegations that too few PSA's are aired[9] and that too few PSA's serve local needs. For instance, petitioners note that, of the 53 stations listed, 32 have not met petitioner's proposed minimal standards for PSA service during their composite weeks (three PSA's totaling a minimum of 90 seconds every 2 hours throughout the broadcast day) and 21 aired less than 25 percent local PSA's during the composite week. In addition, petitioners examined composite week logs for 20 selected Oregon and Washington stations and found 13 aired fewer than one PSA per prime time hour. Also, to substantiate their allegation that the Advertising Council commands an unhealthy monopoly over PSA time,[10] petitioners cite a General Accounting Office ("GAO") report on the Federal Energy Administration's contract with the Advertising Council[11] which concluded that the Council "* * * has the unique capability to encourage national and local media to contribute public service time on television and radio. * * *"[12] Petitioners also note a Department of Transportation procurement request stating that the Council is the only instrument for designing, developing and implementing national public service campaigns accepted by the advertising industry and the information media.[13]

9. Petitioners conclude their reconsideration request by arguing that there is no constitutional impediment to a Commission inquiry and rulemaking in the area of PSA's. As they view it, the proposed PSA requirement involves only an affirmative obligation of licensees which, rather than operating to bar any speech from the airwaves, would serve to increase the number of voices aired by the media. Finally, petitioners submit that the Commission should have taken action on the PSA petition at an open meeting pursuant to the Sunshine Act rather than taking action by circulation.

10. The opposition parties argue that the petition for reconsideration does not meet the requirements of § 1.429(b) of the Commission's rules because the documentation submitted for reconsideration is essentially repetitive of material previously submitted and, to the extent that the data provides new interpretations of pre-existing facts, petitioners have failed to justify the tardiness of their submission. Consequently, the opponents contend the petition should be dismissed.

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[6] Petitioners also contend that clarification is needed as to what constitutes a valid PSA and what are proper PSA logging procedures.

[7] This PSA data is an overall statistical compilation made by the Commission's staff. It was designed for informational purposes and was attached to the memorandum opinion and order for that reason. This attachment was not intended to convey any judgments about the practices involved.

[8] The renewal group includes the licensees of stations in Colorado, North Dakota, South Dakota, Montana and Minnesota.

[9] Attached as an appendix to the petition for reconsideration is a summary of results from the petitioners' monitoring of 67 TV stations on May 11, 1977.

[10] After examining the 1976 composite week logs for the ABC Network, the CBS Network and local broadcast stations, petitioners conclude that the program logs cannot yield accurate data on the extent of the Advertising Council monopoly of the market, but that the data does suggest that on some stations a very large proportion of PSA time is going to the Council.

[11] The report dated August 31, 1977, concerned a public relations campaign on the need to save energy.

[12] Additionally cited in support of petitioners' allegation of Council dominance of PSA time is a letter to former Chairman Richard Wiley, dated June 7, 1977, from the Environmental Action Foundation indicating that the Council's rejection of the Foundation's campaign will make the airing of their PSA's more difficult.

[13] Petitioners also cite a Washington Journalism Review article of October, 1977, indicating that when seeking contracts from government agencies, the Advertising Council has been known to suggest that broadcasters do not show PSA's unless these announcements are sponsored by the Council.

11. As to the merits of the petition, opponents assert that any authority the Commission has to set forth general programing responsibilities in a given area does not extend to establishing specific guidelines that would effectively direct the precise manner in which a station is actually programed. They also assert that the Commission's exhortation as to the importance of airing PSA's which promote the objectives of meaningful, local, public service is no more vague and no more difficult to administer than other policy statements affecting programing responsibilities. The opponents note that the Commission constantly walks a "tightrope" between saying too little and saying too much in the programing area.[14] Thus, they conclude, it is not only traditional but appropriate for the Commission to stop short of spelling out specific and detailed guidelines as to how broadcasters are expected to carry out any given program responsibility. They also reject the argument that the Advertising Council's role interferes with the airing of PSA's on behalf of unaffiliated campaigns. In their view none of the material regarding the role of the Council, whether quoted from a GAO report or otherwise, offers any documentation of any general pattern of individual station abuse warranting Commission action. Finally, opponents take issue with petitioners' contention that the manner of the Commission's action on the PSA matter violates the spirit and intent of the Sunshine Act. Even if there was no urgency to adopt the item, the opponents insist that it could be adopted by circulation without the need for a meeting if no Commissioner thought discussion were necessary.

12. In reply, petitioners submit that in their petition for reconsideration, not only did they reiterate the need for objective PSA standards, but they sought to be responsive to the Commission's conclusion that insufficient evidence had been received indicating the need for such standards. Petitioners contend that the facts presented in the petition for reconsideration are all new in the sense that they come before the Commission as this stage of this proceeding for the first time.[15] Further, they assert that none of these facts could possibly have been presented earlier. Even if not considered to be new evidence, petitioners argue that consideration of these facts by the Commission is required in the public interest. Petitioners contend that the new evidence in the reconsideration petition, when associated with the evidence previously presented to the Commission, indicates both a pattern of poor performance in airing PSA's and of Advertising Council domination of PSA time.[16] The evidence is not repetitive, rather it is cumulative, state petitioners, and was submitted in order to respond to the Commission's statement that adequate data was not on hand.

DISCUSSION

13. Before dealing with the merits of the reconsideration request, there is one procedural matter to resolve. The opponents have argued that the petition for reconsideration should be dismissed on the grounds that it is essentially a repetition of the initial petition. However, we believe that the petition is not defective in that regard. Its inclusion of new information does meet the requirements of § 1.429(b) of the Commission's rules,[17] in that the facts submitted could not have previously been presented to the Commission ((b)(1)) and their consideration is in the public interest ((b)(3)). Therefore, the petition will be considered on the merits.

14. We have examined the arguments made and the data submitted, by petitioners in their reconsideration request,[18] as well as opponents assertions, and conclude that proposing adoption of a rule at this stage would be premature. The record does not provide an adequate basis for proposing general, let alone specific, regulations as requested by petitioners. With this in mind it is clear to us that the earlier action declining to propose a specific rule was fully warranted. On the related question of whether to conduct an inquiry, our view has shifted. We have come to believe that such an inquiry could serve a useful purpose. What has become apparent at this point is the Commission's need to be better informed in regard to PSA's as a necessary prelude to determining whether specific rules should be contemplated.[19] Interest in the use of PSA's has grown considerably, not only on the part of this Commission. Congress, as well as governmental agencies, such as the Federal Trade Commission ("FTC") and the Department of Health, Education and Welfare ("HEW"), are interested in the employment of PSA's in answering public needs, a fact evidenced in joint comments filed by those two agencies[20] in support of the reconsideration request. We agree that important issues now have been raised and thus, it appears that this is an appropriate time to initiate an inquiry into what role PSA's presently play in serving the public and what role they could or should have in this important regard.

15. The questions to be considered for inquiry in this proceeding fall into two general categories. The first seeks information about the present use of PSA's by radio and television broadcasters and is of an essentially factual nature. The second is designed to explore the views of the parties on the possible role of PSA's and any changes which they believe could or should be made.

16. The information currently available to the Commission in regard to present use of PSA's is largely limited to the data requested on applications for license renewal. Radio stations are asked to indicate how many PSA's are aired during the composite week; tele-

[14] Citing *Banzhaf* v. *F.C.C.*, 405 F. 2d 1082, 1095 (D.C. Cir. 1968), cert. denied sub nom., *Tobacco Institute* v. *F.C.C.*, 396 U.S. 842 (1969).

[15] The data attached to the memorandum opinion and order, it is argued, was first available for comment upon release of that document.

[16] We note in this connection, however, that the allegation that the Advertising Council dominates PSA time has not been substantiated by the record.

[17] Rule 1.429(b) reads as follows:

A petition for reconsideration which relies on facts which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present them to the Commission;

(2) The facts relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts relied on is required in the public interest.

[18] We cannot agree with petitioners' charge that by taking "action" by circulation the Commission violated the spirit and intent of the Sunshine Act. This matter was considered by the Commission at a meeting held before the Sunshine Act went into effect. However, the Commission did not vote on the item at that time. Since no further discussion was viewed necessary by the Commission, no additional meeting was called. Therefore, the item was adopted on circulation to the Commission.

[19] As to whether the first amendment and section 326 of the Communications Act will bar the adoption of specific regulations concerning the airing of PSA's, these issues can be resolved if and when any such rules are considered.

[20] These comments were filed on May 14, 1978. Since the filing deadline had already passed, the comments included a request for their acceptance. On May 31, 1978, the National Association of Broadcasters ("NAB") filed an opposition to these comments contending that acceptance of them would create a precedent that would undermine the orderly conduct of the Commission's activities. Moreover, NAB argued that no justification was given by the FTC and HEW for their untimely filing. Since these comments are only being accepted here for the limited purpose of reflecting an increased public interest in the use of PSA's, there is no need to respond to NAB's contentions. We do note, however, that it would be appropriate to give full consideration to these comments in connection with the inquiry initiated by this notice.

vision stations are also asked to provide this information and to indicate how many PSA's were aired between the hours of 8 a.m. and 11 p.m. during the composite week. This purely statistical information does not give a full picture of current practices. In order to gather more information as to the number, duration, timing, nature and source of and criteria for PSA's aired, we ask the following questions of the stations which respond to this notice of inquiry:

(1) As to the time given to and the timing of PSA's:

(a) How many (the number of) PSA's are usually aired by a station on a weekly basis?

(b) How much total time on a weekly basis is usually devoted to PSA's by broadcasters?

(c) What is the duration in time of the usual PSA?

(d) How are PSA's generally distributed throughout the day? Specifically, how much time is devoted to PSA's during drive (radio) and prime (TV) time?

(e) How are PSA's distributed between the various days of the week?

(f) How many (the number of) PSA's aired on a weekly basis by broadcasters are directed to children under 12 years of age? [21]

(g) How much total time on a weekly basis is usually devoted to PSA's directed to children under 12 years of age?

(h) How are those PSA's directed to children under 12 years of age distributed throughout the day?

(i) In the case of television stations, how much time is devoted to such PSA's during periods of peak child viewing, for example, between 7 and 9 a.m. and 3 and 7 p.m. on weekdays and on Saturday and Sunday mornings?

(j) How many (the number of) PSA's aired on a weekly basis by broadcasters are directed to youth (between 12 years of age and 18)?

(k) How much total time on a weekly basis is usually devoted to PSA's directed to youth (between 12 years of age and 18)?

(l) How are those PSA's directed to youth (between 12 years of age and 18) distributed throughout the day?

(2) As to the nature of PSA's aired:

(a) List those topics which are often the subject of PSA's.

(b) Are most PSA's concerned with local or national issues? Specifically, what percentage of PSA's on a weekly basis usually deal with local versus national topics of interest? Of those PSA's aired on local matters of interest, how many were broadcast on behalf of local groups or organizations?

(c) Do any PSA's aired deal with controversial issues? If so, what is the usual percentage of controversial PSA's broadcast on a weekly basis?

(d) What topics are usually the subject of PSA's directed to children under 12 years of age?

(e) What topics are usually the subject of PSA's directed to youth (between 12 years of age and 18)?

(3) As to the sources of PSA's aired:

(a) What and how many production sources are there for PSA's?

(b) Do broadcasters solicit the production of specific PSA's or are PSA's generally provided to broadcasters for their use?

(c) To what extent, if any, are PSA's provided to broadcasters in package form rather than on an individual basis?

(d) Do broadcasters produce their own PSA's and, if so, to what extent?

(e) What are the costs involved in producing the usual PSA?

(f) To what extent are these costs a factor in the presentation of particular PSA's?

(4) As to the criteria for choosing which PSA's will be aired:

(a) What criteria do broadcasters generally employ in determining which PSA's to air?

(b) Do broadcasters employ their list of ascertained community problems, needs and interests as a guide in determining which PSA's will be aired? [22] If so, what percentage of PSA's on a weekly basis respond to those problems, needs or interests discovered through the community ascertainment process?

(5) Finally, how useful are PSA's in serving the public?

17. In examining the subject of what changes, if any, are thought to be appropriate, we point out that the Commission's rules do not presently impose a PSA obligation on broadcasters. Rather, as was stated in our earlier memorandum opinion and order, nothing more is specified than that the licensee proceed with good faith. Thus, we invite parties to indicate whether they think a specific requirement should be imposed on broadcasters in regard to the presentation of PSA's. Specifically, is such a requirement necessary to insure that broadcasters air a reasonable number of PSA's? Might we encourage (rather than require) their presentation if we provided some recognition for airing a greater number of these announcements. At present little credit is actually given to licensees for PSA's. Although these announcements, to a certain extent, may be used to meet the community ascertainment requirements for renewal,[23] they may not be listed as illustrative programing on the annual problems-programs list to be placed in the public file.[24] Nor, for that matter, is there any provision in the annual programing report (FCC Form 303-A) for the notation of time given to PSA's during the composite week. The only programing categories to be reported are "news," "public affairs" and "other," the last category being exclusive of entertainment, sports and PSA's.

18. If greater credit is to be given to broadcasters for airing PSA's, the question arises as to what weight should be given or what procedure established for crediting licensees for a particular level of performance in this regard. We could consider whether a change in our policy in this regard is warranted so that PSA's could be considered as "other programing" on the annual programing report for the total amount of time given to PSA's.[25] We also invite comments on possible ways of giving greater recognition to, and thus encouraging the airing of, PSA's during drive and prime time, perhaps by considering them the equivalent of twice the amount of time presented at other hours.

19. In view of our current concern with children's programing, as indicated by our present inquiry into the matter, we raise the issue of whether (and if so how) licensees should receive credit for broadcasting PSA's tailored for children and youth during programs directed to them, as well as during other programs frequently viewed by them.[26] Here, too, comments are invited on possible ways to encourage the airing of those announcements. Similarly, should broadcasters receive credit for airing PSA's, which serve other specialized audiences, such as those directed to the Spanish speaking and captioned for the deaf?

20. Another matter for consideration in this inquiry is whether radio and television should be treated differently with respect to any PSA obligation imposed or credit given to broadcasters. If so, in what way? Also, should the PSA definition be modified and, if so, in what manner? Specifically,

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[21] To the extent that certain questions raised in this notice, which relate to PSA's directed to children under twelve years of age, duplicate those questions raised in the *Inquiry Into Children's Television Programming and Advertising Practices* (FCC 78-572, Docket 19142), commenters may submit the same information in both proceedings.

[22] *Primer on Ascertainment of Community Problems by Broadcast Renewal Applicants* ("*Primer*"), 57 FCC 2d 418 (1976).

[23] See question and answer 30 of the *Primer*, in which we stated our misgiving about relying solely on PSA's to treat ascertained needs.

[24] See question and answer 33 of the *Primer*.

[25] If a number of PSA's are aired together as a "community bulletin," a licensee presently may receive credit for their broadcast under the category "other programing."

[26] Children's programs are presently defined as those programs produced for children, not those programs viewed by children.

should any new definition reflect the specific purposes to which PSA's may be put? For instance, PSA's may be employed in campaigns concerned with good nutrition, preventive medicine, employment, and consumer items. Should the PSA definition refer to such purposes and/or include a statement that controversial matters may be the subject of PSA's? Finally, all other suggestions and comments pertinent to the areas of inquiry raised in this notice are invited.

21. Based on the foregoing discussion, and pursuant to authority contained in sections 4(i), 303(r) and 403 of the Communications Act of 1934, as amended, it is proposed to inquire into the matters set out above.

22. Pursuant to applicable procedures set forth in §§ 1.4, 1.46, and 1.415 of the Commission's rules, interested parties may file comments on or before October 23, 1978, and reply comments on or before November 22, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

23. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number, including the entire designation (BC Docket No. 78-251) in the heading. All filings made in this proceeding will be made available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

24. *Accordingly, it is ordered,* That the petition for reconsideration is granted as to the institution of a notice of inquiry and is denied in all other respects.

25. *It is further ordered,* That the motion to consolidate filed by the Public Media Center, et al., is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-23778 Filed 8-23-78; 8:45 am]

[6712-01]

[47 CFR Part 97]

[Gen. Docket No. 78-250; FCC 78-586]

AMATEUR RADIO SERVICE

Administration of Telegraphy Examinations to Handicapped Applicants for Operator Licenses; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The FCC is beginning an inquiry into its rules and procedures concerning the administration of telegraphy examinations to handicapped applicants for operator licenses in the amateur radio service. The FCC is taking this action in response to several requests from handicapped applicants for waivers of the telegraphy requirements.

DATES: Comments are due by November 30, 1978 and reply comments are due by December 29, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Safety and Special Radio Services Bureau, 202-634-6619.

SUPPLEMENTARY INFORMATION:

Adopted: August 8, 1978.

Released: August 24, 1978.

By the Commission: Commissioner Washburn absent.

In the matter of the administration of telegraphy examinations to handicapped applicants for operator licenses in the amateur radio service, Gen. Docket No. 78-250.

Under authority contained in Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended, the Federal Communications Commission is opening an inquiry into the administration of telegraphy examinations to handicapped applicants for operator licenses in the amateur radio service. The purposes of this notice of inquiry are: (1) To inform the public about the FCC's current procedures for examining handicapped applicants for amateur operator licenses, and (2) to request guidance and advice from the public about what action, if any, the FCC should take to improve the administration of telegraphy examinations to handicapped applicants for amateur operator licenses. In this notice, the Commission outlines its present policies and rules concerning the examination of handicapped applicants for amateur operator licenses, lists several options for changes in those policies and rules, and asks interested persons to comment on the direction the Commission should take in this area.

POLICY

It is the policy of the Federal Communications Commission that no otherwise qualified handicapped person should be denied an amateur radio operator license solely because of his or her handicap. It also is the policy of this Commission not to discriminate in any way against handicapped applicants for amateur operator licenses. The Commission has done, and will continue to do, everything within reason to assist the handicapped obtain amateur radio operator licenses.

WHAT DOES THE COMMISSON DO NOW TO ASSIST THE HANDICAPPED?

The Commission is aware that amateur radio is a useful and valuable pursuit for many handicapped persons. For many handicapped persons, amateur radio may provide the only contract with the "outside world." Wherever possible, the Commission encourages interested handicapped persons to study for and obtain amateur operator licenses.

Under normal circumstances, a person wishing to obtain an amateur operator license, other than a novice class license, must appear before an FCC examiner to demonstrate his qualifications. FCC amateur examinations are given on a regularly scheduled basis at each of the Commission's 28 field offices and at approximately 70 other locations throughout the country. An applicant for an amateur operator license appearing at a designated Commission examination point undertakes the telegraphy examination in a room with other (often many other) applicants. The Commission examiner plays a tape recording of a telegraphy text transmitted at an audio frequency of approximately 750 Hertz. At the conclusion of the transmission of the telegraphy text, the applicant is given a multiple choice written examination concerning the text just transmitted. If the applicant answers 80 percent of the questions correctly, he or she is given another examination covering amateur rules, principles, and procedures. If the applicant scores at least 74 percent on that examination, he or she is issued an amateur operator license.

The Commission recognizes that there are some persons who may be able to receive telegraphy but who are unable, because of a handicap, to demonstrate their qualifications in the context of a typical FCC examination environment. For example, certain persons cannot leave their homes to travel to Commission examination points. Others may be able to travel

but may not be able to use their hands to write. Still others may not be able to hear the telegraphy text transmitted or read the written questions presented.

The Commission believes that it has a duty to assist handicapped applicants unable to demonstrate their telegraphy qualifications according to normal procedure to do so in other ways. To this end, the Commission has taken a number of actions to help handicapped applicants. Section 97.27 of the rules, for example, states that if an applicant is shown by physicians's certification to be the victim of a protracted disability preventing travel, he or she may be examined at home by an examiner selected by the Commission. Moreover, the Commission's Field Operations Bureau has instructed Commission field personnel to make special arrangements for the examination of the handicapped. Among the procedures routinely followed in administering examinations to the handicapped are the following:

If an applicant is unable to write, he or she may dictate his or her responses orally for transcription, or he or she may use a typewriter.

An applicant may "repeat back" his or her telegraphy copy if he or she cannot write.

A blind applicant may use a Braille printer on the telegraphy examination and dictate his or her copy.

Written questions may be read to blind or paralyzed applicants.

Severely handicapped applicants may be examined at their bedsides either by Commission personnel or by other qualified persons selected by the Commission.

Blind applicants may be given examinations prepared by the Commission in Braille.

Finally, the Commission often makes arrangements for the examination of the handicapped on an ad hoc basis. A deaf applicant, for example, might be administered a telegraphy examination using a flashing light, or might be permitted to place his or her fingers upon a pulsating oscillator to "feel" the text being sent. In each of the instances outlined above, however, the handicapped applicant is held to the same standard of competence as the non-handicapped applicant: the passing requirements are identical.

Regulatory Background

The United States is signatory to the Radio Regulations of the International Telecommunication Union (ITU). As such, the Commission is obliged to observe and implement those regulations. Article 41, section 3(1) of the ITU Radio Regulations states that:

Any person operating the apparatus of an amateur station shall have proved that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals. Administrations concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 144 MHz.

Section 97.23 of the Commission's rules implements article 41, section 3(1) of the ITU Radio Regulations. Section 97.23 requires that an applicant for an amateur operator license successfully complete a telegraphy examination in accordance with the following schedule:

Operator Class and Speed Required

Novice—5 words per minute (wpm).
Technician—5 wpm.
General—13 wpm.
Advanced—13 wpm.
Amateur Extra—20 wpm.

The Problem

Although most persons can learn to receive telegraphy well enough to obtain amateur licenses, some persons simply cannot. Some persons can learn to receive telegraphy, but only at very slow speeds. Other persons can receive telegraphy but for one reason or another cannot commit what they hear to paper. The reasons for an inability to learn the international Morse code either at all or at the necessary speed stem from several sources. Applicants with severe physical disabilities, such as quadraplegia, may be able to understand the code but may not be able to meet the Commission's speed requirements. Other applicants allege specific learning disabilities which prevent acquisition of telegraphy skills.

The Commission receives several requests each month for special consideration on the telegraphy examination from persons unable to meet the Commission's telegraphy requirements. Such requests are occasionally submitted by those who probably could, if they were sufficiently diligent, learn telegraphy. Often, however, individuals requesting special consideration are severely handicapped and allege that because of their handicaps they are incapable of successfully completing the Commission's telegraphy examinations. Handicapped applicants unable to pass the Commission's telegraphy examinations frequently assert that the Commission should not refuse to issue them amateur operator licenses because handicaps over which they have no control prevent the acquisition of telegraphy skills.

Since the Commission is precluded by article 41, section 3(1) of the ITU radio regulations from waiving or eliminating the telegraphy requirement in its entirety (at least insofar as stations operating below 144 MHz are concerned), the questions to be addressed by both the Commission and those responding to this notice of inquiry are these:

What is the proper Commission approach to the administration of amateur radio telegraphy examinations to the handicapped?

How should the Commission respond to requests for relaxation of the telegraphy speed requirement submitted by handicapped applicants?

Should the handicapped be held to less rigorous standards than the nonhandicapped? If so, should the handicapped receive the same operating privileges as the nonhandicapped?

Is the Commission doing enough now to assist the handicapped demonstrate their telegraphy qualifications?

Decision Factors

To assist the public to channel its thinking about the administration of amateur telegraphy examinations to the handicapped, the Commission has developed a preliminary set of decision factors. The list of decision factors that follows is not exhaustive. Rather, it merely represents some of the major criteria the Commission believes the public should explicitly consider in evaluating the options (decision alternatives) for Commission action. If the Commission has overlooked any significant decision factor, the Commission urges the public to develop others. The Commission believes the objective evaluation of various decision alternatives in terms of a set of decision factors will result in sounder, more rational decisionmaking. We believes, further, that such decisionmaking will materially assist us in our continuing efforts to serve the public effectively.

1. ADMINISTRATIVE/RESOURCE IMPACT

This decision factor comprehends all costs to the Commission that would result from adoption of any of the decision alternatives. Although the public cannot be expected to comment knowledgeably or precisely about how much it would cost the Commission to pursue a particular course of action, the Commission asks those recommending one alternative over another to consider the potential administrative and budgetary impacts of the recommended alternative on the Commission. Cost will play a very important role in whatever action, if any, the Commission eventually takes toward the administration of amateur telegraphy examinations to the handicapped. In submitting comments, the public should be aware that the Commission will be able to adopt an expensive decision alternative only if the information developed concerning the other decision factors is strongly supportive.

2. IMPACT ON THE AMATEUR RADIO SERVICE

This decision factor concerns the objective impact of adoption of each of the decision alternatives on the amateur service and its licensees. For example, would adoption of a particular decision alternative result in a large increase in the population of the ama-

teur service, a small increase or no increase at all? What would the effect be on spectrum use? Would the amateur frequency bands become perceptibly more crowded? Would the overall quality of the service, expressed in terms of operator qualifications and competence, decline or increase appreciably?

3. IMPACT ON THE HANDICAPPED

Using this decision factor, the public should assess the impact of the adoption of each of the decision alternatives on the handicapped. For example, would adoption of a particular decision alternative result in fairer treatment for the handicapped? Would the number of handicapped applicants obtaining amateur licenses be greater, fewer, or the same? Would the Commission be meeting the needs of the handicapped more effectively?

4. PRACTICAL PROBLEMS

This decision factor includes miscellaneous information that might have an impact on the Commission's decisionmaking process. For example, three of the four decision alternatives discussed below require the Commission to define "handicapped." What sort of definition of "handicapped" should the Commission adopt, for purposes of amateur operator examinations, given the Commission's lack of medical expertise? Those submitting comments should outline any other factors relevant to a proper disposition of the matter at hand.

DECISION ALTERNATIVES

The Commission has identified several alternate approaches to the problem of the administration of telegraphy examinations to handciapped applicants for amateur radio operator licenses. The paragraphs that follow briefly discuss each of the major alternatives. Where necessary for complete understanding of the alternative, the Commission has included pertinent background information.

ALTERNATIVE 1: MAINTAIN THE STATUS QUO

As we outlined in the preceding paragraphs, the Commission currently makes many special arrangements to assist the handicapped demonstrate their telegraphy qualifications. We do not relax the telegraphy requirement, however. Thus, a handicapped applicant for a general class license, for example, must be able to demonstrate an ability to receive telegraphy at 13 wpm.

ALTERNATIVE 2: AMEND THE RULES TO REDUCE THE TELEGRAPHY SPEED REQUIREMENT FOR HANDICAPPED APPLICANTS.

The Commission's past experience has demonstrated that giving handicapped applicants for amateur operator licenses special consideration in the rules makes it possible for many handicapped persons who might not otherwise be able to pursue amateur radio as a hobby to do so. Occasionally, however, nonhandicapped persons have attempted to take advantage of the rules for the handicapped. We solicit comments on how we could draft new rules avoiding the problems we have encountered in the past.

ALTERNATIVE 3: AMEND THE RULES TO CREATE A NEW CLASS OF AMATEUR OPERATOR LICENSE WITHOUT A TELEGRAPHY REQUIREMENT AND RESTRICT ELIGIBILITY TO HANDICAPPED APPLICANTS.

The ITU radio regulations permit the Commission to create such a license class, as long as any stations licensed are restricted to operation above 144 MHz. (There is an open rulemaking proceeding, docket 20282, in which the Commission proposed a "codeless" license class, the Communicator class, having neither telegraphy requirements nor operating privileges below 144 MHz. The Communicator class would not have been restricted to the handicapped, however.)

ALTERNATIVE 4: WAIVE THE RULES TO PERMIT HANDICAPPED APPLICANTS TO DEMONSTATE THEIR TELEGRAPHY QUALIFICATIONS AT SLOWER SPEEDS THEN NONHANDICAPPED APPLICANTS.

As we indicated above, the Commission does not grant waivers of the telegraphy speed requirement.[1] If the Commission were to begin waiving the telegraphy speed requirement for the benefit of the handicapped, what standards should we apply for granting a waiver?

HOW TO COMMENT ON THIS INQUIRY

The FCC is very interested in any comments you or your group might have to help the Commission consider policies or rules to help meet the amateur radio communications needs of the handicapped. The Commission asks those submitting comments to evaluate each of the decision alternatives in terms of the decision factors we have outlined. (For example, what would the impact on the amateur service be if the Commission were to adopt alternative 2?) We also welcome suggestions about other decision alternatives and factors we may have omitted.

All persons submitting comments should bear in mind the basic questions the Commission wishes to resolve:

The Commission's amateur examination program is partially founded on the proposition that the Commission is obligated to provide the handicapped with equal opportunity to obtain amateur operator licenses. If the Commission's commitment to equal opportunity is sound, is the Commission doing enough to guarantee that equality? If not, what else should we do?

The Commission does not afford the handicapped special consideration with respect to the passing standard on amateur radio telegraphy examinations. Is Commission policy in this regard sound? If not, how should we go about implementing a workable program of extending the handicapped special consideration in the administration and grading of amateur telegraphy examinations?

Comments are due no later than November 30, 1978. Reply comments (which are responses to comments filed by others) are due no later than December 29, 1978. You can read comments filed by others in the FCC's Public Reference Room, Room 239, 1919 M Street NW., Washington, D.C. The Commission is unable to furnish copies of comments submitted in a rulemaking, but, for a fee, our duplicating contractor will handle requests for this kind of material: Downtown Copy Center, 1114 21st Street NW., Washington, D.C. 20037. Your comments should be addressed to: Secretary, Federal Communications Commission, Washington, D.C. 20554. Formal participants must file an original and 5 copies of their comments, reply comments and other materials, following instructions found in the FCC Rules. Participants wishing each Commissioner to have a personal copy of its comments may file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. In addition, you may submit an informal comment over the Commission's unattended teletype (TTY) terminal by following this procedure:

1. Dial 202-254-9292 not a toll-free number.

2. You will receive the following message: You have reached an unattended TTY at the FCC in Washington. Please type in your message—it will be recorded automatically.

3. Upon completion of the automatic message, immediately start to type your reply. The machine will not give you a (GA) go ahead.

4. The unattended machine is activated by your TTY reply. Any silent period of 15 seconds will cut off your phone connection. It is important that you at least hit the period key during any delay that lasts 10 seconds. This will keep your telephone connection open until you have completed your message.

[1] The Chief, Safety and Special Radio Services Bureau is, of course, delegated authority to waive the regulation by section 0.331 of the rules.

All comments should contain the correct docket No. of this inquiry. Further information concerning this inquiry may be obtained from Mr. Gregory M. Jones, Safety and Special Radio Services Bureau, at 202-634-6619 not a toll-free number. The deaf or hearing impaired may obtain additional information about this inquiry by calling the Commission's attended TTY at 202-632-6999 not a toll-free number.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-23779 Filed 8-23-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Part 821]

RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Stay of a Petition for Review When an Exemption Is Being Sought Concurrently; Proposed Procedure

AGENCY: National Transportation Safety Board.

ACTION: Proposed rule.

SUMMARY: This notice proposes to revise the Board's existing procedural rules applicable to air safety proceedings to permit an individual who has petitioned the Board for review of a denial of airman medical certification to request a stay of any action on that petition when a concurrent petition for exemption from the applicable Federal Aviation regulations (FAR) has been filed with the Federal Aviation Adminstration (FAA). It is intended that this proposed rule will provide flexibility to any individual who has been denied an unlimited airman medical certificate but who believes that he can qualify for certification subject to certain specified conditions and limitations or subject to a certificate of demonstrated ability but who wishes to continue to pursue Board review of his denial in case an exemption is also denied.

DATE: Comments must be received on or before October 1, 1978.

ADDRESS: Send comments on the proposal in duplicate to Office of the General Counsel, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

FOR FURTHER INFORMATION CONTACT:

Fritz L. Puls, General Counsel, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, 202-472-6034.

SUPPLEMENTARY INFORMATION: For a number of years, it was the policy of the National Transportation Safety Board's Office of Administrative Law Judges to hold in abeyance petitions for review of the Administrator's action in denying airman medical certification for any petitioner who is awaiting the outcome of a petition for exemption filed with the FAA. Postponement has been at the request of the petitioner and has resulted in the resolution of a reasonable number of petitions without the need for a hearing before an administrative law judge, with the expense to a petitioner that a hearing entails. In cases where an exemption or a limited certificate has been issued, the petitioner has been afforded the relief he desires, and he has dealt directly with the Federal air surgeon in supplying any additional medical data or other information considered essential to resolution of the matter. Meanwhile, he has been spared the time and expense of participation at an administrative hearing at which he has the burden of proof.

Recently, however, it has come to the attention of the Office of Administrative Law Judges in connection with review of procedures of that Office by the Administrative Conference of the United States that the practice of holding petitions in abeyance pending action on exemptions creates the appearance of a delay in the processing of petitions. Accordingly, within recent months the Office has abandoned the practice in favor of providing a hearing without awaiting the outcome of the exemption process.

A proposal has been received by the Board recommending that a stay of proceedings pending final decision by the Administrator on a petition for exemption be provided by amendment to the Board's rules of practice. The petitioner believes that a stay of proceedings will, when requested, serve the interests of justice as well as those of administrative expediency.

It is proposed to amend § 821.24 of the Board's rules of practice in air safety proceedings to provide an option to any petitioner who requests it to stay proceedings on his petition for review pending the outcome of a petition for exemption filed with the FAA. As proposed, a 180-day period would be provided from the time of filing of the petition for review pursuant to § 821.25(a) to await final decision on the exemption request. If at any time during that period the petitioner requests that the Office of Administrative Law Judges proceed with the scheduling of a hearing, that office will do so. In the event that no request is made during the 180-day period, the petitioner will be returned to the status of an applicant for airman medical certification and his appeal to the Board will be dismissed without prejudice. In that event, he can petition the Board for review only after a final denial by the Administrator. The rationale for the 180-day period is, of course, to permit a petitioner time within which to pursue an exemption or limited certificate. However, after the 180-day period has elapsed, the denial from which he petitioned for review may no longer be based on his current medical cirumstances.

Accordingly, the National Transportation Safety Board proposes to amend § 821.24 of its rules of practice in air safety proceedings (49 CFR § 821.24) by adding a fourth paragraph, 821.24(d), immediately after paragraph (c) to read as follows:

§ 821.24 Initiation of proceedings.

* * * * *

(d) *Stay of proceeding pending petition for exemption.* Where the petitioner has filed with the Administrator a petition for exemption under the provisions of the Federal Aviation regulations, he may request that the Board hold his petition in abeyance pending final action on his petition for exemption, or for 180 days from the date of issuance of the Administrator's denial, whichever occurs first.

(Title VI, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1421 et seq., and Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).)

Signed at Washington, D.C., on August 18, 1978.

ELWOOD T. DRIVER,
Acting Chairman.

[FR Doc.78-23837 Filed 8-23-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 25]

ADMINISTRATIVE PROVISIONS

Closing National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises procedures for closing lands within the national wildlife refuge system to public access when it is necessary to protect the resources of the area. This action is necessary to comply with the Refuge Recreation Act and Executive Order 11989, dated May 24, 1977. This proposal makes closing an area to protect the re-

sources of an area mandatory rather than permissive.

DATE: Comments must be received on or before September 25, 1978.

ADDRESS: Send comments to Mr. Lynn Greenwalt, Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Fowler, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Room 2340, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Mr. Ronald L. Fowler is the primary author of this document.

BACKGROUND

This proposed rule revise § 25.21 to confirm with Executive Order 11989 and the Refuge Recreation Act (16 U.S.C. 460K).

The Refuge Recreation Act authorizes the Secretary of the Interior to allow recreational use of components of the national wildlife refuge system, or other units administered for fish and wildlife purposes as an incidental or secondary use when such use is found not to be inconsistent with the primary objectives for which the area was established. The act also provides, "That in order to insure accomplishment of such primary objectives, the Secretary, after the consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of recreation use within individual areas or in portions thereof whenever he considers such action to be necessary. "Section 9 of Executive Order 11989 states that" the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicles causing such effects until time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence. " This proposed rule will revise Service procedures for closing lands within the national wildlife refuge system to conform with the act and the Executive order.

It has been determined that this proposal does not constitute a major Federal action significantly affecting the quality of the human environment under the terms of the National Environmental Policy Act of 1969 (42 U.S.C. § 4332(2)(c)).

REQUEST FOR COMMENTS

The policy of the Department of the Interior is to afford the public the opportunity to participate in the rulemaking process whenever practicable. Therefore interested persons may submit written comments or suggestions regarding this proposal to the address specified above. All relevant comments received will be considered by the Director prior to issuance of the final rule.

TEXT OF PROPOSED AMENDMENT

Accordingly, it is proposed to amend 50 CFR 25.21, as follows:

§ 25.21 Closing national wildlife refuges.

When necessary to protect the resources of an area all or any part of a national wildlife refuge shall be immediately closed to any public access and use adversely affecting the resources. In the event of an emergency endangering life or property, public access and use may be limited without advance notice. The public shall be notified of any closure in accordance with the provisions of § 25.31.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order No. 11949 and OMB Circular No. A-107.

Dated: August 18, 1978.

HARVEY K. NELSON,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-23699 Filed 8-21-78; 8:45 am]

notices

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

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

LOWER SALT RIVER RECREATION PLAN

Intent To Prepare An Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement for development of the proposed Lower Salt River Recreation Area. This proposed plan will enhance river oriented recreation, provide picnicking, protect water, soil, and wildlife resources, provides for year-round recreation opportunities, coordinates with livestock grazing, eliminates off-road vehicle use in the immediate environment of the river.

A scoping meeting will be held early in the process with interested agencies, such as the Bureau of Reclamation, U.S. Fish and Wildlife Service, Arizona Game and Fish Department, Arizona Department of Highways, Salt River Project, and other State and local agencies.

Bruce Hronek, forest supervisor, is the responsible official, and Ted Oliver, recreation planner will be the team leader for the environmental assessment and statement.

It is anticipated that the environmental assessment will require about 12 months. The draft environmental statement is scheduled for completion by January 1979 with a subsequent 2-months' review period; the final environmental statement is scheduled for filing in April 1979. If the decision is made to proceed with development, the improvements will be phased to include only minimum needed for resource protection, sanitation and safety will the Orme Dam alternative decision is made (probably early 1982).

Comments on the notice of intent or on the plan should be sent to Bruce Hronek, forest supervisor, Tonto National Forest, P.O. Box 13705, Phoenix, Ariz. 85002.

GARY E. CARGILL,

Acting Regional Forester, Region 3.

AUGUST 15, 1978.

[FR Doc. 78-23736 Filed 8-23-78; 8:45 am]

[3410-11]

VEGETATION MANAGEMENT WITH HERBICIDES

Availability of Final Environmental Statement, Extension of Time

The notice of availability for the vegetation management with herbicides final environmental statement (USDA-FS-R6-FES (Adm.) 75-18 (revised)), is corrected as follows: The completion date for the projects listed in the FES is hereby extended from September 30, 1978, to until the projects listed are completed

CURTIS L. SWANSON,

Regional Environmental Coordinator, Planning, Programming, and Budgeting.

AUGUST 17, 1978.

[FR Doc. 78-23735 Filed 8-23-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-8-95; Docket 33217, et al.]

ST. LOUIS-LITTLE ROCK-NEW ORLEANS SERVICE INVESTIGATION, ET AL.

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of August 1978.

In the matter of St. Louis-Little Rock-New Orleans Service Investigation, docket 33217; Applications of Ozark Air Lines, Inc., docket 32778; Frontier Airlines, Inc., docket 32824; Southern Airways, Inc., docket 32874; Texas International Airlines, Inc., docket 32884.

On June 1, 1978, Ozark Air Lines filed an application to amend its certificate of public convenience and necessity for route 107 to include a new segment between the terminal point St. Louis, Mo., the intermediate point Little Rock, Ark., and the terminal point New Orleans, La. On the same date, Ozark also filed a petition for an order to show cause or, in the alternative, for a hearing.

In support of its petition, Ozark states that approval will produce the following benefits to the traveling public: (1) new low fares or price/service options; (2) the introduction of competition in the St. Louis-New Orleans market; (3) the institution of first single-plane and first single-carrier service to a substantial number of passengers in beyond-segment markets; and (4) improved operating flexibility and efficiency in providing new and/or improved service on the remainder of its system.

An answer in opposition to Ozark's petition was filed by Delta Air Lines. Frontier Airlines also filed an answer objecting to Ozark's petition if its application for similar authority in the Little Rock-New Orleans market is not given comparable consideration.[1] Similarly, Southern's answer is limited to opposing Ozark's position unless its own one-stop restriction in the St. Louis-New Orleans market is remvoed. In addition to Frontier and Southern, Texas International Airlines (TXI) has also applied for St. Louis-Little Rock-New Orleans authority and has filed a motion to consolidate with Ozark's application.[2]

Answers in support of Ozark's petition were also filed by the following civic parties: Quad Cities,[3] Cedar Rapids,[4] New Orleans,[5] and St. Louis.[6]

Delta argues in its answer that show-cause procedures are inappropriate for dealing with Ozark's application because of the complexity and controversial nature of the issues raised. It also claims that Ozark has failed to present new facts on which to justify a major extension of its service to New Orleans.

We have decided to institute the *St. Louis-Little Rock-New Orleans Service Investigation*, docket 33217, to consider the need for new authority between and among St. Louis, Little Rock and New Orleans.

As we have made clear in recent decisions (see, e.g., *Service to Oakland Case*, order 78-4-121), we believe that market forces are more likely to result in optimum service at optimum fares since the market selection process operates continuously and efficiently. We will therefore consider the possible grant of permissive authority to all fit, willing and able applicants, and the

[1] Frontier's application and motion to consolidate, docket 32824, were filed June 8, 1978.

[2] Southern's application and motion to consolidate docket 32874, were filed June 16, 1978 and those of TXI in docket 32884, on June 20, 1978.

[3] The Board of Commissioners of the Metropolitan Airport Authority of Rock Island County, Ill.

[4] The Cedar Rapids parties consist of the Cedar Rapids Airport Commission and the Cedar Rapids-Marion Area Chamber of Commerce.

[5] The New Orleans parties are composed of the City of New Orleans and the Chamber of Commerce/New Orleans and the River Region.

[6] The St. Louis parties represent the St. Louis Airport Authority-city of St. Louis and the St. Louis Regional Commerce and Growth Association.

extent to which such awards encourage the efficiency, innovation and competition deemed to be in the public interest by section 102 of the Act. In view of this, we are less inclined than we were when we laid down the policy in our order instituting the *Chicago-Albany/Syracuse-Boston Competitive Service Investigation*, order 77-12-50, to give heavy weight in carrier selection to the offer or failure to offer low prices, since open competition will insure these offers more effectively than restrictive carrier selections based on their promise.

We are therefore concerned about the delay and costs of the evidentiary burdens which traditional carrier-selection cases entail for the parties, the Board and the Board's staff, and particularly with the burden of introducing and evaluating evidence that will be unnecessary if the case results in multiple permissive awards. We invite the parties and the administrative law judge to explore ways of reducing the quantity of required exhibit material, eliminating duplication and superfluous detail, standardizing methodology, and focusing on the significant facts and assumptions. Specifically, we are interested in reducing or eliminating the tremendous amount of detail on schedules, traffic, profitability and diversion typically required to adjudicate the issue of comparative carrier selection. The possibility of stipulating facts and eliminating comparative selection evidence should be carefully explored. In particular, carriers interested in being selected for a market only if multiple, permissive authority is awarded generally should be excused from submitting the full panoply of comparative selection evidence for that market.[7] Further, although low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any detailed comparative examination of the price/quality options arrived at by the various applicants. Ultimately, of course, we leave the resolution of all of these matters to the administrative law judge.

All applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 30 days of the date of service of this order and answers shall be filed within 10 days thereafter. Environmental evaluations under section 312.12 of the Board's regulations shall be filed within 30 days of the date of service of this order.

Accordingly, *it is ordered*, That:

1. The motions to consolidate of Frontier (docket 32778), Southern (docket 32874), and Texas International (docket 32884), be granted;

2. The petition for leave to intervene of the Quad cities be granted;

3. An investigation designated the *St. Louis-Little Rock-New Orleans Service Investigation*, docket 33217, be instituted under section 204 of the Act and set for hearing before an administrative law judge of the Board at a time and place to be determined later;

4. This case shall consider whether the public convenience and necessity require the grant of new authority between and among St. Louis, Little Rock and New Orleans; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, limitations or conditions;

5. Any authority awarded in this investigation shall be Category II subsidy ineligible;

6. The applications of Ozark Air Lines, in docket 32778, Frontier Airlines, in docket 32824, Southern Airways, in docket 32874 and Texas International Airlines, in docket 32884, be consolidated into the proceeding instituted by paragraph 3 above;

7. The following be made parties to the proceeding instituted by paragraph 3 above: Delta Air Lines, Frontier Airlines, Ozark Air Lines, Southern Airways, Texas International Airlines, the Quad Cities, Cedar Rapids Airport Commission and Cedar Rapids-Marion Area Chamber of Commerce, the St. Louis parties, and the New Orleans parties;

8. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed no later than September 21, 1978, and answers shall be filed no later than October 2, 1978;[8]

9. All carriers filing applications which they seek to have consolidated into this proceeding, shall file environmental evaluations under section 312.12 of the Board's regulations no later than September 21, 1978.[9]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-23836 Filed 8-23-78; 8:45 am]

[7] Moreover, for those who wish to pursue a traditional carrier selection theory of the case, detailed cost accounting evidence, e.g., separate estimates for every segment or each type of fare, need not be required to justify the various price and quality proposals. For the Board's purposes, an analysis of profit of any applicant's proposal shall be adequate if the expense estimates are calculated in accordance with the methodology described for local service carrier route applicants in the Board's procedural regulations. 14 CFR 302.1101 et seq., subpart K and PR-172, April 14, 1978. Applicants, including new entrants, whose data are not included in this costing system shall submit costings based on their internal company data, in subpart K format to the extent feasible. While all applicants are of course free to include estimates of expense computed using a different methodology, we do not believe that it is a fruitful use of the applicants', the staff's or the Board's resources to require an analysis of the cost of an applicant's proposal by a second costing method.

[8] We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[9] Ozark filed its environmental evaluation as part of its petition and motion for hearing.

[10] All Members concurred.

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY CONSERVATION PROGRAM

Waiver of Non-Federal Share Requirement for Certain Statewide and Regional Grants under Program account 23

1. *Purpose.* This notice is issued to inform the public that the Director of CSA is waiving the non-Federal share requirement for statewide and regional grants made under program account 23 (Section 222(a)(12) of the Economic Opportunity Act of 1964, as amended) for fiscal year 1978 grants.

2. *Background.* Grants made under program account 23 may include the following activities: dissemination of energy conservation information, operation of energy conservation educational activities, and representation of the interests of the poor in public proceedings, e.g. energy policy and utility rate structures. Since these are process-oriented activities they will not require the mobilization of other resources. This is possible when such activities are carried out by CAAs operating other title II programs that do generate non-Federal share which may be pooled to meet all title II requirements. Generating non-Federal share becomes a problem when undertaken by statewide or regional organizations that do not operate other title II non-Federal-share-generating-programs. Therefore, it has been determined that it is in the best interest of the groups to be served that the non-Federal share be waived for statewide and regional grants made under program account 23.

3. *Waiver criteria.* Under the authority provided in section 225(c) of the Economic Opportunity Act of 1964, as amended, the Director of CSA is waiving the non-Federal share for statewide and regional grants made under program account 23 in fiscal year 1978 since the activities are not the type that can generate non-Federal share as they are process-oriented and not designed to deliver services.

Dated: August 16, 1978.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc. 78-23489 Filed 8-23-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

UNWROUGHT, UNALLOYED ZINC INDUSTRY

Completion of Study

SUMMARY

The Department of Commerce has completed a study of the unwrought, unalloyed zinc industry. The study was prepared under section 264 of the Trade Act of 1974 which requires such a study whenever the U.S. International Trade Commission conducts an investigation under section 201. The Commission submitted its final report to the President in June 1978. The Commission determined that unwrought, unalloyed zinc was not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat therof to the domestic industry.

FIRMS ELIGIBLE FOR ADJUSTMENT ASSISTANCE

Section 264 requires that this study look at "the number of firms in the domestic industry * * * which have been or are likely to be certified as eligible for adjustment assistance." Thus far, no petitions for certification have been filed, and no firms in the industry have been certified. However, petitions seeking adjustment assistance for over 1,200 workers are pending before the Department of Labor.

The domestic industry consists of 52 firms. Any firm desiring certification must show that increases in imports "contributed importantly" to (a) the separation, or threat thereof, of a significant number or proportion of its workers and (b) an absolute decrease in sales or production. The requirement of increased imports could be satisfied. The industry could also satisfy the requirements for employment and either sales or production declines. A showing that the increased imports "contributed importantly" to these declines probably could be made, but this would not necessarily be true for specific firms.

Despite these probabilities, some or even all of the firms might have no desire or need for financial assistance beyond what private sources can provide. The maximum number of firms likely to be certified is seven. Nevertheless, without specific facts on the needs and experience of individual firms there is no way to be certain.

SOURCES OF FEDERAL ASSISTANCE

Three Federal agencies have programs that might facilitate orderly adjustment of firms to import competition. The Economic Development Administration (EDA), in the Department of Commerce, has several relevant programs. One authorizes technical assistance, direct loans, and loan guarantees to firms that have been certified as eligible for adjustment assistance. Another authorizes public works grants, loans, and loan guarantees for communities that have been injured by imports. Still another provides for loans and guarantees for firms in designated "redevelopment areas" and "economic development centers." Such places are also eligible for public works.

The Small Business Administration (SBA), an independent agency, has three programs that might help. The most important is a program of direct, participating, and guaranteed loans to small businesses. In general, SBA handles loans of $350,000 or less, while EDA handles the larger loans.

The Farmers Home Administration (FmHA), in the Department of Agriculture, has two relevant programs. One provides business loan guarantees to firms located in areas other than cities of over 50,000 population. The other entails grants and loans to public entities in areas other than cities of over 10,000 population.

Additional information about the adjustment program and copies of this report "Prospects for Adjustment Assistant for Firms in the Unwrought, Unalloyed Zinc Industry" are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

D. PATRICIA KEELER,
Director, Office of Planning and Program Support.

[FR Doc. 78-23681 Filed 8-23-78; 8:45 am]

[3510-25]

Industry and Trade Administration

SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976 ed.)), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council (PEC) will be held on Monday, September 11, 1978, at 9 a.m., in Room 6802 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1978, of the Subcommittee, pursuant to the provisions of section 3 of Executive Order 11753 (Dec. 20, 1973), as extended by section 1(k) of Executive Order 11948 (Dec. 20, 1976), and the Federal Advisory Committee Act.

The Subcommittee advises the Secretary of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.) that deal with U.S. policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The Subcommittee meeting agenda has six parts:

GENERAL SESSION

1. Unfinished Business
Export promotion.
Service supply licenses:
Repair of "A" commodities.
Return of commodity repaired without need of license.
DOD critical technologies.
Subcommittee's Human Rights Position Statement.
2. Reexport Licensing Policies.
3. Foreign Policy Considerations in Export Controls, Particularly Human Rights Area.
4. Relationship Between PEC and Technical Advisory Committees.

EXECUTIVE SESSION

5. Discussion of U.S. COCOM Negotiating Position.
6. Transfer of Technology.

The general session (agenda items 1 through 4) is open to the public. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda items 5 and 6, the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 11, 1977, 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 Executive Order 11652 to be kept secret in the interest of the national defense or foreign policy. Materials to be reviewed and discussed by the Subcommittee during the executive session of the meeting

have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close portions of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is printed at 42 FR 3011 (Jan. 14, 1977).

Copies of the minutes of the general session will be available by calling Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-4188.

For further information, contact Mr. Brady either in writing or by phone at the address or number shown above.

Dated: August 21, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 78-23841 Filed 8-23-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the Pat-Appl number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent application 769,124: Thorium Doped Iridium Alloy for Radioisotope Heat Sources; filed February 16, 1977.

Patent application 776,383: Nuclear Waste Storage Container with Metal Matrix; filed March 10, 1977.

Patent application 782,873: Method for Selectively Reducing Plutonium Values by a Photochemical Process; filed March 30, 1977.

Patent 4,042,876: Eddy Current Gauge for Monitoring Displacement Using Printed Circuit Coil; filed April 19, 1976, patented August 16, 1977; not available NTIS.

Patent 4,045,289: Nuclear Reactor Containment Structure with Continuous Ring Tunnel at Grade; filed October 22, 1976, patented August 30, 1977; not available NTIS.

Patent 4,046,169: Pipe Support for Use in a Nuclear System; filed July 9, 1975, patented September 6, 1977; not available NTIS.

Patent 4,046,690: Filtering Coal-Derived Oil Through a Filter Media Precoated with Particles Partially Solubilized by Said Oil; filed April 1, 1976, patented September 6, 1977; not available NTIS.

Patent 4,049,864: Penetration Resistant Barrier; filed February 12, 1976, patented September 20, 1977; not available NTIS.

Patent 4,055,247: Explosion Containment Device; filed October 22, 1976, patented October 25, 1977; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590

Patent application 903,518: Automatic Base Gate Positioning Circuit; filed May 16, 1978.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent application 817,094: Intermediates for Total Steroid Synthesis from the Condensation Product of Dimethyl 3-Ketoglutarate and Glyoxal Useful As Precursors for the Total Synthesis of Steroids; filed July 19, 1977.

Patent 4,069,241: Steroidal Intermediates from the Condensation Product of Dimethyl-3-Ketoglutarate and Glyoxal; filed May 26, 1976, patented January 17, 1978; not available NTIS.

Patent 4,073,885: Anodynin, An Endogenous Opiate Analgesic from Human Blood, and Process for Recovering Same; filed September 10, 1976, patented February 14, 1978; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, Washington, D.C. 20240

Patent 4,053,377: Electrodeposition of Copper; filed February 13, 1976, patented October 11, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application SN 862,878: System and Method for Refurbishing and Processing Parachutes; filed December 21, 1977.

Patent application SN 876,432: Dielectric-Loaded Waveguide Circulator for Cryogenically Cooled and Cascaded Maser Waveguide Structures; filed February 9, 1978.

Patent application SN 885,065: Apparatus for Measuring an Aircraft's Speed and Height; filed March 9, 1978.

Patent application SN 888,432: System for Forming a Quadrifid Image Comprising Angularly Related Fields of View of a Three Dimensional Object; filed March 20, 1978.

Patent application SN 889,670: Fatigue Failure Load Indicator; filed March 24, 1978.

Patent application SN 891,245: Process for Curing Epoxides with Diamines; filed March 29, 1978.

Patent application SN 891,356: Distributed-Switch Dicke Radiometer; filed March 29, 1978.

Patent application SN 891,370: Closed Loop Solar Array-Ion Thruster System with Power Control Circuitry; filed March 29, 1978.

Patent application SN 891,372: A Retractable Environmental Seal; filed March 29, 1978.

Patent application SN 893,383: Structural Members, Method and Apparatus; filed April 4, 1978.

Patent application SN 893,865: Improved Tire/Wheel Concept; filed April 6, 1978.

Patent application SN 897,829: In situ Self Cross-Linking of Polyvinyl Alcohol Battery Separators; filed April 19, 1978.

[FR Doc. 78-23737 Filed 8-23-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent 3,987,003: Thermally Stable Dioxo and Dithio-Benzisoquinoline Compositions and Process of Synthesizing Same; filed June 6, 1975, patented October 19, 1976.

Patent 3,992,995: Speed Controlled Second Event Launcher; filed September 4, 1975, patented November 23, 1976.

Patent 3,993,269: Toroidal Tail Structure for Tethered Aeroform Balloon; filed December 18, 1975, patented November 23, 1976.

Patent 3,993,890: Combinatorial Digital Filter; filed September 29, 1975, patented November 23, 1976.

Patent 3,993,962: Low Noise Parametric Varactor Diode Crystal Oscillator; filed August 18, 1975, patented November 23, 1976.

Patent 3,993,976: Method and Apparatus for Pattern Analysis; filed May 13, 1974, patented November 23, 1976.

Patent 3,993,994: Adaptive Clutter Cancellation for Synthetic Aperture AMTI Radar; filed June 27, 1975, patented November 23, 1976.

Patent 3,994,165: Mass Flowmeter Starting System; filed November 25, 1975, patented November 30, 1976.

Patent 3,994,861: Long Chain-Perfluoroalkylene Ether Bibenzoxazole Polymers; filed September 4, 1975, patented November 30, 1976.

Patent 3,995,213: Surface Impedance Tester; filed October 2, 1975, patented November 30, 1976.

Patent 3,995,229: High Slew Rate Operational Amplifier Circuit; filed May 27, 1975, patented November 30, 1976.

Patent 3,995,271: Adaptive Clutter Cancellation and Interference Rejection System for AMTI Radar; filed August 20, 1975, patented November 30, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,974,457: Time and Frequency Control Unit; filed September 19, 1975, patented August 10, 1976.

Patent 3,976,274: Permanent Attachment for Suction Cups; filed May 27, 1975, patented August 24, 1976.

Patent 3,976,962: Dual Threshold Magnetic Proximity Switch; filed April 25, 1975, patented August 24, 1976.

Patent 3,976,968: Underwater Target Detection Apparatus; filed November 19, 1954, patented August 24, 1976.

Patent 3,977,149: Multipurpose Construction Panel; filed March 28, 1975, patented August 31, 1976.

Patent 3,978,488: Offset Federal Electric Microstrip Dipole Antenna; filed April 24, 1975, patented August 31, 1976.

Patent 3,980,905: Apparatus and Method for Tuning a Broad Bandwidth Transducer Array; filed October 19, 1973, patented September 14, 1976.

Patent 3,982,810: Directional Radiation by Asymmetrical Dielectric Gratings; filed July 9, 1975, patented September 28, 1976.

Patent 3,983,750: Fluid Level Sensing Device; filed September 29, 1975, patented October 5, 1976.

Patent 3,984,673: External Lighting System for Hypobaric and Hyperbaric Chambers; filed June 30, 1975, patented October 5, 1976.

Patent 3,984,834: Diagonally Fed Electric Microstrip Dipole Antenna; filed April 24, 1975, patented October 5, 1976.

Patent 3,986,745: Grabber; filed August 25, 1975, patented October 19, 1976.

Patent 3,987,741: Remote Unmanned Work System (RUWS) Matching Latch; filed January 12, 1976, patented October 26, 1976.

Patent 3,988,732: 3-Channel Selectable Polarization Target Discrimination Antenna; filed December 22, 1965, patented October 26, 1976.

Patent 3,989,475: Composite Superconductors; filed May 30, 1975, patented November 2, 1976.

Patent 3,990,344: Underwater Expendable Explosive Link; filed January 13, 1975, patented November 9, 1976.

Patent 3,990,811: Circulation Controlled Rotary Wing Aircraft and Control System Therefor; filed February 26, 1975, patented November 9, 1976.

Patent 3,991,372: Circuit for Reversing Doppler Signal Modifying a Carrier; filed September 24, 1975, patented November 9, 1976.

Patent 3,994,187: Epicyclic Transmission; filed February 14, 1975, patented November 30, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,987,630: Mechanical Thermal Motor; patented October 26, 1976.

Patent 3,988,677: Space Communication System for Compressed Data with a Concatenated Reed-Solomon-Viterbi Coding Channel; patented October 26, 1976.

Patent 3,988,716: Computer Interface System; patented October 26, 1976.

Patent 3,988,729: Differential Pulse Code Modulation; patented October 26, 1976.

[FR Doc. 78-23738 Filed 8-23-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

SOUTHWEST FISHERIES CENTER

Issuance of Permit to Import and Export Marine Mammals and Endangered Species

On July 3, 1978, notice was published in the FEDERAL REGISTER (43 FR 28849), that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, Calif. 92038 for a scientific research permit to import and re-export specimen material from all Cetacea, all carnivora (including Pinnipedia) and all Sirenia, including species listed as endangered.

Notice is hereby given that on August 18, 1978, the National Marine Fisheries Service and the Fish and Wildlife Service jointly issued a scientific research permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) to the Southwest Fisheries Center, National Marine Fisheries Service, subject to certain conditions set forth therein.

Issuance of this permit, as required by the Endangered Species Act of 1973, is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This permit was also issued in accordance with, and is subject to parts 220 and 222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits and part 17 of title 50 CFR, the Fish and Wildlife Service regulations governing endangered species.

In conjunction with this permit, the Fish and Wildlife Service has issued a museum exchange certificate to import and export specimen materials listed on the appendices of the convention on International Trade in Endangered Species of Wild Fauna and Flora, subject to part 23 of title 50 CFR.

The permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Director, Fish and Wildlife Service, 1717 H Street NW., Washington, D.C. 20240; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: August 18, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-23700 Filed 8-23-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Proposed Inactivation of Air Force Units at Kingsley Field, Oreg.

AUGUST 21, 1978.

The Air Force has begun the formal environmental impact analysis process for the proposed inactivation of active Air Force support units at Kingsley Field, Klamath Falls, Oreg.

The proposed deactivation of active Air Force units at Kingsley Field would result in relocation of approximately 55 personnel and reduction of approximately 405 manpower spaces. (Transfer of Keno AFS to the Federal Aviation Administration (FAA) will reduce manpower authorizations in the area by an additional 50 spaces.) The Air Force proposes to accomplish the action by the end of calendar year 1979. The two F-106 aircraft at Kingsley Field would return to their home station at McChord AFB Wash. Base facilities declared excess would be reported to the General Services Administration for disposal. Some alternatives of the proposed Air Force action might require a support agreement with the local community and FAA for the support of runways, taxiways, fire, crash and rescue, snow removal, and weather observations and forecasting.

Alternatives include: (1) Inactivating all active units and excessing all facilities except those alert facilities needed for disposal of fighter interceptors; (2) continuing to operate at status quo except for transferring Keno radar site and its support to the FAA; and

(3) inactivating all active units and excessing all facilities except those needed to retain a fighter interceptor detachment (2 aircraft) and supporting personnel.

The environmental impact analysis process will lead to a formal environmental assessment which will be used to determine if a draft environmental impact statement (EIS) will be prepared or if a finding of no significant impact is appropriate.

If the formal environmental assessment indicates there may be significant impact on the quality of the human environment, the Air Force will file a draft EIS with the Environmental Protection Agency and release it to the public. If such impacts are not found, a finding of no significant impact will be prepared and released.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, the Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-23754 Filed 8-23-78; 8:45 am]

[3910-01]

ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Proposed Reduction of Rickenbacker AFB, Ohio

AUGUST 21, 1978.

The Air Force has begun the formal environmental impact analysis process for the proposed reduction of Rickenbacker Air Force Base (AFB), Ohio.

The Air Force proposes to move, during CY 1979, the Strategic Air Command forces from Rickenbacker Air Force Base to other active Strategic Air Command units (see below) and to declare excess all property and facilities not required to support the Air Reserve Force units which will remain at Rickenbacker Air Force Base. The Air Force also proposes to provide the base operating support function required by the reserve forces to the maximum extent possible through contractual services, if cost effective.

The environmental impact analysis process will consider the impact on the area surrounding Rickenbacker Air Force Base of the departure of approximately 1,950 assigned military personnel and an estimated change in civilian jobs as follows:

Loss of approximately 400 Department of the Air Force Civil Service jobs.

Gain of contractor jobs equivalent to approximately 220.

Loss of other jobs (base exchange, concessionaire, and nonappropriated fund), as follows:

Approximately 165 full time.

Approximately 190 part time.

The analysis will also examine the environmental impact on other Air Force bases, and their surrounding communities, which could receive additional KC-135 aircraft as a result of this action.

The environmental impact analysis process will lead to a formal environmental assessment which will be used to determine if a draft environmental impact statement (EIS) will be prepared or if a finding of no significant impact is appropriate.

If the formal environmental assessment indicates there may be significant impact on the quality of the human environment, the Air Force will file a draft EIS with the Environmental Protection Agency and release it to the public.

If such impacts are not found, a finding of no significant impact will be prepared and the result will be published in the FEDERAL REGISTER.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, the Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-23755 Filed 8-23-78; 8:45 am]

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

DISESTABLISHMENT OF THE NAVAL ELECTRONIC SYSTEMS ENGINEERING CENTER, PHILADELPHIA, PA., AND THE NAVAL ELECTRONIC SYSTEMS ENGINEERING CENTER, GREAT LAKES, ILL.

Action and Environmental Assessment

Notice is hereby given that on December 8, 1978, the Department of the Navy plans to disestablish the Naval Electronic Systems Engineering Center, Philadelphia, Pa., and the Naval Electronic Systems Engineering Center, Great Lakes, Ill.

Responsibility for functions presently performed by Naval Electronic Systems Engineering Center, Philadelphia, Pa., will be reassigned as follows:

Naval Intelligence functions and provision of administrative support to the Naval Electronic Systems Command Detachment of Mechanicsburg, Pa., to the Naval Electronic Systems Engineering Activity, St. Inigoes, Md.

"OMEGA" shipboard installation support to Naval Electronics Systems Center, Vallejo, Calif.

All other continuing functions to Naval Electronics Systems Engineering Center, Portsmouth, Va.

Responsibility for functions presently performed by Naval Electronic Systems Engineering Center, Great Lakes, Ill., will be reassigned to Naval Electronic Systems Engineering Center, Charleston, S.C.

The actions planned are part of an overall effort to realine Naval Electronic Systems Command field activities to achieve maximum effectiveness and efficiency. The disestablishments are needed because other Naval Electronic Systems Command field activities perform similar work, and can assume the additional workload while achieving economics of scale and reductions in duplicative overhead and administrative support functions. These actions are consistent with increased emphasis on reducing the organizational complexity of the naval shore structure, where possible, through the consolidation of activities and detachments.

The military and civilian manpower levels at the Naval Electronic Systems Engineering Center, Philadelphia, Pa., will be adjusted as follows: The one officer will be transferred; approximately 62 civilian positions will remain at Philadelphia, approximately 4 civilian positions will be transferred to Vallejo, Calif., approximately 11 civilian positions will be transferred to Portsmouth, Va., and approximately 13 civilian positions will be eliminated. The present civilian employees at the center will be subject to Reduction in Force (RIF) action, and, if eligible, afforded the opportunity to relocate and obtain employment at other Department of Defense installations.

The military and civilian manpower levels at the Naval Electronic Systems Engineering Center, Great Lakes, Ill., will be adjusted as follows: The one officer will be transferred; approximately 70 civilian positions will be transferred to Charleston, S.C., and approximately 22 civilian postions will be eliminated. The present civilian employees at the center will be subject to Reduction in Force (RIF) action and, if eligible, afforded the opportunity to relocate and obtain employment at other Department of Defense installations.

Notice is also given, pursuant to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); the Council of Environmental Quality Guidelines (40 CFR Part 1500); and Department of Defense Regulations, "Environmental Consideration on DoD Action" (32 CFR Part 214), that an Environmental Impact Statment (EIS) is not being prepared for the disestablishment of the Naval Electronic Systems Engineering Center, Philadelphia, Pa., and Naval Electronic Systems Engineering Center, Great Lakes, Ill. The environmental impact assessment of these actions indicated that

they are not major Federal actions, and they do not significantly affect the quality of human environment nor are they considered controversial with respect to environmental effects. Therefore, the preparation and review of an EIS is not required.

Interested persons are invited to comment on these proposed actions and the determination that no significant adverse environmental impact will occur by submitting comments to Captain John Dobson, CEC, U.S. Navy, Director, Field Activities Management Division, Naval Electronic Systems Command, Washington, D.C. 20360. All written material received on or before September 25, 1978 will be considered prior to final action and implementation.

For further information concerning this notice contact:

Captain John Dobson, CEC, U.S. Navy, Director, Field Activities Management Division, Naval Electronics Systems Command, Washington, D.C. 20360, Telephone number: 202-692-5958.

Dated: August 21, 1978.

E. M. BYRNE.
Commander, JAGC, U.S. Navy, Head, Regulations Branch, Administrative Law Division, Office of the Judge Advocate General.

[FR Doc. 78-23701 Filed 8-23-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP76-94, RP76-95, RP76-138, and RP75-106 (AP76-1)]

COLUMBIA GAS TRANSMISSION CORP.

Refund Report

AUGUST 16, 1978.

Take notice that on August 7, 1978, Columbia Gas Transmission Corp. (Columbia) filed a second refund report in the listed dockets. Columbia states that on July 19, 1978, it made refunds totaling $7,400,662 pursuant to article III of the stipulation and agreement approved March 16, 1978, in the listed dockets. The refund report shows the computation and allocation of such refunds.

Any person desiring to be heard or to protest Columbia's refund report should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 30, 1978. Copies of the report are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23702 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. RP72-157 (PGA Nos. 78-9 and 78-9A)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes In FERC Gas Tariff

AUGUST 17, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on August 2, 1978 tendered for filing proposed changes to its FERC gas tariff, third revised volume No. 1, for rates to be effective July 2, 1978, in lieu of rates filed July 28, 1978.

Consolidated stated that it has revised its rates to reflect a rate reduction filed by Texas Eastern Transmission Corp. on July 27, 1978 for effectiveness July 2, 1978.

Consolidated requested a waiver of the Commission's rules and regulations, specifically section 154.22, notice requirements, citing that it did not receive the rate change in time to make a timely filing. Additionally, Consolidated requested a waiver of any other of the Commission's rules and regulations as may be deemed necessary, to permit the rates, shown on revised fourth substitute alternate fourth revised sheet No. 16, to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State commissions.

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, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 28, 1978. 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. 78-23703 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-375]

DUQUESNE LIGHT CO.

Order Accepting For Filing and Suspending Proposed Increase, Granting Intervention, Denying Motion To Reject, Granting Motion For Waiver, and Instituting Procedures

AUGUST 17, 1978.

On May 15, 1978, Duquesne Light Co. (Duquesne) tendered for filing [1] a proposed change in its FERC Municipal Electric Resale Service Tariff [2] for electric service to its only wholesale total requirements customer, Pitcairn, Pa. (Pitcairn). The proposed change would increase revenues from jurisdictional sales by $48,841 based on the 12-month period ending May 31, 1979. Duquesne also requests that the proposed rate schedule become effective on July 1, 1978 and requests waiver of the Commission's notice requirements.

The present rates consist of a set of stepped demand and energy charges which, allowing for demand and load factor conditions existing in the service to Pitcairn, are equivalent to a monthly facilities charge of $1.25 per kW-month, and an energy charge of 8.5 mills per kWh. The proposed changes consist of a monthly facility charge of $75, and a demand charge of $3.79 per kW-month. The energy charge would remain at 8.5 mills per kWh. Notice of the filing was issued on May 22, 1978, with comments due on or before June 5, 1978.

On June 5, 1978, Pitcairn filed a pleading entitled: "Petition To Intervene and Protest of Pitcairn, Pa." In support of its request to be granted intervenor status, Pitcairn states that it receives electric service from Duquesne and has an interest in this proceeding which is not adequately represented by any other party. We shall grant intervenor status to Pitcairn. Also in its pleading, Pitcairn prays for a rejection or, in the alternative, a 5-month suspension of Duquesne's filing.[3] Pitcairn primarily argues that Duquesne artificially estimated lower demands so as to obviate the necessity for Duquesne to file Statements A-O as required by § 35.13(b)(4)(i) of the Commission's Regulations.[4] Further, Pitcairn argues that Duquesne has im-

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[1] On June 22, 1978, a Secretary's letter, which declared the filing deficient pending receipt of additional data, was issued. Duquesne corrected its deficiency on July 18, 1978.

[2] The proposed change in tariff is designated as: "Duquesne Light Co.," supplement No. 4 to rate schedule FPC No. 11.

[3] We shall treat Pitcairn's requests as a motion for rejection or, in the alternative, a 5-month suspension.

[4] However, utilities are exempted from filing Statements A-O if the proposed rate increase is less than $50,000. (§ 35.13(b)(ii) of the regulations.)

properly based its cost of service on a 12-month period ending December 31, 1975. (See § 35.13(b)(iii)). Additionally, Pitcairn postulates that "it might be caught in a 'price squeeze' with regard to certain of its retail rates if the rates proposed by Duquesne are permitted to go into effect."

On June 20, 1978, Duquesne filed an answer to Pitcairn's pleading. Duquesne's arguments are summarized as follows:

(1) On comparison of the proposed rate with other rates for similar service is possible because Duquesne has no other wholesale rates.

(2) Pitcairn's allegation of price squeeze is not sufficiently specific to answer. In any case, Duquesne denies the allegation.

(3) Duquesne denies that a suspension of the proposed rates is necessary to enable Pitcairn to adjust its retail rates, inasmuch as Pitcairn's retail rates are set by the Borough (Pitcairn) Council.

(4) Duquesne admits that it did not file Statements A through O but denies that it artificially estimated lower demands for the year succeeding the proposed effective date. Further, the actual demands for the months of April and May, 1978, are now available and amounted to 245 kW less than estimated.

(5) Duquesne denies that it did not file Statement P. The information required by Statement P is contained in its filing.

(6) Duquesne admits that the cost of service was based on a 1975 fully-distributed cost of service study and had requested that the Commission waive § 35.13(b)(4)(iii) of the regulations if required.

Our review of the instant filing leads us to the conclusion that the unique circumstances of this case warrant denial of Pitcairn's request for rejection, acceptance of Duquesne's tender for filing, and granting of Duquesne's request for waiver of our filing requirements. As Duquesne properly suggests, compliance will require additional costs that will eventually be borne by Pitcairn and its customers. Further, our staff's evaluation of the filing indicates that the revenues Duquesne would receive under the filed rate may not be excessive, and if they are, may well not exceed appropriate levels by more than the cost of the studies Pitcairn would have the company perform. Consequently, rather than reject the filing, or immediately impose on Duquesne the obligation to perform substantial new studies, we will establish a prehearing conference for the purpose of having the parties discuss the issues and, if possible, reach an accord on all issues. In the event that the parties are unable to settle the issues in this case, we will authorize the Presiding Judge to establish hearing procedures, including the filing by Duquesne of testimony and such updated data as the Judge deems necessary, and to institute price squeeze procedures in accordance with § 2.17 of our rules, if Pitcairn properly pleads its "price squeeze" allegations.[5]

The Commission finds. (1) The rates proposed by Duquesne in its instant filing have not been shown to be lawful, and, therefore, may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(2) It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its responsibilities under section 205 of the Federal Power Act.

The Commission orders. (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and to the regulations under the Federal Power Act (18 CFR chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by Duquesne Power Co. in this proceeding.

(B) Pitcarin's request for rejection of the instant submittal is hereby denied and Duquesne's request for waiver of § 35.13(b)(4)(iii) of our regulations is hereby granted.

(C) Pending such hearing and decision thereon, the proposed increased rate and charges filed by Duquesne Light Co. on July 18, 1978, are hereby accepted for filing as of August 18, 1978, suspended for 1 day and the use thereof deferred until August 19, 1978, when they shall become effective subject to refund.

(D) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose shall preside at a prehearing conference in this proceeding to be held on September 19, 1978, at 10 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The conference shall be convened for the purpose of attempting to negotiate a settlement of the issues involved herein and, in the event such negotiations are not successful, said judge is authorized to establish procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's rules of practice and procedure, including the procedures set forth in the body of this order.

(E) Pitcairn is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation by such intervenor shall be limited to matters set forth in its petition to intervene; *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23704 Filed 8-23-78; 8:45 am]

[5] Consistent with 18 CFR 2.17 and our order in "Monongahela Power Co.," docket No. ER78-484, issued August 10, 1978, intervenors must allege price discrimination and anticompetitive effect in order to raise price squeeze as an issue.

[6740-02]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

AUGUST 18, 1978.

Take notice that Eastern Shore Natural Gas Co. (Eastern Shore) on July 27, 1978, tendered for filing the following revised tariff sheets:

Fourth Revised Sheet No. 5 and No. 6 Superseding Third Revised Sheet No. 5 and No. 6.
Fourth Revised Sheet No. 10, No. 11, and No. 12.

Eastern Shore requests that the revised tariff sheets be effective August 1, 1978, to track a similar filing by Eastern Shore's sole supplier, Transcontinental Gas Pipeline Corp.

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 NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10. All such petitions or protests should be filed on or before August 31, 1978. 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. 78-23705 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. RP77-18]

EL PASO NATURAL GAS CO.

Payment of Refunds

AUGUST 16, 1978.

Take notice that on August 9, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing a report of refunds made on July 31, 1978, and supplemented August 8, 1978, to its interstate jurisdictional, nonjurisdictional keyed and nonjurisdictional customers. El Paso states that such refunds were made in accordance with article V of El Paso's stipulation and agreement dated and filed May 26, 1977, as approved by the Commission "order approving pipeline rate settlement" issued August 1, 1977, at docket No. RP77-18.

El Paso further states that the refunds made are comprised of $15,373,517.73 principal refunds, plus, interest thereon of $751,509.16, computed through July 30, 1978, at the interest rate of 9 percent per annum, provided in article IV of the aforementioned stipulation and agreement. The aggregate amount of refunds made by El Paso on July 31, 1978, as supplemented August 8, 1978, is $16,125,026.89.

El Paso states that copies of the filing were served on all of El Paso's affected interstate transmission customers, all parties of record in docket No. RP77-18, and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 1, 1978, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23706 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ES78-54]

INTERSTATE POWER CO.

Application

AUGUST 18, 1978.

Take notice that on August 7, 1978, Interstate Power Co. (applicant) filed an application with this Commission seeking an order pursuant to section 204 of the Federal Power Act for authorization to issue short-term promissory notes to lending banks and/or commercial paper, not to exceed an aggregate of $40 million outstanding at any one time, said short-term promissory notes to be issued on or before December 31, 1979 and to mature not later than December 31, 1980, and said commercial paper to be issued with not to exceed nine-month maturities and to mature on or before December 31, 1980.

Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

Applicant states that the requested additional authorization will provide additional funds for its 1978-1979 construction expenditures estimated to be $61,978,000 and will enable it to maintain cash working funds at normal levels.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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, as supplemented, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23707 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. RP77-142]

JUAREZ GAS COMPANY S.A. v. DEL NORTE NATURAL GAS CO.

Informal Conference

AUGUST 18, 1978.

Take notice that on September 6, 1978, at 10 a.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, Room 8402, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23708 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CP78-465]

MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

AUGUST 17, 1978.

Take notice that on August 4, 1978, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, Mich. 48226, filed in docket No. CP78-465 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7 of the regulations thereunder) 18 CFR 157.7), for a certificate of public convenience and necessity authorizing applicant to provide a limited-term gas transportation service for Natural Gas Pipeline Co. Of America (Natural), all as more fully set forth in the application on file with the Commission and open for public inspection.

The application indicates that Natural has acquired by gas purchase contract the right to purchase the gas production attributable to a 50 percent (50%) interest of Chevron U.S.A. Inc. (Chevron) in the gas reserves underlying South Marsh Island area block 288, offshore Louisiana (the block 288 gas supplies), and that Natural is presently negotiating to acquire the remaining 50 percent interest from Continental Oil Co. (Conoco). To effectuate receipt of the block 288 gas supplies which Natural will purchase from Chevron and which Natural ex-

pects to purchase from Conoco, applicant states that Natural has requested it to provide a limited term transportation service for up to 25,000 Mcf per day attributable to the block 288 production. Applicant states that the proposed point of receipt for the block 288 gas supplies will be at an existing delivery point in South Marsh Island area block 287 where applicant is presently taking receipt of up to 5,000 Mcf per day for the account of Natural pursuant to its rate schedule X-40.

Applicant states that the limited term transportation service will be provided in accordance with the terms and conditions set forth in a letter agreement dated July 10, 1978, between it and Natural. Applicant further states that the agreement provides that the service will be rendered on a best efforts basis whenever in its sole opinion its operating conditions so permit. The application indicates that the receipt point is identical with the point of delivery set forth in applicant's X-40 rate schedule under another arrangement, and the redelivery point, i.e., an existing point of interconnection of the pipeline system of applicant and Natural in the northeast quarter of section 9 (T12S, R4W), Cameron Parish, La., is also identical. As consideration for providing the transportation service, applicant states that it will charge Natural 12.99 cents per Mcf for all quantities of gas redelivered to Natural at the point of redelivery, the rate also being identical to the overrun rate set forth in paragraph 8.3 of article VIII of the aforementioned X-40 rate schedule.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should 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's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23709 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CP78-478]

MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

AUGUST 16, 1978.

Take notice that on August 9, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in docket No. CP78-478 an abbreviated 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 350 Mcf of natural gas per day for Northern Natural Gas Co. (Northern) pursuant to transportation agreements between Applicant and Northern dated as of May 22, 1978, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has been issued in Docket No. CP78-244 a permanent certificate of convenience and necessity authorizing the construction and operation of pipeline and compressor facilities necessary to attach the natural gas reserves underlying ship shoal area block 290 and 291, offshore Louisiana (the block 291 field). Northern has acquired the right to purchase four percent of the reserves underlying the block 291 field, it is stated.

Applicant further states that, pursuant to a Transportation Service Agreement dated May 22, 1978, between Applicant and Northern, it has agreed to take delivery of up to 350 Mcf of natural gas per day (the transportation gas) for the account of Northern at the production platform for the block 291 field. Applicant proposes to redeliver the transportation gas for the account of Northern through the pipeline facilities authorized in docket No. CP78-244 and Applicant's existing offshore system to the facilities of Applicant at the Patterson station in St. Mary Parish, La., where the transportation gas can be redelivered to the facilities of another pipeline for the account of Northern. Applicant states that it has been advised that Northern is attempting to negotiate an agreement with another pipeline for the purpose of transporting the transportation gas from the Patterson station.

It is indicated that Northern will pay Applicant a monthly demand charge of $8.26 per Mcf of contract demand or such other charge as may be determined in an appropriate proceeding.

The transportation service is proposed to continue for a primary term of 10 years from the date of first delivery and from year to year thereafter until terminated by either party.

Applicant states that, pending the negotiation by Northern of an agreement with another pipeline for the purpose of transporting the transportation gas from the Patterson station, pursuant to a Letter Transportation Agreement dated May 22, 1978, between Applicant and Northern it has agreed to transport the transportation gas from the Patterson station. During the storage injection cycle, Applicant proposes to redeliver the transportation gas, less 10 percent to be retained by Applicant for compressor fuel, to Michigan Consolidated Gas Co. at the W. G. Woolfolk station near Big Rapids, Mich., for storage for the account of Northern as authorized at docket No. CP78-254. During the storage withdrawal cycle, Applicant will redeliver the transportation Gas to Northern by displacement at the interconnection of the facilities of Applicant and Northern at Janesville, Wis., in reduction of Applicant's existing gas purchase entitlement from Northern at such point, it is stated.

It is indicated that, as to the transportation service from the Patterson station, Northern will pay Applicant a charge of 24.4¢ per Mcf of natural gas delivered to or for the account of Northern or such other charge as may be determined in an appropriate proceeding.

The transportation service from the Patterson station is proposed to continue for a primary term of 2 years from the date of first delivery and from year to year thereafter until terminated by either party.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should 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's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23710 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-426]

MISSOURI POWER & LIGHT CO.

Proposed Tariff Changes

AUGUST 18, 1978.

Take notice that Missouri Power & Light Co. (MP&L) on July 10, 1978, tendered for filing new electric service agreements for the cities of Perry and Owensville, Mo. MP&L indicates that the new contracts take the city of Perry off Missouri Power & Light Co.'s rate designation FPC No. 39 IS and take Owensville off rate designation FPC No. 41 IS. MP&L states that the new contracts apply company's FERC electric service tariff designation MESWR, and will increase revenues from Perry by $2,895.77 and will decrease revenues from Owensville by $44,396.95 based on the 12-month period ending May 1978. The company is requesting that the new contracts be permitted effective February 1, 1977, for the city of Perry and effective June 1, 1978, for the city of Owensville.

The change in contracts is due to the scheduled 1977 expiration of contracts presently filed with FERC.

Copies of the filing were served upon the cities of Perry and Owensville and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 28, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23711 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ES78-53]

MONTANA-DAKOTA UTILITIES CO.

Application

AUGUST 18, 1978.

Take notice, that on August 8, 1978, Montana-Dakota Utilities Co. (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismarck, N. Dak., filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order for authority to issue up to $10,000,000 principal amount of first mortgage bonds, —— percent series due September 15, 2003, and up to $10,000,000 principal amount of first mortgage —— percent sinking fund bonds due September 15, 1998 (hereinafter collectively referred to as the "Bonds").

The bonds are to be issued and pursuant to Applicant's presently existing indenture of mortgage, dated as of May 1, 1939, to Irving Trust Co. and D. W. May, as trustees, as supplemented and proposed to be of September 15, 1978. The bonds are to bear interest at a rate to be determined by competitive bidding.

The net proceeds from the issuance and sale of the bonds are principally to be used to repay short-term debt incurred in connection with the temporary financing of a portion of the cost of Applicant's 1978 construction program.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or 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. 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. 78-23712 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-543]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

AUGUST 18, 1978.

Take notice that on August 10, 1978, New Bedford Gas & Edison Light Co. ("New Bedford") filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s unit No. 2 ("the Unit").

By the provisions of the tendered rate schedule, New Bedford proposes to sell to the Vermont Marble Company, Inc. 0.6489 percent of the net capability of the unit (as defined at article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Marble, according to New Bedford.

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 NE., Washington, D.C. 20426 in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. 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. 78-23713 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-544]

NEW BEDFORD GAS AND EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

AUGUST 18, 1978.

Take notice that on August 10, 1978, New Bedford Gas and Edison Light Co. ("New Bedford") filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s unit No. 2 ("the Unit").

By the provisions of the tendered rate schedule, New Bedford proposes to sell to the Mansfield Municipal Electric Department 0.3425 percent of the net capability of the unit (as defined at Article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Mansfield, according to New Bedford.

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 NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. 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. 78-23714 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-545]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

AUGUST 18, 1978.

Take notice that on August 10, 1978, New Bedford Gas & Edison Light Co. ("New Bedford") filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s unit No. 2 ("the unit").

By the provisions of the tendered rate schedule, New Bedford proposes to sell to the Westfield Gas & Electric Light Department 0.3425 percent of the net capability of the unit (as defined at article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Westfield, according to New Bedford.

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 NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. 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. 78-23715 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-546]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

AUGUST 18, 1978.

Take notice that on August 10, 1978, New Bedford Gas & Edison Light Co. ("New Bedford"), filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s unit No. 2 ("the unit").

By the provisions of the tendered rate schedule, New Bedford proposes to sell to the Templeton Municipal Lighting Plant 0.1712 percent of the net capability of the unit (as defined at article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Templeton, according to New Bedford.

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 NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. 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. 78-23716 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. ER78-490]

OHIO EDISON CO.

Order Accepting for Filing, Waiving Notice Requirements, Providing for Hearing, and Establishing Proceedings

AUGUST 16, 1978.

On July 17, 1978, Ohio Edison Co. (Ohio Edison) tendered for filing a proposed supplement No. 5, dated June 15, 1978, to the interconnection agreement of January 1, 1952 (1952 agreement) between Ohio Power Co. (Ohio Power) and Ohio Edison.[1] Ohio Edison and Ohio Power request a waiver of the notice requirements to permit an effective date of June 26, 1978.

Supplement No. 5 is an amendment of the charge for nondisplacement energy. The current charge for nondisplacement energy is out-of-pocket cost plus 20 percent (including transmission losses) but not less than 7 mills per kWh for on-peak energy or 4 mills per kWh for off-peak energy. Supplement No. 5 provides for a revised charge of 110 percent of out-of-pocket cost, including transmission losses. According to Ohio Edison, the reason for the proposed charge is to fix a lower rate for nondisplacement energy that currently is more appropriate on a cost basis.

Notice of this filing was issued on July 26, 1978, with comments due on or before August 4, 1978.

On August 1, 1978, Ohio Edison's 21 wholesale customers (Ohio cities)[2] filed a pleading entitled "Petition For Leave To Intervene And Request For A One Day Suspension." With the exception of Oberlin, which operates limited generation facilities, the Ohio cities state that each Ohio city purchases its entire requirements on a wholesale basis from Ohio Edison. In addition, the Ohio cities assert that, because the rates paid by them may be directly affected by the level of charges paid by Ohio Edison to Ohio Power, they have a substantial interest that cannot be represented by any other party. We shall grant intervenor status to the Ohio cities.

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[1] The 1952 agreement is designated as Ohio Power Co. rate schedule FPC No. 25 and Ohio Edison Co. rate schedule FPC No. 9.

[2] Amherst, Beach City, Brewster, Columbiana, Cuyahoga Falls, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroeville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington, Ohio.

Ohio cities believe that the expected lower rates which will result from the revised nondisplacement energy charge (110 percent of out-of-pocket cost including transmission losses) may still be unreasonably high and request that the revised nondisplacement energy charge be suspended for 1 day. In addition, the Ohio cities ask the Commission to consider whether the "public interest requires a broader form of interconnection which would preclude percentage add-ons by a series of utilities where each provides transmission facilities".[3]

On August 11, 1978, Ohio Edison filed an answer to the Ohio cities pleading. In its answer, Ohio Edison propounds several arguments, the most important of which are summarized as follows:

1. It is inappropriate for the Commission "to suspend a rate reduction because there is no authority to order refunds where no increased rates and charges are proposed".[4]

2. It is unnecessary for the Commission to delay approval of the proposed rate reduction inasmuch as the Commission is already conducting a generic investigation of operating and billing procedures under various interconnection and pooling arrangements.

Our review indicates that the proposed revised nondisplacement charge has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore the Commission shall: (1) Grant waiver of the notice requirements, (2) accept for filing, pursuant to section 205, the supplement No. 5 (containing the revised nondisplacement energy charge) to the 1952 agreement which shall become effective June 26, 1978, (3) direct Ohio Edison and Ohio Power to file testimony and cost supporting data to substantiate the nondisplacement energy charge (particularly the 10-percent add-on), (4) set this matter for hearing to ascertain the reasonableness of the revised nondisplacement energy charge under supplement No. 5, and (5) grant intervenor status to the Ohio cities.

The Commission finds: It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its responsibilities under sections 205 and 206 of the Federal Power Act.

[3]The Ohio cities cite the example of the Commission's present investigation of the effect of such "add-ons" during last winter's coal miner's strike.

[4]Ohio Edison is mistaken in part. Although we cannot order refunds for a rate reduction, section 205(e) of the Federal Power Act clearly authorizes the Commission to suspend any change in an existing filed rate schedule including any rate, charge, or service.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and to the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate proposed by Ohio Edison Co. in this proceeding.

(B) Supplement No. 5 (containing the revised nondisplacement energy charge) to the 1952 agreement is hereby accepted for filing pursuant to section 205, and shall be made effective as of June 26, 1978.

(C) Ohio Edison's request for waiver of the notice requirements of the Commission's regulations is hereby granted.

(D) Ohio Edison and Ohio Power are hereby directed to file their testimony and supporting cost data that they believe appropriate to substantiate the nondisplacement energy charge (particularly the 10-percent add-on) within 60 days from the issuance of this order.

(E) A presiding administrative law judge, to be designated by the chief administrative law judge, shall preside at an initial conference in this proceeding to be held 30 days after Ohio Edison and Ohio Power file their testimony and cost data, at 10 a.m. (e.t.) in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said law judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's rules and practice and procedure.

(F) The petitioners (21 Ohio cities as set forth in the body of this order) are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation by such intervenors shall be limited to matters set forth in their petition to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23717 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CS71-522]

READING & BATES PETROLEUM CO. (FORMERLY READING & BATES OIL & GAS CO.)

Redesignation

AUGUST 18, 1978.

By letter of July 21, 1978, Reading & Bates Petroleum Co. has advised the Commission that its company's name has been changed from Reading & Bates Oil & Gas Co., to Reading & Bates Petrolem Co., by articles of amendment to its articles of incorporation, effective May 31, 1978.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in docket No. CS71-522 to Reading & Bates Oil & Gas Co. is redesignated as that of Reading & Bates Petroleum Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23718 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. PV-1449]

TEXOMA PIPE LINE CO.

Tentative Valuation

AUGUST 17, 1978.

Notice is hereby given that a tentative valuation is under consideration for Texoma Pipe Line Co., P.O. Box 2039, Tulsa, Okla. 74102. This is an initial valuation for Texoma and the date of valuation is as of December 31, 1976.

On or before October 1, 1978, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 72 of the Interstate Commerce Commission's "general rules of practice" (49 CFR 1100.72) an original and three copies of a petition for leave to intervene in this proceeding. Jurisdiction over oil pipelines, as it relates to establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

If the petition for leave to intervene is granted the party may thus come within the category of "additional par-

ties as the FERC may prescribe" under section 19a(h) of the act, thereby enabling it to file a protest. It is required that a copy of the petition to intervene be served at the address shown above for Texoma and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition: They are entitled to file a protest as a matter of right under the statute.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23719 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CP78-470]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 18, 1978.

Take notice that on August 8, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-470 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 500 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Fletcher Brick Co., Inc. (Fletcher), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 500 dt equivalent of natural gas per day for Fletcher, an existing industrial customer of Public Service Co. of North Carolina (Public Service), one of applicant's resale customers served under its rate schedule CD-2.

It is stated that Fletcher has purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. (producers) up to 500 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek field, Jefferson Davis County, Miss., at a price of $1.745 per million Btu's for the first year and $1.92 per million Btu's during the second year. The gas is said to have a thermal content of approximately 961 Btu per cubic foot. It is further stated that the gas purchase contract provides for a minimum take-or-pay quantity of 375 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to existing points of delivery to Public Service for delivery to Fletcher's Hendersonville, N.C., plant. Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service is interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day and annual basis, and that the proposed service will have no impact on applicant's ability to provide systemwide deliveries for priority 1 markets. Applicant further asserts that it was unable to purchase the subject gas because of the unwillingness of Producers to sell the gas for resale in the interstate market.

It is stated that Fletcher has retained Consul, Ltd., to aid it in the development of a gas supply program, and has agreed to pay Consul, Ltd., 15.0 cents per million Btu for its services.

It is stated that the subject gas would be utilized by Fletcher in its wide-cross-section brick kiln with a high-velocity burner which is designed for use with gaseous fuel only. It is further stated that Public Service has advised that it is highly uncertain that it can provide gas supplies to meet Fletcher's priority 2 needs because it is being curtailed by applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1978, 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 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's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23720 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CP78-476]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 17, 1978.

Take notice that on August 9, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-476 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of temporary storage service of up to 8,000,000 dekatherms (dt) equivalent of natural gas for Columbia Gas Transmission Corp. (Columbia) and United Gas Pipe Line Co. (United) for the 1978-79 storage season, and authorizing a production area transportation service associated therewith, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that temporary storage service on a best efforts basis is available for the coming winter from applicant's storage facilities in the production area; namely, the Washington storage field, in St. Landry Parish, La., and the Hester storage field, in St. James Parish, La. These two storage fields have capacity available in excess of present commitments, it is stated. Applicant proposes to render temporary storage service of up to 4,000,000 dt each for United and Columbia. It is stated that injections into storage are contemplated to commence upon receipt of the requisite authorization and continue until November 1, 1978, and that withdrawals are to commence at that time and would terminate March 31, 1979, but may continue for an additional 15 days if necessary to effectuate redelivery of the temporary storage quantities.

Applicant indicates that it would charge United and Columbia a rate of 44.92 cents per dt for the temporary storage service and that applicant would be provided a total of 2 percent (1½ percent on injection and ½ percent on withdrawal) of the quantities as fuel, which rate is based upon the

100-percent load factor rate for storage service from the Washington field.

Applicant also proposes to provide a transportation service to Columbia and United in connection with this service. It is stated that United and Columbia would make available to applicant in the production area, quantities of gas to be transported to the storage fields for injection and subsequent withdrawal. Applicant states that this transportation service would be accomplished utilizing mutually agreeable existing and authorized interconnections. Applicant indicates that it would charge United and Columbia a transportation charge of 3.5 cents per dt for transportation in connection with this storage service, which is applicant's minimum rate for production area transportation of up to 100 miles.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1978, 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 the 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 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 it 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. 78-23721 Filed 8-23-78; 8:45 am]

[6740-02]

[Docket No. CP78-477]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 18, 1978.

Take notice that on August 9, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-477 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 100 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Florida Steel Drum Co. (Florida), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 100 dt equivalent of natural gas per day for Florida, an existing industrial customer of Public Service Co. of North Carolina (Public Service), one of applicant's resale customers served under its rate schedule CD-2.

It is stated that Florida has purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp. and Amerada Hess Corp. (producers) up to 100 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek field, Jefferson Davis County, Miss., at a price of $1.745 per million Btu's for the first year and $1.92 per million Btu's during the second year. The gas is said to have a thermal content of approximately 961 Btu per cubic foot. It is further stated that the gas pruchase contracts provide for a minimum take-or-pay quantity of 75 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to existing points of delivery to Public Service for delivery to Florida's Harrisburg, N.C., plant. Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service is interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day, and annual basis, and that the proposed service will have no impact on applicant's ability to provide system-wide deliveries for priority 1 markets. Applicant further asserts that it was unable to pruchase the subject gas because of the unwillingness of producers to sell the gas for resale in the interstate market.

It is stated that Florida has retained Consul, Ltd., to aid it in the development of a gas supply program, and has agreed to pay Consul, Ltd., 15.0 cents per million Btu for its services.

It is stated that the subject gas would be utilized by Florida for process and material protection usage in high bake lining ovens and to dry off washed parts as raw material steel must be kept dry and warm to prevent rust. Applicant states that Florida has been studying the possibility of conversion to alternate fuel but has found that to be a costly venture. It is further stated that Public Service has advised that it is highly uncertain that it can provide gas supplies to meet Florida's priority 2 needs because it is being curtailed by applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1978, 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 of 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's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23722 Filed 8-23-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PROGRAMS

[FRL 953-1; OPP-30020B]

Referral of Ingredients for Intensive Scientific Review; Correction

In FR Doc. 78-19541, appearing at page 30613 in the issue of July 17, 1978, the following corrections should be made.

1. On page 30613, the entry for risk criteria which may possibly be met or exceeded regarding Coal tar and Creosote should read:

Oncogenicity and mutagenicity.

2. On page 30614, the entry for risk criteria which may possibly be met or exceeded regarding Trichlorfon should read:

Oncogenicity, teratogenicity, and mutagenicity.

3. Further scientific review has revealed that on page 30614, the risk criteria which may possibly be met or exceeded regarding Perthane should be changed to read:

Oncogenicity and adrenal gland effects.

Dated: August 16, 1978.

DOUGLAS D. CAMPT,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-23787 Filed 8-23-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-241; FCC 78-565; Revisions to Tariff FCC No. 1 Transmittal Nos. 86 and 88

MCI TELECOMMUNICATIONS CORP.]

Memorandum Opinion and Order Instituting Investigation

Adopted: July 27, 1978.

Released: August 18, 1978.

By the Commission: Commissioner Washburn concurring and issuing a statement; Commissioner Fogarty issuing a separate statement in which Commissioner White joins.

1. On April 17, 1978, MCI Telecommunications Corp. (MCI) filed its transmittal No. 86 to expand the availability of its metered use service, which includes Execunet, to six additional cities.[1] This became effective May 2, 1978. On May 4, 1978, MCI filed its transmittal No. 88 to expand metered use service to another 10 cities.[2] This filing was originally to become effective on May 19, 1978 but was later deferred until August 2, 1978.[3]

2. On May 11, 1978, American Telephone & Telegraph Co. (A.T. & T.) filed a petition to reject both transmittal Nos. 86 and 88. MCI opposed the petition and A.T. & T. replied. A.T. & T. and Lincoln Telephone & Telegraph Co. (Lincoln) filed petitions to suspend and investigate transmittal No. 88 on May 30, 1978. MCI filed replies to each of the petitions. The various contentions of the parties are discussed below.

A. PROPER NOTICE PERIOD

3. In its petition for rejection A.T. & T. argues that the 15-day public notice provisions of sections 61.61 and 61.63 of the rules are inapplicable to transmittal Nos. 86 and 88 and that, since transmittal No. 86 already became effective on that abbreviated notice period, provision of service under that filing is prohibited by section 203(c) of the Communications Act, 47 U.S.C. § 203(c). A.T. & T. contends that sections 61.61 and 61.63 apply only to tariff filings which initiate service over new lines or to new points authorized by a radio license or modification of a radio license, and not to filings for service over facilities which could have been used for service provided under previously filed tariffs. To support the inapplicability of these provisions to the MCI filings, A.T. & T. relies on the position that certificates of convenience and necessity for facilities used to serve these additional Execunet cities were issued between 1969 and 1975 and that service has been provided by MCI over facilities constructed or leased by MCI pursuant to the designated certificates. Insofar as rejecting transmittal No. 86 is concerned, A.T. & T. urges that its effectiveness does not lessen the Commission's duty to reject a patently unlawful tariff.

4. MCI contends that it properly filed both of the tariff revisions under question, meeting the criteria set forth in sections 61.61 and 61.63. In this regard, MCI argues that its filings involve service over "new lines," since it claims that each voice grade channel of communication authorized but not previously used constitutes a new line, relying on the definition of "line" in section 214(a) of the Act, 47 U.S.C. § 214(a). MCI also alleges that the applicability of the 15-day notice period is consistent with the fact that other carriers have made filings adding new lines of communication over already constructed facilities on 15 days' notice.

5. Since MCI has been ordered by the Bureau to defer the effectiveness of transmittal No. 88 to provide for a full 90-day notice period, the applicability of sections 61.61 and 61.63 to that tariff filing are for all practical purposes moot. However, the question of whether those provisions properly governed the notice period for transmittal No. 86 remains. Section 61.61 provides in pertinent part:

> Charges and regulations applicable at, from, to or via points on new lines for which the Commission has issued a certificate of public convenience and necessity may be established on not less than 15 days' notice.

The applicable portion of Section 61.63 similarly provides:

> Charges and regulations applicable at, from, to or via new points of communication by radiotelephone or radiotelegraph stations, for which new points the Commission has issued a license or modification of license, may be established on not less than 15 days' notice.

The issue here is whether the intercity facilities used by MCI to provide Execunet to the additional six cities constitute new lines and whether these six cities are, in fact, new points of communication. It is undisputed that the facilities used to serve these six cities were already authorized and partially in use by MCI for other services.[4] It is also clear that MCI utilized these facilities to provide other services to these cities. MCI did not need to obtain separate authorization for these facilities to provide Execunet service to these particular locations.[5] Sections 61.61 and 61.63 are essentially designed to reduce delay in placing

[1] These cities are: Akron, Ohio, Columbus, Ohio, Cincinnati, Ohio, Dayton, Ohio, Toledo, Ohio, and Wilmington, Del.

[2] These cities are: Cedar Rapids, Iowa, Davenport, Iowa, Denver, Colo., Des Moines, Iowa, Lincoln, Nebr., Omaha, Nebr., San Diego, Calif., San Francisco, Calif., South Bend, Ind., and Tucson, Ariz.

[3] MCI filed each of these transmittals on 15 days' notice, relying on sections 61.61 and 61.63 of the Commission's rules, 47 CFR §§ 61.61 and 61.63. By letter of May 10, 1978, the Commission's Common Carrier Bureau stated that the 15-day notice period provided in section 61.61 relates to service on new lines and in section 61.63 concerns service via new points by radio. Since the expansion of metered use service was understood to be over existing lines via existing radio stations to existing service points, the Common Carrier Bureau stated that sections 61.61 and 61.63 would be inapplicable and that the proper notice period would be 70 days, pursuant to section 61.58(e) of the rules, 47 CFR § 61.58(e). The Bureau also requested additional economic and financial support data for both of MCI's transmittals. By letter of May 17, 1978, the Common Carrier Bureau ordered MCI to defer the effectiveness of its transmittal No. 88 until August 2, 1978, pursuant to section 61.58(d) of the rules, 47 CFR § 61.58(d).

[4] If particular facilities were already authorized, they do not constitute "new lines" within the meaning of section 214(a) of the Act.

[5] *MCI Telecommunications Corporation* v. *FCC* (*Execunet I*), 561 F. 2d 365 (D.C. Cir. 1977), *cert. denied*, 54 L. Ed. 2d 790 (1978).

into operation facilities that were authorized. If a carrier has just been involved in the section 214 or radio authorization process and related public notice requirements, the Commission and the public have had an opportunity to learn of, and respond to, the carrier's proposed expansion and the services involved. Another lengthy notice period for the tariff filing would not necessarily serve any useful purpose. Thus, sections 61.61 and 61.63 provide for a shortened 15-day notice period. On the other hand, where a carrier proposes by tariff to expand a service where no additional facility authorization is required, the regular 70-day notice period for the tariff's effectiveness is considered appropriate to provide the public and interested parties reasonable advance notice and opportunity to respond. Thus, the abbreviated notice provisions of the rules are not available to MCI in such situations where it is expanding its Execunet service to additional cities over existing, previously authorized facilities.[6]

6. Despite the fact that transmittal No. 86 should have been filed on 70 days' notice, as required by section 61.58(c) of the rules, 47 CFR § 61.58(c), Execunet service is now being provided to the six cities included in that filing. We do not find it would be in the public interest to reject that tariff filing at this time. Such action would be disruptive to current Execunet customers in those cities and would not convey any decided benefit upon the public or any other party. Therefore, we will not exercise our power of rejection in this instance.[7] However, MCI and other carriers should be on notice that future filings similar to transmittal No. 86 must be made in compliance with the applicable notice period requirements of section 61.58.

B. Public Interest Questions Raised by Execunet Expansion

7. A.T. & T. argues that the MCI tariff revisions raise substantial public interest questions concerning the expansion of Execunet which should be investigated. A.T. & T. maintains that the Court's decision in *Execunet I* and *MCI Telecommunications Corporation* v. *F.C.C.* (*Execunet II*) No. 76-1635 (D.C. Cir. April 14, 1978), support its position that the public interest consequences of service such as Execunet may properly be investigated in a tariff proceeding. A.T. & T. contends that Execunet and other MTS equivalent services are expanding rapidly; and that an investigation into the questions arising from full intercity competition is appropriate here because the increased competition may require A.T. & T. to deaverage MTS rates and may affect the amount of support of local exchange service from MTS revenues. To maintain control over the MTS market, A.T. & T. argues that the Commission should proceed with an investigation of MCI's expansion and not rely on the outcome of the *MTS/WATS Market Structure Inquiry*, CC Docket No. 78-72, FCC 78-144 (released March 3, 1978).

8. Lincoln argues that expansion of Execunet to additional cities, particularly to its service area of Lincoln, Nebr., should not be allowed absent an investigation of the public interest questions raised by such competition. Lincoln claims that suspension and investigation of MCI's proposed expansion would permit solutions of these issues to be applied to Lincoln, Nebr. and the other areas proposed to be served by Execunet. Also, Lincoln maintains that the expansion of Execunet to Lincoln, Nebr. could result in a potential $3,416,220 annual loss of billings by Lincoln to MCI.[8]

9. MCI contends that A.T. & T. and Lincoln have advanced no valid reasons for precluding its "modest expansion" of Execunet. MCI argues that *Execunet I* and *Execunet II* indicate that MCI is entitled to expand Execunet unless and until it is determined that such expansion is not in the public interest. Furthermore, MCI contends that the court in *MCI Telecommunications Corporation* v. *F.C.C.* (*Execunet III*), No. 76-7635 (D.C. Cir. May 11, 1978), stated that the Commission and A.T. & T. had not made a showing of harm from competition or demonstrated that the public interest would be adversely affected by Execunet expansion. MCI alleges that A.T. & T. is not entitled to protection of its position in the MTS and WATS market pending the outcome of the *MTS/WATS Market Structure Inquiry* and, indeed, the initiation of that inquiry indicates that the Commission is already considering the public interest questions involved and does not need to separately investigate the particular Execunet filing before us now. MCI responds to the argument that the Commission must suspend this filing to maintain control over competition by stating that its existing and proposed expanded facilities are small compared to A.T. & T.'s and that no significant impact on A.T. & T.'s dominance will result. MCI also contends that the potential revenue loss to Lincoln from Execunet expansion to its area is vastly overstated.

10. The court in all three Execunet decisions made it clear that A.T. & T. and other telephone carriers do not have a de jure monopoly in the interstate MTS field in the absence of a firm Commission finding in this regard.[9] Therefore, we cannot suspend, as A.T. & T. suggests, the proposed expansion of Execunet for the sole purpose of determining whether it is in the public interest for MCI to compete with A.T. & T. in this manner. This broad question is being considered in the *MTS/WATS Market Structure Inquiry*, and it is not appropriate to attempt its separate resolution in this proceeding.

11. Though we are precluded from taking the action requested by A.T. & T. and Lincoln on the broad public interest grounds noted above, we still must determine whether Lincoln has justified it claim of adverse impact to the public to the extent that some action against the MCI filing is warranted. Lincoln's claim of adverse impact sets forth a "worst case" situation and its study is based on several contentious assumptions. Specifically, the potential loss figure to Lincoln assumes that all customers in the Lincoln Telephone common switching area and the remainder of Lincoln's service area whose toll charges to cities served by Execunet exceeded the minimum Execunet charge would subscribe to Execunet. This extensive subscribership has not happened in other cities served by Execunet and Lincoln has not given us reason to conclude that it would happen in this instance. Also, push-button telephones or separate tone generating devices are required to utilize Execunet. It cannot be assumed that all the potential Execunet customers designated by Lincoln have such equipment. To acquire it would add to the customer's cost of the service. Also, by including all the customers in its service area, Lincoln apparently does not account for the fact that Execunet would not be available to all such customers through local service. Those customers outside the local exchange would be required to pay a toll charge to access MCI's facilities in Lincoln for the use of Execunet, thereby adding to their cost for the service. Finally, we question whether MCI has the intercity facilities from Lincoln to handle the amount of traffic Lincoln Telephone assumes will be diverted from its services.[10] Thus, we do not find that any

[6] The examples cited by MCI are not relevant to the situation before us here. Most of these examples constitute proper application of the shortened notice period where the facilities had just been authorized prior to the tariff filings.

[7] See *Associated Press* v. *F.C.C.*, 448 F. 2d 1095 (D.C. Cir. 1971).

[8] Also, by letter dated July 18, 1978, the Nebraska Public Service Commission indicated it "formally protests" the grant of the application for approval of 31 additional circuits by N-Tripple-C between Omaha and Lincoln, Nebr. (see Paragraph 15 below) and the expansion of Execunet service to Lincoln as contained in MCI tariff transmittal No. 88. In support of its position that Commission cites an apparent annual toll billing diversion of over $3,000,000.

[9] *Execunet I*, 561 F. 2d at 379-80, *Execunet II*, Slip Op. p. 15, and *Execunet III*, Slip Op. p. 9-10.

[10] On the other hand, we question MCI's premise that an Execunet circuit can only handle an average of 50 calls per day.

action against MCI's filing on these grounds advanced by Lincoln would be appropriate at this time.

C. FACILITIES FOR EXECUNET TO LINCOLN, NEBR.

12. Lincoln contends that at this time MCI does not have adequate intercity facilities entering Lincoln, Nebr. to expand Execunet to that location. To support its position, Lincoln states that MCI's subsidiary, N-Triple-C Inc., obtained authorization (file No. W-P-C-331) to lease and operate five-voice and/or data channels between Omaha and Lincoln, Nebr.[11] Also, Lincoln maintains that MCI has not made arrangements for use of local exchange facilities for terminating Execunet service in Lincoln. Lincoln argues that unless and until such arrangements are made, MCI does not possess the capability to provide Execunet in Lincoln.

13. MCI argues that it has obtained and can continue to obtain the necessary facilities to provide Execunet to Lincoln. In regard to the intercity facilities, MCI contends that three of the five authorized channels are sufficient to initiate Execunet service to Lincoln. Referring to its application for an additional 31 circuits to Lincoln, MCI alleges that the Commission will be required to authorize facilities needed for orderly expansion of Execunet. Concerning the local exchange facilities, MCI points out that Lincoln does not state it will refuse to supply local exchange facilities when requested by MCI. In fact, MCI argues that Lincoln is required to supply them pursuant to *Execunet II* and *Bell System Tariff Offerings*, 46 FCC 2d 413 (1974), *aff'd sub nom. Bell Telephone Company of Pennsylvania* v. *F.C.C.*, 503 F. 2d 1250 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026.

14. The Court in *Execunet II* stated that its opinion allowing competition in the MTS market was based on what it perceived to be a broad decison by the Commission in *Specialized Common Carrier*, 29 FCC 2d 870 (1971), *aff'd sub. nom. Washington Utilities and Transportation Commission* v. *F.C.C.*, 513 F. 2d 1142 (9th Cir.), *Cert. denied*, 423 U.S. 836 (1975). Similarly the Court stated that the interconnection obligations for local exchange service to be used in providing MTS/WATS equivalent services were derived from *Specialized Common Carrier* and *Bell System Tariff Offerings*. It is evident that the Court intended its expansive interpretation of *Specialized Common Carrier* to apply to interconnection obligations. When discussing interconnection for use of local exchange facilities in *Specialized Common Carrier*, the Commission did not distinguish between the obligations of the Bell System Operating Companies and the independents. In *Bell System Tariff Offerings*, the Commission stated that its interconnection policies for private line services applied to all telephone companies and that it expected all companies to comply with those policies in the absence of a substantial showing that a particular request for interconnection would result in damage to the telephone system or would be otherwise inconsistent with the public interest. 46 FCC 2d at 437. Since the Court made the interconnection obligations of Bell and non-Bell local telephone companies applicable to MTS/WATS equivalent services, Lincoln is obligated to provide local exchange facilities to MCI for Execunet upon a proper request and absent a showing that provision of those facilities would result in damage to Lincoln's telephone system or would otherwise be contrary to the public interest. We cannot find that Lincoln has made such a showing in its petition.

15. It is undisputed that MCI does have authorization for intercity facilities which can be utilized for Execunet service to Lincoln. In addition, MCI's application for 31 circuits between Omaha and Lincoln was granted on June 28, 1978. On this basis, we conclude that MCI has adequate facilities to specify Lincoln, Nebr. as a point of service for Execunet in its tariff.

D. COST SUPPORT MATERIAL

16. In its rejection petition, A.T. & T. contends that the cost support material required by section 61.38 of the rules, 47 CFR § 61.38, is lacking for transmittal No. 86 and is inadequate for transmittal No. 88. A.T. & T. cites the May 10, 1978 Common Carrier Bureau letter to MCI which specified certain deficiencies in MCI's cost support data to support its position. A.T. & T. also claims that MCI's response to the Bureau inquiry failed to correct the deficiencies. These shortcomings justify rejection, A.T. & T. argues.

17. In its suspension petition, A.T. & T. elaborates on the deficiencies it perceives in MCI's response to the Bureau's request and claims that those and other questions should be investigated. The first area of alleged deficient information in response to the Bureau's request involves cost support for the intercity facilities to be used in providing Execunet to the additional cities. A.T. & T. claims that MCI did not supply any detail of the facilities used to provide the services or the costs allocated to each service. A.T. & T. also alleges that MCI did not provide cost elements for the most recent 12-month period as required by section 61.38(a)(2)(i) of the rules. The second area concerns a 3-year projection of costs and circuit allocation for intercity facilities for each of MCI's services. A.T. & T. argues that MCI only provided a cumulative projection of costs for all services and that the statements concerning future growth allegedly used in support of those projections are unsupported. The third area of inadequate information involves justification for the cost for Execunet interconnect lines. A.T. & T. claims that MCI's original figure of $100/circuit/month is not justified, particularly in view of the fact that MCI sets forth a cost of between $60.66 and $71.65 for these lines.

18. A.T. & T. maintains that several additional deficiencies in MCI's cost support material exist. All the data submitted by MCI, including the cost of service study, lacks the statistical studies required by section 1.363 of the rules, 47 CFR § 1.363, A.T. & T. argues. A.T. & T. also contends that MCI did not submit an estimate of the effects of its filings on the traffic and revenues from MCI's other service classifications required by section 61.38(a)(2)(ii) or the data for the most recent 12-month period required by section 61.38(a)(2)(i). Finally, A.T. & T. argues that the 3-year revenue projections are based on a series of assumptions for which no substantiation is provided.

19. MCI replies to A.T. & T.'s rejection contentions by arguing that its economic and financial data in support of both its tariff filings were acceptable to the Common Carrier Bureau. MCI bases its position in part on the fact that transmittal No. 86 became effective without challenge and on its belief that it adequately responded to the alleged deficiencies in the transmittal No. 88 filing. MCI also contends that its transmittal No. 86 filing cannot be rejected since it is already effective, citing *Delta Air Lines* v. *CAB*, 543 F.2d 247, 268 (D.C. Cir. 1976).

20. MCI responds to A.T. & T.'s cost support data suspension argument by claiming that the purpose of the section 61.38 requirements is "to guard against overcharge for a carrier's monopoly services" and to prevent monopoly carriers from adopting predatory rates and practices. MCI contends that neither Execunet nor any other of its services are monopolies and that its tariff filing being considered here would not change the rates for Execunet. MCI also alleges that it adequately responded to the Bureau's requests for additional cost support data, particularly since MCI alleges

[11] N-Triple-C has leased and put into operation only two of these five circuits. Although N-Triple-C applied for authority to lease 31 additional circuits between Omaha and Lincoln (file No. W-P-C-1923), approval had not been granted at the time Lincoln's pleading was filed. Such application was subsequently granted. See paragraph 15, below.

that the specific information requests were narrowed in discussions with the staff upon receipt of the letter.[12] In particular, MCI claims that the Bureau's request for information on facilities used for each of its services and related costs was actually a request seeking information on intercity facilities which would be used with the expansion of Execunet. MCI maintains that the derived information was included in the original supporting material. Likewise, MCI argues that the request for a description of the type of facilities to be used for its services was actually satisfied by a statement that all facilities currently in use to the 10 additional Execunet cities are dedicated private lines, rather than facilities used for shared services. Also, MCI argues that it has supplied cost support data for the most recent 12 months for which data was available, in compliance with section 61.38(a)(2)(i). In reply to A.T. & T.'s second contention concerning the 3-year projected costs and circuit allocations for intercity facilities for each MCI service, MCI alleges that the staff agreed to accept aggregated data for only five services.

21. MCI also responds to A.T. & T.'s allegations of failure to supply back up statistical studies by stating that for its cost of service study, no such detail is required, and that for its other data, the underlying assumptions are indicated. In reply to A.T. & T.'s argument that MCI failed to supply an estimate of the effects of the new filing on other MCI services, MCI relies on the statement in its original Execunet filing of September 16, 1974 that Execunet would have no perceptible effect on traffic and revenues of MCI's other services.

22. We find that MCI's supplemental cost support material for expansion of Execunet to an additional 6 and 10 cities does not contain deficiencies of the magnitude that would necessitate rejection.[13] However, we do find that substantial questions exist concerning MCT's economic and financial data submitted in support of these changes in the Execunet service. Before discussing those questions, we wish to clarify the applicability of the requirements of section 61.38 of the rules to MCI. When this rule was adopted, we stated that it "was intended to provide the Commission and the staff with the information necessary to evaluate tariff filings." In the matter of amendment of part 61 of the Commission's rules relating to tariffs, Docket No. 18703, 25 FCC 2d 957, 961 (1970). We also stated that:

> We have considered whether there should be some provisions limiting the effectiveness of the proposed rule to certain types of carriers (international, domestic, etc.). The statutory requirements of sections 201(b) and 202(a) apply to all carriers * * * It has also been determined to make the proposed rule applicable to all tariff changes regardless of type.

25 FCC 2d at 966. Nowhere in that decision is a distinction made concerning the strictness of enforcement of that rule between a carrier providing monopoly service and one providing competitive services.[14] Moreover, section 61.38 does not contain any provision which gives MCI an exemption from the filing requirements of that rule. The purpose of the requirement is to allow the Commission to evaluate the tariff filing adequately. As we describe below, MCI has not provided satisfactory cost data for use to make the proper evaluation of these filings.

23. A major problem with MCI's support data is based on MCI's position that the expansion of Execunet to the additional cities will have no effect on the traffic and revenues of MCI's other services. Since this contention is not self-evident, the Bureau sought information concerning the use of and costs for MCI's intercity facilities for each of MCI's services. An existing carrier has the burden of demonstrating that the expansion of a service would not prejudice the interests of customers for that service or other existing services. MCI did not supply the costs allocated to each service for its intercity facilities on a 3-year projection of such costs. By not breaking down costs or forecasts for each service individually, and by lumping the figures together for five services, MCI has not provided the information which is necessary to evaluate whether the interests of existing customers of MCI's services would be prejudiced. Therefore, since MCI's responses did not answer our concerns, the effect of Execunet expansion on MCI's facilities and existing services must be explored. Certain information should be provided and considered in order to make a proper determination. First, MCI should provide the costs allotted to Execunet and each of MCI's other services for intercity facilities utilized in providing Execunet to the additional 6 and 10 cities. Second, MCI should supply 3-year cost projections and circuit allocations for intercity facilites spearately for Execunet and each of MCI's other services, as well as an explanation for the basis of its assumptions for the projections.

24. MCI's projections for these filings are based on historical information, which is not supported by any data. Also, the development of MCI's cost of service study is not explained and the included elements are not set forth. Furthermore, the cost of service projections are based on unsubstantiated historical costs. Because the historical information used in both the projections and cost of service study is unsubstantiated, we are confronted with a situation where we cannot adequately evaluate either the revenue and traffic projections or the cost of service study. Thus, we are unable to conclude that the support data for the expansion of Execunet to the additional cities is either complete or valid, and we find that substantial questions exist with regard to both transmittal Nos. 86 and 88. These warrant investigation.

25. When dealing with the specialized common carriers, we have attempted to follow a policy that generally allows competitive, forces to act in as free a manner as possible. This was due partially to the market uncertainties in providing private line competitive service, as well as to the lack of historical and cost data in providing such services. However, MCI's service offerings have expanded into areas not previously anticipated as competitive, and we believe we have an obligation to analyze such offerings and the costs associated therewith just as we would for any telephone company providing such service. We believe a thorough analysis of the support data for Execunet will assist us in evaluating its

[12] In this regard, we wish to make clear the erroneous nature of MCI's comments concerning agreements between MCI and the Commission staff concerning the supplemental information request. While MCI did express reluctance to provide certain information, the staff did not agree to accept any information in an abbreviated form or otherwise different from that originally requested.

[13] While the courts have generally limited the power of a regulatory commission to reject a tariff only where the filing is clearly unlawful on its face, they have not conversely held that the duty to reject is absolute. Rather, they have recognized the need of agencies to excercise reasonable discretion not to reject when this best serves administrative purposes. *Municipal Light Boards* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971); *Associated Press* v. *FCC*, 448 F. 2d 1095 (D.C. Cir. 1971); *American Farm Lines* v. *Black Ball Freight Services*, 397 U.S. 532 (1970).

[14] While section 61.38 is equally applicable to all carriers, this does not mean that carriers must support the requirements of the rule in the same detail in each filing. In this regard, we stated at the time the rule was adopted:

> We do not expect that every rate filed by every carrier will require exactly the same amount of supporting information. It is not correct to state that every tariff filing must be supported by detailed cost projections and elaborate statistical studies. Large carriers filing rates for sizable service offerings, would be expected to support their filing with the most comprehensive and reliable data that they can produce.
>
> * * * A point-to-point microwave carrier, on the other hand, with only small revenues, only one service, and few customers would not be requried, nor would it need, elaborate studies to support its rates.

25 FCC 2d at 965. Obviously MCI is not at either extreme as represented by these two examples.

impact on the private line competitive services and the general reasonableness and lawfulness of MCI's rate structure.

26. We do not believe that transmittal No. 86 adding 10 cities to MCI's metered use service warrants suspension on the basis of inadequate support information since the issues to be investigated touch upon the totality of MCI's rates for metered use service and other services. We recognize further that MCI's rates for these ten cities are encompassed within the general pattern for metered use services and thus we do not believe it would make sense to single out service to the 10 cities for suspension at this time. Moreover, suspension of the filing would have the effect of delaying service to the 10 cities and those customers who would be served.

27. Therefore, we will institute a general overall investigation of MCI's metered use service (not limited to transmittals 86 and 88). However, transmittal 88 will be allowed to go into effect as presently scheduled.

28. Accordingly, *It is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules of MCI Telecommunications Corp. for its metered use servce contained in its tariff FCC No. 1.

29. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include, but not be limited to, consideration of the following: [15]

(a) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(b) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;

(c) Whether the tariff schedules conform to the requirements of section 203 of the Act and part 61 (47 CFR Part 61) of the rules implementing that section;

(d) If any of such charges, classifications, practices, or regulations are found to be unlawful, whether the Commission, pursuant to section 205 of the Act, should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed.

30. *It is further ordered*, That a hearing will be held in this proceeding at the Commission's offices in Washington, D.C. at a time to be specified.

31. *It is further ordered*, That a special trial staff of the Common Carrier Bureau will participate in the above-captioned proceeding, to be designated by the Chief, Common Carrier Bureau pursuant to 47 USC § 0.101, and be separated in accordance with section 1.1209 of the Commission's rules, 47 CFR § 1.1209.

32. *It is further ordered*, That the administrative law judge shall upon closing of the record prepare and issue an initial decision, which shall be subject to the submission of exceptions and requests for oral argument, as provided in sections 1.276 and 1.277 of the Commission's rules, 47 CFR §§ 1.276 and 1.277, after which the Commission shall issue its decision as provided in section 1.282 of those rules, 47 CFR § 1.282.

33. *It is further ordered*, That the petition to reject MCI's transmittal Nos. 86 and 88 filed by A.T. & T. is denied.

34. *It is further ordered*, That the petitions to suspended and investigate MCI's transmittal No. 88 filed by A.T. & T. and Lincoln are granted to the extent indicated herein but otherwise are denied.

35. *It is further ordered*, That MCI Telecommunications Corp. is named party respondent and any other interested party wishing to actively participate in this proceeding shall file a notice of its intention to do so within 30 days of the date of publication of this order in the FEDERAL REGISTER.

36. *It is further ordered*, That the Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION [16]

WILLIAM J. TRICARICO,
Secretary.

APPENDIX—INFORMATION TO BE SUPPLIED BY MCI

(1) Provide the following information on a city pair basis:

(a) The types of facilities (terrestrial, microwave, satellite, cable, etc.) used by MCI to provide both revenue and nonrevenue service, including metered use service.

(b) The facility quantities (i.e. number of lines) by type.

(c) Identify those facilities which are owned by MCI and those leased from other carriers.

(d) The costs (both direct and indirect) associated with the facilities described in (b) through (c) above. Explain the derivation of such costs and provide all workpapers showing how such costs were calculated.

(e) Provide a breakdown of the costs in (d) above showing the specific equipment items included.

(2) In each instance where common or joint costs were allocated to different services, explain the basis for such allocation and provide the workpapers showing the calculations underlying the derviation of such allocation.

(3) In each instance, where the section 61.38 support data already provided by MCI was stated to be based on "historical information," provide the "historical information" relied upon.

(4) Explain the methodology underlying all marketing and revenue projections. Show the calculations used to obtain the acutal projections and provide all workpapers and any special studies relevant to such projections.

CONCURRING STATEMENT OF COMMISSIONER ABBOTT WASHBURN; RE: EXECUNET RATES

AUGUST 10, 1978

Today the Commission ordered a hearing into the lawfulness of MCI's Execunet rates. Under the order MCI must provide extensive cost allocation studies on Execunet and on each of its other services. Additionally, MCI is required to supply 3-year cost projections and circuit allocations separately for Execunet and for each of its other services, together with a detailed explanation for all assumptions used in arriving at these projections.

Today's action is a clear case of "regulatory overkill." A firm like MCI that does not have, nor claim, a monopoly franchise and for all of whose services there are ready substitutes, obviously stands in a much different posture with respect to the public interest than a monopoly carrier like A.T. & T. which is essentially guaranteed a reasonable rate-of-return. The touchstone of regulation should be rooted in the public's interest not in some notion of regulatory parity.[1] It makes little sense to fashion the same cage for a canary as for a gorilla. Where the opportunity for customer abuse is greater, the regulatory responsibility is, likewise, heavier and the rules should be strictly enforced. Where, as here, there is virtually no opportunity for public abuse there is no justification to expend scarce Commission investigative resources. Customers who feel

[15] As part of its direct case we expect MCI to provide the information as specified in the appendix hereto. The submission of this information, however, is not intended to alter the normal burden of proof or to otherwise restrict the presiding officer or any party from seeking any other information necessary to the development of a complete record in this proceeding.

[16] See attached concurring statement of Commissioner Abbott Washburn and separate statement of Commissioner Joseph R. Fogarty in which Commissioner Margita E. White joins.

[1] This is especially true where the parties are as dissimilarly situated as MCI and A.T. & T.

disadvantaged by MCI's rates can readily choose alternative suppliers of like services.

The courts have recognized, "A regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist." [2] In a more recent case [3] the court upheld the Commission's decision not to impose common carrier obligations on cable television access channels, stating:

> * * * that while common carrier status may become an appropriate regulatory structure in the future, the present is better served by rules which allow the forces of the market place to function freely.[4]

The court's decision in *ACLU* was viewed by the D.C. Circuit [5] as holding "that the Commission had discretion to refuse to exercise its common carrier regulatory powers * * *" Further, the fact that, at present, independent terminal equipment vendors are essentially unregulated and A.T. & T. is subject to all the aspects of title II regulation in the provision of customer terminal equipment is reflective of this nonsymmetrical, common sense approach.

Because of MCI's purely competitive position, it is my opinion that their filing of summary cost data did, in fact, meet the threshold of proof under our rules thereby avoiding the expense of a rate hearing.

I concur in today's result only because the Staff has given us assurances that in September or October they will present a proposed rulemaking to bring our outdated 1970 rules into line for domestic satellite and other competitive carriers such as MCI. At that time it would make sense to consolidate this hearing with that rulemaking.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY IN WHICH COMMISSIONER MARGITA E. WHITE JOINS; RE: MCI TARIFF REVISIONS EXPANDING EXECUNET SERVICE TO ADDITIONAL CITIES.

I agree wholeheartedly that MCI's Execunet tariff rates should be designated for hearing. Section 61.38 of our rules, by its own terms, applies without exception to all common carriers subject to our tariff jurisdiction. Here, the Common Carrier Bureau staff gave MCI an opportunity to amend its filing in order to bring it into compliance with the rules. MCI's response was that most of the information was proprietary and unnecessary—a response that I find impertinent and inadequate. the data requested of MCI is essential to allow us to determine whether the Execunet rates are just, reasonable, non-discriminatory and otherwise in compliance with the Communications Act.

Pursuant to the *Execunet I* decision,[6] MCI and other domestic carriers are unrestricted as to the services they are permitted to offer over existing facilities. Consequently, no carrier has a de jure monopoly over any interstate service offering. Of course, this is the result of the relentless prosecution of this litigation by MCI before both the Commission and the courts. Clearly, MCI has invaded the MTS/WATS market previously considered to be the de facto monopoly of the traditional domestic telephone carriers. In fact, MCI is advertising itself as "part of the telephone system." As a result, MCI is now playing in the major leagues along with A.T. & T. and must play by the same rules of the game.

While data in the same type of detail which we require of A.T. & T. under section 61.38 may not be required of MCI, based largely on the differences in the size and complexities of their respective networks, nevertheless, MCI, like A.T. & T., must meet all the explicit requirements of section 61.38. The *Execunet I* decision itself held that we may not give A.T. & T. and the specialized carriers disparate treatment. The court there declared that we may not prefer A.T. & T. just because it got there first. Obviously, we may not establish different standards for MCI just because it got there second.

I therefore concur that this tariff, although it may be rejectable, should be permitted to go into effect. However, since MCI has failed to submit the necessary supporting data, we have no choice but to designate this tariff for investigation.

[FR Doc. 78-23770 Filed 8-23-78; 8:45 am]

[6712-01]

[FCC 78-551]

PEOPLES BROADCASTING CORP. ET AL.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: July 27, 1978.

Released: August 16, 1978.

In re applications of Peoples Broadcasting Corp., Indianapolis, Ind., BC docket No. 78-243, file No. BPH-9958; Radio Circle City, Inc., Indianapolis, Ind., BC docket No. 78-244, file No. BPH-10014; Mediacom, Inc., Indianapolis, Ind., BC docket No. 78-245, file No. BPH-10036; Radio Corporation of Indiana, Indianapolis, Ind., BC docket No. 78-246, file No. BPH-10047; Indianapolis Communications Corp., Indianapolis, Ind., BC Docket No. 78-247, file No. BPH-10066; for construction permit for new FM broadcast station (107.9 MHz; channel No. 300).

By the Commission.

1. The Commission has before it for consideration the mutually exclusive applications of Peoples Broadcasting Corp. (Peoples), Radio Circle City Inc. (RCC), Mediacom, Inc. (Mediacom), Radio Corporation of Indiana (Radio Corp) and Indianapolis Communications Corp. (ICC) for the deleted facilities of broadcast station WIFE-FM, Indianapolis, Ind.[1] Also before the Commission are petitions to specify issues filed by the various applicants and pleadings responsive thereto. For purposes of convenience, we will consider the requested issues on an applicant-by-applicant basis rather than considering each petition in turn.

ISSUES AGAINST PEOPLES BROADCASTING CORP.

2. *Financial issues.* The requirement that applicants for broadcast facilities show the availability of sufficient funds to construct and operate their proposed facilities for one year, *Ultravision Broadcasting Company*, 1 FCC 2d 544, 5 RR 2d 343 (1965), is generally limited to a 3 month showing where the applicant will replace a station with an established record of advertising revenues. See *e.g. Orange Nine, Inc.* 7 FCC 2d 788, 9 RR 2d 1157 (1967). While the applicants here seek a deleted facility, the frequency has been silent for a considerable period of time and will undoubtedly remain so until the instant comparative proceeding is completed. Under these circumstances, we do not believe that the applicants can reasonably rely upon the prior licensee's record of earnings. See *Azalea Corp.*, FCC 67-756, 10 RR 2d 717 (1967). Four of the Applicants here have submitted financial showings based on a one year standard. The fifth, Peoples, has demonstrated an ability to operate for only a three month period. As our deficiency letters to the applicants [2] adopted a

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[2] *City of Chicago* v. *Federal Power Commission*, 458 F. 2d 731, 742 (D.C. Cir. 1972).

[3] *ACLU* v. *F.C.C.*, 523 F. 2d 1344 (9th Cir. 1975).

[4] Id at 1351.

[5] *NARUC* v. *F.C.C.*, 533 F. 2d 601, 620 (D.C. Cir. 1976). The courts have similarly upheld decisions of other agencies declining to impose statutory regulatory controls over entities within their jurisdiction. See, e.g., *Guss* v. *Utah Board*, 353 U.S. 1, 3 (1957); *Pan American World Airways* v. *CAB*, 392 F. 2d 483, 495-96 (D.C. Cir. 1968).

[6] *MCI Telecommunications Corp.* v. *FCC*, 561 F. 2d 365 (D.C. Cir., 1977), *cert. denied*, — U.S. —, 98 S. Ct. 780, 54 L. Ed. 2d 790 (1978).

[1] By letter of June 6, 1978, a sixth applicant, Indianapolis Broadcasting Inc. (IBI), requested that its application be dismissed. IBI had previously filed a petition to specify issues and we have considered its petition here.

[2] For a description of the deficiency letter process see *Amendment of Parts 0 and 1 of the Commission's Rules with Respect to Adjudicatory Re-regulation Proposals*, 58 FCC 2d 865, 872, 36 RR 2d 1203, 1213 (1976)

three-month standard, and as Peoples' financial plan reflects this fact, Peoples may have thirty days after designation in which to amend its application to meet the one-year standard. The presiding Administrative Law Judge may then, at his discretion, specify a financial issue if one is required.

3. The challenges of RCC and Radio Corp. to Peoples' financial showing can be quickly dismissed. Thus, with respect to the ability of two Peoples' stockholders to meet their subscription commitments, as the applicant does not rely upon these commitments to establish its qualifications, we need not concern ourselves with the availability of funds from this source. and, while it is true that the Peoples has not expressly included in its estimated expenses the cost of property taxes for its proposed studio and transmitter sites, we cannot conclude in the absence of specific evidence to the contrary, that its cushion of approximately $55,000.00 will be inadequate for this purpose.[3] We therefore will not specify financial issues.

4. *Ascertainment issues.*[4] Mediacom, pointing to the fact that Richie Clark was dismissed as a stockholder of Peoples shortly before its application was filed, argues that Clark was never a bona fide principal of the applicant. Hence, it alleges, Clark's interviews of community leaders should be disallowed. Affidavits from Clark and from a Peoples' principal establish, however, (1) that Clark was dismissed as a stockholder of Peoples because of a bankruptcy judgment against him and (2) that Peoples' other principals did not learn of this judgment until after Clark had completed his interviews. Under these circumstances, we have no basis for questioning either Clark's qualifications to contact community leaders or Peoples' good faith in relying on his interviews.[5] As for RCC's complaint that one of Peoples' principals did not conduct community leader interviews, the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971) does not require that all principals participate in the ascertainment process and we therefore cannot fault Peoples on this score. Nor can we specify a comparative efforts issue as RCC has neither established that Peoples interviewed significantly smaller numbers of community leaders than did the other applicants nor identified significant problems or needs that Peoples failed to uncover. See *Chapman Radio and Television Co.*, 7 FCC 2d 213, 9 RR 2d 635 (1967).

5. *Cross ownership issue.* Citing the interest of Peoples' controlling stockholder, the Lafayette Road Corp.,[6] in motion picture theaters in the Indianapolis area, Mediacom seeks an inquiry into the anticompetitive effects of theater-radio station cross-ownership. Mediacom does not, however, provide any evidence as to the nature and extent of the theater interests involved and its claims of unfair competition are extremely speculative in nature. Petitioner has, in short, failed to provide the specific allegations of fact necessary to support an issue and its request will be denied. Compare *Eastern Broadcasting Corp.*, 30 FCC 2d 745, 22 RR 2d 472 (Rev. Bd. 1971) with *Atlantic Video Corp.*, 17 FCC 2d 565, 16 RR 2d 63 (Rev. Bd. 1969).

6. *Other matters.* Petitions to specify issues in this proceeding were due on November 21, 1977. On November 25, 1977, Radio Corp. filed a supplement to its petition seeking, inter alia, a public file issues against Peoples.[7] Under section 1.229 of our rules, untimely motions to specify issues will be granted only if good cause is shown for the delay, or if initial examination demonstrates that the motion raises a question of probable decisional significance and such substantial public importance as to warrant consideration in spite of its untimeliness. With respect to the first aspect of this test, Radio Corp. maintains that it filed its request one business day after the alleged violation took place. Examination of the supporting affidavit establishes, however, that Radio Corp. did not attempt to examine Peoples' public file until November 23, 1977, two days after petitions to specify issues were due. Radio Corp. has offered no explanation for its failure to inspect the public file at an earlier date. In the absence of such information, we cannot find good cause for its tardiness. Turning to the second aspect of the test, we are not persuaded that Radio Corp.'s allegations of a single, isolated inability to locate Peoples' public file, even if true, are of sufficient importance to warrant disqualification. Accordingly, we will reject the supplemental pleading without further consideration of the merits.

ISSUES AGAINST MEDIACOM, INC.

7. *Financial issues.*[8] To meet expenses of approximately $835,000.[9] Mediacom relies upon a $750,000 bank loan and loans from stockholders totalling $192,000. Peoples and IBI both challenge the availability of the bank loan, but their objections can be easily dismissed. Thus, contrary to IBI's claim, Mediacom has submitted a stockholders' agreement to pledge shares to secure the loan. Moreover, Peoples' allegations notwithstanding, the bank's letter clearly indicates that in requesting a security interest in any equipment or real estate owned by Mediacom, the bank was aware that the applicant would not acquire such property until after the proceeds of the loan were made available to it. We find therefore that Mediacom can rely upon its proposed bank loan. Furthermore, we believe that the applicant can claim credit for its shareholders' loans as well. To demonstrate the shareholders' abilities to obtain the necessary funds, Mediacom has submitted letters of commitment from banks to the individual shareholders.[10] In addition, the applicant has supplied for each shareholder a financial statement listing aggregate liquid and fixed assets, plus aggregate current and long-term liabilities. From the financial resources reflected in each of these statements, it would appear that the banks involved could reasonably make the commitments indicated.[11] See *Calojay Enterprises, Inc., supra; Jimmie H. Howell*, 46 FCC 2d 50, 20 RR 2d 1317 (Rev. Bd. 1974). Accordingly, Mediacom may rely upon this source of funding.

8. Where an applicant's financial proposal is characterized by a high debt-to-credit ratio and deferrals of substantial debt payments outside the first year, a second year financial issue may be appropriate. *Midwest St.*

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[3] Peoples has $490,000.00 available to meet expenses of approximately $435,000.00.

[4] In response to a challenge to its survey of the general public, Peoples has amended its application to include a new and unquestionably valid survey. We will accept this amendment. The raising of a question in a petition to specify issues constitutes good cause for an appropriate pre-designation amendment. See Section 1.522(a) of our rules.

[5] Interviews with community leaders are not discounted simply because the person who conducted them is no longer associated with the applicant. See e.g. *Western Television Co.*, 50 FCC 2d 453, 32 RR 2d 350 (Rev. Bd. 1974).

[6] The Lafayette Road Corporation is owned by Joseph Cantor, Peoples' president and treasurer, and his son, Daniel Cantor, Peoples' assistant treasurer. Both Cantors are also directors of Peoples.

[7] Section 1.526 of our rules requires applicants to maintain a public file.

[8] Mediacom has resolved a question as to its legal authority to construct and operate a broadcast station with an appropriate amendment to its application.

[9] Itemized as follows: equipment, $107,600; building, $10,000; new tower, $50,000; interest on bank loan, $60,000; miscellaneous, $112,000; working capital (one year), $494,000.

[10] Where a bank loan runs to a stock subscriber rather than to the applicant, it is not necessary to specify the terms of repayment. *Calojay Enterprises, Inc.*, 33 FCC 2d 690 (1971). Hence, to the extent that various applicants seek issues against Mediacom based on alleged defects in these letters, their objections are unwarranted.

[11] As Mediacom's shareholders rely upon bank loans rather than personal assets to satisfy their commitments, we see no reason to require that they distinguish liquid assets from other assets.

Louis. Inc., 65 FCC 2d 673, 41 RR 2d 275 (1977). Peoples argues that an issue is warranted here. We do not agree. The shareholder loan commitments upon which Mediacom relies for a significant portion of its funding [12] provide that these loans will be subordinate to any other indebtedness of the corporation and call for no principal payments until December 31, 1986. Thus, there is present a strong personal incentive on the part of the shareholders to create a successful ongoing operation, as their investments will not otherwise be returned. See *Sampson Broadcasting Co., Inc.*, 52 FCC 2d 954, 33 RR 2d 923 (1975). It is significant moreover that Mediacom has not deferred all of its expenses, in that its equipment payments will begin during its first year of operation. Finally, although Mediacom's financial proposal does not require a reliance upon revenue, the prior licensee operated its station at a profit and we think it unreasonable to assume that a new licensee will receive no revenue whatsoever during its first or second years. For all of these reasons, we will not specify a second year financial issue.

9. *Ascertainment issues.* By amendment to its application Mediacom has resolved questions as to who conducted its community leader interviews, the role of questionnaires in this survey and the nature of the problems ascertained. The applicant has also provided a list of Indianapolis' public service organizations. With respect to Mediacom's demographic showing, while Peoples claims that the showing is not based upon the most recent data available, it has provided no specific evidence indicating that more current data was obtainable, or more importantly, that such data would require significant changes in Mediacom's effort. Similarly, even though Mediacom did not interview members of Indianapolis' city council, its interviews with the city's mayor, deputy mayor, director of planning and zoning and commissioner of the department of corrections, among others, appearing to us adequate to satisfy its obligations in the field of local government. Therefore, we find no basis for an ascertainment issue.

10. *Antitrust and related issues.* By amendment to its application, Mediacom reported to the Commission the involvement of two of its principals—C. Harvey Bradley and James E. Lamb—in antitrust litigation. In each case, the Mediacom principal is an officer, director and stockholder of the corporate defendant in the litigation. We have in the past singled out violations of the antitrust laws as the type of conduct which can, under appropriate circumstances, bear upon an applicant's qualifications to be a licensee. *Violation by Applicants of Laws of United States*, 42 FCC 2d 399, 404, 1 RR Part 3 91:495 (1951). We cannot determine whether such circumstances exist here, as we lack specific information as to the nature of the alleged violations and the role of Mediacom's principals in them. As is our usual practice in such situations, we will order that if Mediacom is ultimately determined the preferable applicant in this proceeding, it will be without prejudice to any action the Commission might deem appropriate in view of the final disposition of the pending litigation. *Post-Newsweek Stations, Florida, Inc., (WPLG-TV)*, 49 FCC 2d 92, 31 RR 2d 692 (Rev. Bd. 1974). At the same time, we will not specify section 1.514 or section 1.65 [13] issues against Mediacom. While the applicant, as RCI maintains, may not have reported the antitrust litigation in a timely fashion, it did voluntarily inform the Commission of the legal actions and no intent on its part to deceive or mislead is apparent. See *David Ortiz Radio Corp.*, 47 FCC 2d 28, 29 RR 2d 15131 (Rev. Bd. 1974).

11. *Public file issue.* RCI seeks a section 1.526 issue alleging that Mediacom's public file was not available for inspection at the place indicated in its publication notice.[14] We are of the view, however, that while a technical violation of our rules may have occurred, an issue is not warranted. The files were apparently missing for only a few weeks and Mediacom's president has provided an adequate explanation for their absence, i.e. that the office in which they were located was moved to a different address. Given these considerations, it does not appear that the violation would be significant to the outcome of this proceeding. *David B. Jordan*, 51 FCC 2d 940, 33 RR 2d 21 (Rev. Bd. 1975).

12. *Misrepresentation issues.* In its opposition pleading, Mediacom has resolved various allegations of misrepresentation raised against it. Thus, we are persuaded that Mediacom accurately described its ascertainment methodology, disclosed the identity of all of its shareholders, and accurately reported to the Commission changes in the business interests of James E. Weir, an officer, director and shareholder.[15]

ISSUES AGAINST RADIO CORPORATION OF INDIANA

13. *Financial issues.* In response to challenges to its cost estimates, Radio Corp. (1) has submitted an affidavit from its consulting engineer estimating antenna installation costs and has amended its application to reflect these figures. (2) has amended its application to provide more funds for legal fees and (3) has submitted an affidavit from a stockholder with eleven years of experience in the office construction business in Indianapolis affirming the reasonableness of its allocated remodeling costs. We are satisfied that all questions concerning these costs have now been resolved. At issue still, though, is the reasonableness of Radio Corp.'s staffing proposal. The applicant's proposed programming staff of six (one program director, one news/public affairs director and four announcers) and sales staff of one are smaller than the staffs contemplated by the other applicants. Our concern however is not with how one proposal compares with another but rather with whether Radio Corp.'s proposal is itself capable of effectuation. *Sampson Broadcasting Co., Inc.*, supra. In this regard, while the planned staff is by Radio Corp.'s admission "bare-boned," [16] we cannot say that it is unreasonable on its face and we have been presented with no specific evidence warranting a different conclusion. Moreover, to the extent that the applicant's budget does not provide salaries or commissions for sales personnel other than a sales manager, such expenses are revenue related and thus need not be included in operating expenses. *Virginia Broadcasters*, 22 FCC 2d 227, 18 RR 2d 763 (Rev. Bd. 1970). We find therefore no basis for cost estimate or staffing issues.

14. To meet first year expenses of approximately $350,000, Radio Corp. relies upon a $350,000 bank loan, proceeds of $26,000 from stock subscriptions and a loan of $50,000 from its president, Michael Lee Gradison. The applicant has demonstrated, we believe, that all of these funds are available to it. Turning first to its bank loan, while the bank's original collateral requirements included Mr. Gradison's personal assets, the financial institution has now stated that it will be satisfied with the personal guarantees of the stockholders, a lien on the station's transmitting equipment and

[12] As Mediacom's financial proposal may be amended after its application is designated for hearing, we cannot calculate definitely the percentage of expenses to be met from this source.

[13] Section 1.514 of our rules requires applicants to include all information required by the application form. Section 1.65 makes applicants responsible for the continuing accuracy and completeness of information furnished in a pending application.

[14] We will permit RCI to supplement its petition with an affidavit supporting its request.

[15] We will permit Peoples to supplement its petition to designate issues as it has shown good cause for its delay. We will also accept Mediacom's opposition to the supplementary pleading.

[16] As Radio Corp. points out, its financial proposal must be premised on the assumption that no revenue will be earned during its first year of operation. *Ultravision Broadcasting Company*, supra. Under those circumstances it argues, and we agree, that a conservative budget is justifiable.

accounts receivable, and a pledge of its common stock. Radio Corp. and its individual stockholders have indicated their willingness to comply with these requirements. As for the ability of the applicant's shareholders to meet their subscription agreements and the ability of Mr. Gradison to make the $50,000 loan, all persons concerned have provided personal bank loan commitments sufficient in size to cover their obligations along with personal balance sheets showing those commitments to be not unreasonable.[17] (See paragraph 7, supra). A financial issue is therefore unnecessary.

15. *Programming issues.*[18] In response to a question raised by Peoples, Radio Corp. has amended its application to state that approximately 30-35 percent of its news time during a typical week will be devoted to local and regional news. Peoples' contention in this regard that Radio Corp. "simply proposes to take all of its local and regional news from a wire service and read it over the air at unspecified times and in unspecified amounts" is totally without support and will be disregarded as such.

16. *Site availability.* To eliminate any question as to the availability of its proposed antenna site, Radio Corp. has submitted an affidavit from the site's administrator confirming the company's interest in an arrangement with the applicant. In addition, Radio Corp. has provided a notice from the Federal Aviation Administration stating that preliminary study indicates no problems with the proposed construction. Under those circumstances there is no basis for an issue.

17. *Other issues.* We are satisfied from Radio Corp.'s opposition pleading that the applicant (1) accurately described the nature and scope of Michael Lee Gradison's past broadcast experience, (2) did not fail to report changes of potential decisional significance in Gradison's financial resources, see *KOKA Broadcasting Co.*, 56 FCC 2d 191, 35 RR 2d 384 (Rev. Bd. 1975) and (3) did not, by failing to provide income statements for its principals, violate Section 1.514 of our Rules. In this latter regard, as the applicant has provided a detailed balance sheet for each person concerned, we can preceive of no advantage to it in concealing the income data and no basis for considering this information of potential decisional significance. See *Prairieland Broadcasters*, 48 FCC 2d 819, 31 RR 2d 275 (Rev. Bd. 1974). The same conclusion is warranted, we believe, with respect to Radio Corp.'s initial failure to specify the amount of time it would devote to local and regional news. (See paragrph 15, supra.)

ISSUES AGAINST RADIO CIRCLE CITY, INC.

18. *Financial issues.* By amendment to its application, RCC has established the availability of a $275,000 bank loan upon which it relies to meet construction and operating expenses. Thus, in particular, the applicant has submitted a letter from its bank acknowledging that RCC's equipment supplier will have a senior security interest on a portion of RCC's equipment. The applicant has in addition, reported payment of the commitment fee requested by the bank. With respect to the ability of RCC's stockholders to fulfill their loan and subscription obligations, the personal bank loan commitments and balance sheets submitted for each are adequate for our purposes (See paragraph 7, supra). We find therefore that RCC has available at least $541,000 ($275,000, bank loan; $225,000, loans from stockholders; $41,000, capital contributions) to meet first year expenses of approximately $422,000.[19]

19. *Ascertainment issues.* Responding to various challenges to its ascertainment showing, RCC has amended its application to specify when, how and by whom its community leader interviews were conducted. The applicant has also identified agricultural, labor, manufacturing, educational and local government leaders[20] contacted by its principals, thereby eliminating any questions on this score. Other matters remain for comment, though. Peoples faults RCC's demographic showing for providing inadequate information as to public service organizations. The purpose of the demographic showing is to inform the applicant of what groups comprise the community so that it may select representatives of each to include in its survey. Question and answer 10 of the *Primer*, supra, 27 FCC 2d at 683, 21 RR 2d at 1543. While RCC has not submitted a list of Indianapolis public service organizations, its survey includes representatives from a wide variety of such groups. Given this fact, the applicant would appear to have fulfilled the goal of this aspect of the ascertainment process, the establishment of a dialogue between its decisionmaking personnel and community leaders. As for Peoples' complaints concerning the number of community leaders interviewed by RCC and the number of public service announcements proposed, petitioner has neither cited significant groups omitted from the survey nor set forth specific evidence indicating that RCC's programming proposal as a whole is unresponsive to ascertained needs. Hence we have no basis for specifying ascertainment issues.

20. *Character issue.* By Memorandum Opinion and Order, *Star Stations of Indiana, Inc.*, 51 FCC 2d 95, 32 RR 2d 1151 (1975), the Commission denied the application of Star Stations for renewal of the licenses of stations WIFE and WIFE-FM, citing various instances of misconduct by the licensee. Robert D. Kiley, RCC's president, majority stockholder and proposed general manager served as general manager of WIFE and WIFE-FM during most of the stations' operating years. All parties agree that his role in the activities which ultimately cost the stations their licenses is a necessary subject for inquiry here. There is, however, some dispute as to the role to be played in this inquiry by the record in the WIFE renewal proceeding.[21] Given the need to avoid unnecessary and wasteful duplication of our hearing procedures and the privity between Kiley, Star and RCC, we think it appropriate to utilize the record in the previous proceeding in evaluating Kiley and RCC's qualifications. Hence, to the extent that facts were adduced in the WIFE and WIFE-FM and Kiley's role therein, these facts may not be controverted or relitigated. At the same time, though, to insure a full and complete record, there is no impediment to the introduction of additional, clarifying or mitigating (but not conflicting) evidence concerning Kiley's participation in station affairs. See *Red Lion Broadcasting Co., Inc.*, 42 FCC 2d 1116, 28 RR 2d 713 (Rev. Bd. 1973). Any questions which arise in hearing as to the admissibility of specific evidence under those guidelines may be resolved by the presiding Administrative Law Judge.

21. *Cross-ownership issue.* Citing the interests of two RCC directors and 5.5 percent stockholders—Roger W. Kiley and Phillipa Wyatt—in Indianapolis advertising agencies,[22] Mediacom seeks an inquiry into the anti-competitive effects of this cross-ownership. Its request is inadequately supported. *At-*

[17] In response to various questions concerning Mr. Gradison's liquid assets, Radio Corp. has amended its application to eliminate any reliance upon them.

[18] Radio Corp. has responded to IBI's challenge to its ascertainment showing by pointing out interviews with several leaders of manufacturing companies.

[19] Itemized as follows: equipment, $106,413; building, $24,000; interest on loan, $22,000; miscellaneous $55,000; first year operating expenses $215,000.

[20] As for Peoples' allegation that RCC failed to interview city council members, we do not consider such interviews essential. See paragraph 9, supra.

[21] Peoples has filed a request for official notice dealing with this question. As this pleading is not authorized by our Rules and presents no arguments or information necessary to our disposition of the matter and not found in the authorized pleadings before us, we will dismiss Peoples' request.

[22] While Robert D. Kiley is now associated with an advertising agency as well, he will resign from the agency to serve as full time general manager of RCC's proposed station should its application be granted.

lantic Broadcasting Co., (*WUST*), 5 FCC 2d 717, 8 RR 2d 991 (1966). As an initial matter, the two principals' interests in RCC are small, allowing them no possibility of controlling the company. (RCC has a total of eight directors.) Moreover, RCC has claimed, without dispute, that a plethora of local advertising agencies serve the Indianapolis market. Finally, with respect to the business of the agencies themselves, Mediacom has failed to establish that they place advertising on radio stations or that the RCC principals "suggest" radio programs to meet their clients' needs. Compare *Eastern Broadcasting Corp.*, supra. An issue is therefore unwarranted.[23]

22. *Site availability issue.* Star Stations of Indiana, Inc., was authorized by Indiana Broadcasting Corporation (Indiana) to locate the antenna of WIFE-FM on Indiana's WISH-TV tower. RCC proposes to use the same site. Star Stations and Indiana are now litigating the question of who has legal authority to lease the WISH-TV facilities. We are satisfied, however, that RCC has demonstrated reasonable assurance of the availability of the site, whatever the outcome of this litigation. Turning first to the intentions of Star Stations, the former licensee has on several occasions expressed its willingness to sublease its transmitter site to the prevailing applicant in this proceeding. Peoples contends that a July 29, 1977, letter from Star Stations to ICC indicates that Star will only lease its facilities if its physical assets are purchased as well—a purchase which RCC does not intend to make. The letter itself, though, while it does discuss the purchase of assets and the lease of facilities in different paragraphs, contains no language making one transaction dependent on the other. With respect to Indiana's plans, the company has informed all applicants that it might be willing to negotiate an agreement, depending primarily upon the effects of the proposed facilities on the technical operation of WISH-TV. This letter, we believe, indicates that the corporation anticipates and is not unfavorably disposed toward RCC's use of the tower. Further, there are no specific allegations of fact suggesting that the conditions for an agreement cannot be met. See *Ken Stephens*, 53 FCC 2d 383 (Rev. Bd. 1975). Hence we do not belive that a substantial question has been raised.

23. *Principal city coverage issue.* RCC's engineering statement indicates that the predicted 3.16 mV/m contour does not cover the entire city of Indianapolis, in violation of section 73.315(a) of our rules. However, as the area (two square miles) and the population (159 persons) included in the non-encompassed area are extremely small,[24] a waiver of our rules is justified. *Quality Broadcasting Corp.*, 62 FCC 2d 586, 39 RR 2d 905 (1977).

24. *Other issues.* Peoples charges that RCC failed to provide income statements for its principals (see in this regard paragraph 17, *supra*), failed to state that all of its principals were citizens and provided a business address rather than a home address for one principal. Such minor errors do not warrant a section 1.514 issue. See *Gilbert Broadcasting Corporation*, 55 FCC 2d 579, 34 RR 2d 1673 (Rev. Bd. 1975). Similarly, the listing of property owned jointly by a husband and wife as an asset on the husband's balance sheet hardly seems to us a misrepresentation under ordinary circumstances. Finally, with respect to Peoples' requested ineptness issue, such issues will be specified only where an applicant's conduct discloses a pattern of carelessness and inadvertence involving relevant matters of major significance. See e.g. *Federal Broadcasting System, Inc.*, 62 FCC 2d 861, 39 RR 2d 1041 (Rev. Bd. 1977). We do not believe that conduct of this nature exists here.[25] [26]

ISSUES AGAINST INDIANAPOLIS COMMUNICATIONS CORP.

25. *Financial issues.* In response to challanges by various applicants, ICC has provided shareholder financial information showing assets which are in some cases greatly in excess of commitments to ICC, *Enterprise Broadcasting, Inc.*, 56 FCC 2d 362, 35 RR 2d 652 (Rev. Bd. 1975), and in all cases sufficient to provide the necessary funds. ICC has also established that Ray R. Gusky, its proposed general manager, will deduct funds from his compensation by the corporation to exercise his stock option. Finally, the applicant has amended its equipment proposal, providing specific figures for its expenditures in this area. As it now stands, then, ICC's financial plan calls for expenses of approximately $472,000[27] to be met by a $500,000 bank loan and $60,000 in stockholder contributions. There is, however, some doubt as to the availability of the $500,000. As collateral for its loan, ICC's bank requests the personal guarantees of three shareholders including Edward J. Zebrowski. Mediacom alleges, and ICC does not deny, that Zebrowski and/or Zebrowski & Associates, Inc., (owned by Zebrowski) are defendents in thirty civil suits seeking total damages in excess of $3,000,000. With respect to the effect of this litigation on the bank's commitment, Zebrowski states by affidavit (1) that he did not specifically inform ICC's bank of the litigation, (2) that he does not know whether the bank was aware of the suits when it issued its commitment letter and (3) that the bank must have subsequently learned of the litigation as a personal loan application was declined for that reason. While Zebrowski suggests that the bank's failure to withdraw its commitment once aware of the suits indicates its willingness to make the ICC loan notwithstanding the litigation, we cannot accept such an assumption. In light of the size of Zebrowski's contingent liabilities and the bank's apparent refusal to make a personal loan because of them, it seems to us that a specific showing must be made. Compare *Town and Country Radio, Inc.*, 55 FCC 2d 407, 34 RR 2d 1153 (Rev. Bd. 1975). We will therefore specify a limited financial issue.[28]

26. Even though ICC relies upon a bank loan for most of its funding and even though its bank's commitment requires no repayment of principal until the second year, we do not think that a second year financial issue is warranted. ICC's financial proposal provides for a substantial cushion of funds which can be carried over into the second year, the applicant has not deferred all of its expenses in that equipment payments will begin during its first year of operation and three of its principals have personally guaranteed its bank loan. See *Midwest St. Louis, Inc.*, supra. Further, as we have previously observed (see paragraph 8, supra) we do not think it reasonable for purposes of a second year financial issue to assume that this particular facility will produce no revenue during its first and second years. We will therefore decline to specify an issue.

27. *Ascertainment issues.* By amendment to its application, ICC has established that its community leader interviews were conducted, largely in

[23] In response to Mediacom's request, RCC amended its application to specify inter alia that RCC will adopt and enforce "certain policies" to preclude improper treatment of advertisers and that the agencies will do the same. While we will accept this aspect of RCC's amendment as an attempt to meet a potentially disqualifying issue, we attach no significance to these vague claims.

[24] Peoples states that RCC's population figures must be seriously questioned but provides no specific information casting doubt on their accuracy.

[25] For reasons set forth in paragraph 6, supra, we will not consider RCI's request for a public file issue.

[26] RCC has amended its application to eliminate any doubt as to its legal authority to operate as proposed.

[27] Itemized as follows: equipment down payment $31,565; installation, engineering and studio, $12,000; equipment principal payment, $18,939; equipment interest payments, $9,943; interest on bank loan, $38,750; operating costs (12 months), $300,000; pre-grant expenses, $60,000.

[28] ICC maintains that the other two guarantors have sufficient assets to cover the bank loan. The bank, however, has requested three personal guarantees and has not indicated that it would be satisfied with only two.

person, by principals or proposed management level employees. It has also stated its intention of serving primarily as a transmission outlet for the metropolitan Indianapolis area, though it does include in its survey interviews with mayors of two outlying cities. (See question and answers 6 and 7 of the *Primer*, supra, 27 FCC 2d at 682-683, 21 RR 2d at 1542-43. We have frequently stated in the past that we will not engage in a "number game" in evaluating ascertainment showings. See, e.g. question and answer 14 of the *Primer*, supra, 27 FCC 2d at 648, 21 RR 2d at 1544-45; *WGUF, Inc.*, 58 FCC 2d 861, 36 RR 2d 1074 (Rev. Bd. 1976). Peoples and IBI both criticize the number of leaders contacted by ICC as inadequate. They do not, however, single out any significant groups omitted from the survey, leaving us no basis for specifying an issue.[29] One further observation is appropriate here. We require that applicants qualify each person interviewed as a community leader, a requirement which is usually met by listing positions, titles or offices held. ICC has identified some of its leaders with descriptions such as "high school principal" or "priest." Peoples' contentions notwithstanding, we find these descriptions adequate. Where, as is the case here, a person's title alone indicates a position of leadership, we will not discount the interview for lack of knowledge of the specific institution represented.

28. *Section 1.514 and section 1.65 issues.* We agree with Mediacom that ICC's failure to report the Zebrowski litigation (see paragraph 25, supra), a matter of potential decisional significance, violated Section 1.514 of our Rules. *Cf. Town and County Radio, Inc.*, 65 FCC 2d 694, 41 RR 2d 151 (Rev. Bd. 1977), reconsideration denied, FCC 77R-97, 41 RR 2d 1177, (Rev. Bd. 1977). ICC would have us specify a comparative issue only, arguing in essence that its failure was not intentional. See *WIOO, Inc.*, 54 FCC 2d 692, 34 RR 2d 1043 (Rev. Bd. 1975), modified, 56 FCC 2d 817 (Rev. Bd. 1975). However, even if we accept as valid Zebrowski's contention that he expected to be removed as an individual defendent,[30] the question of motive and intent cannot, in our view, be resolved without a hearing. In this regard, we find it significant that Zebrowski & Associates, which forms a substantial portion of Edward Zebrowski's assets, is also a defendent in the suits and that the total damages requested in the litigation greatly exceed Zebrowski's net worth. Moreover, as we have previously noted, Zebrowski is a guarantor of ICC's bank loan, making his overall financial position a matter of great concern to the applicant. ICC'd obvious motive to conceal under these circumstances coupled with its failure to notify either the Commission or its bank of the litigation (see paragraph 25, supra) make a limited inquiry unjustified, we believe.[31]

29. Turning to the conduct of Leonard E. Walk, a second ICC principal, it is undisputed that Walk was an officer and stockholder of Dynamic Broadcasting, Inc., at a time when that licensee was accused of employment discrimination before the Pennsylvania Human Rights Commission. The matter was settled without any admission of discrimination by the licensee, though, compare *Henderson Broadcasting Co., Inc.*, 54 FCC 2d 71, 34 RR 2d 558 (Rev. Bd. 1975), and Mediacom, which raises the issue here, has presented no evidence as to the facts underlying the incident.[32] Cf. Violation by Applicants of Laws of United States, supra. We find therefore no basis for an issue. Nor do we believe that a Section 1.514 inquiry is warranted. The application form does not specifically request information of this nature and its significance is not so obvious as to create an independent duty to disclose. As a final matter concerning Walk, IBI faults ICC for describing him as a broadcast consultant without providing more specific information as to his work and clients. We agree with ICC, that under ordinary circumstances at least, an outside consultant's association with his clients is so brief in time and limited in scope as to make such reporting unnecessary.[33]

30. *Public file issue.* While the Commission's deficiency letter has admittedly been missing from ICC's public file, the amendment to its application responding to this letter is included as is, apparently, all other appropriate information and correspondence. It seems to us, under these circumstances, that the applicant's single violation of Section 1.526 is too minor to be of significance in this proceeding. We will therefore deny RCI's request for an issue.[34]

31. *Misrepresentation issue.* We do not agree with Peoples that ICC made material misrepresentations concerning its program format. Thus, while the applicant's claim that it would be the first FM country music station in Indianapolis may have been false, we have no reason to question ICC's explanation that its source data was outdated, especially in view of the frequency with which radio stations may change their formats. Moreover, as no questions concerning to the various applicants' formats have been raised here, the uniqueness of ICC's proposal cannot be said to be of potential decisional significance, imposing upon the applicant no obligation to report changed circumstances.

32. *Other matters.* ICC has provided a satisfactory explanation for its choice of a bank from which to secure funds, namely the size of the commitment fee, thereby negating Peoples' suggestions of a sinister motive for this decision. In addition, with respect to the past broadcast record of Leonard Walk, the applicant has successfully countered Peoples' criticism with a reminder that no Walk station has lost its license on promise versus performance grounds.[35] Finally, with respect to ICC's proposal to locate its antenna on the WISH-TV tower,[36] we have already found a reasonable assurance that this site would be available to it. (See paragraph 22, supra). Hence neither site availability nor misrepresentation issues are appropriate. The same is true of Peoples' requested ineptness issue, for which we find no support in the pleadings before us.

Comparative Programming Issue

33. Proponents of a comparative programming issue must make a prima facie showing that there are significant differences in the programming proposals and that these differences are related to ascertained community needs. *Chapman Radio and Television, Co.*, supra. RCC's request for an issue does not meet this test. Thus, in particular, even if we accept as valid RCC's contention that it has developed unique program formats for presenting community leaders' views over the air, we are offered no evidence establishing that other proposals will not accomplish the same results via different formats. Hence, accepting again RCC's assumptions—in this case that its "unique" programs respond to ascertained needs—we cannot conclude that its proposal as a whole differs from other proposals in this respect or that specified needs will be met by it

[29] to the extent that ICC may have failed initially to reach all significant groups, it has remedied these defects by amendment to its application.

[30] In support, Zebrowski has submitted a letter from counsel to this effect.

[31] The specified issue contemplates an inquiry into possible misrepresentation by ICC, making a separate misrepresention issue unnecessary.

[32] Should such evidence be presented at a later time, the presiding Administrative Law Judge can determine if it is sufficient to warrant an issue.

[33] The effect of Walk's consulting activities on his time commitments to ICC proposed station can be explored under the standard comparative issue.

[34] We will permit RCI to supplement its petition with an affidavit supporting its request.

[35] Peoples is this regard has not established that any station with which Walk was associated effectively abandoned aspects of its entire nonentertainment programming proposal. Compare *Regal Broadcasting Corp.*, 14 FCC 2d 845, 14 RR 2d 407 (Rev. Bd. 1968).

[36] ICC has now amended its application to specify a different site.

alone. We believe therefore that an issue is unwarranted.[37]

APPLICATION FOR REVIEW

34. The construction permit for WIFE-FM was issued in 1960 and, at that time, did not exceed the maximum facilities permitted. Since then, FM allocation standards have been amended to impose a maximum power and antenna hight lower than those authorized for WIFE-FM. Section 73.206(b)(3) of our Rules. By Memorandum Opinion and Order, *Peoples Broadcasting Corp.*, No. B-90397, released October 19, 1977, the Chief of the Broadcast Bureau, acting pursuant to delegated authority,[38] determined that all facilities specified here would have to conform to current standards. Mediacom seeks review of this decision.[39]

35. As against the obvious competitive advantage that a new superpower station would enjoy, we see no public interest considerations favoring such a situation. Even though some areas will lose the broadcast service once provided by WIFE-FM, these areas now receive a minimum of five and a maximum of fourteen services,[40] making them "loss areas" in name only. Moreover, any concern for continuity of service which might otherwise exist is not present here as the channel has been vacant for almost two years and no interim operation is proposed. As a final matter, we are not persuaded by Mediacom that our precedent requires a different result. Of the cases cited by the applicant, two (*WGN Continental Broadcasting Co.*, 17 FCC 2d 1009, 16 RR 2d 378 (1969) and *Sutro Tower, Inc.*, 32 FCC 2d 826, 23 RR 2d 503 (1972)) concern requests for changes in existing facilities and the third (*George T. Mobille*, 51 FCC 2d 1165, 33 RR 2d 19 (1975)) involves applications for an AM rather than an FM facility. Our previous decision, in contrast, is consistent with the policy expressed in other instances. (*WHUT Broadcasting, Inc.*, 22 FCC 2d 954, 18 RR 2d 1230 (1970); *Independent Music Broadcasters, Inc.*, FCC 76-997, 38 RR 2d 1539 (1976)). We affirm therefore our earlier Memorandum Opinion and Order.

FINAL OBSERVATIONS

36. The adjudicatory re-regulation proposals under which these applications have been designated for hearing were adopted to reduce unwarranted delay in the performance of our functions. The petitions filed in this proceeding are characterized by large numbers of unsupported requests for issues as well as numerous requests which can only be described as frivolous. Though totally without merit, these requests must be answered by opposing counsel, analyzed by our staff and ultimately considered by us. The time and energy wasted in this process in large part defeat the very aims which our new procedures seek to achieve. We cannot, and do not wish to, limit counsels' discretion in preparing and presenting their cases. We hope however, that this discretion will in the future be guided by good sense, good judgement and respect for our processes as a whole.

37. Except as indicated above, the applicants are qualified to construct and operate as proposed. In view of the foregoing however, and in light of the fact that the proposals are mutually exclusive, the applications must be designated for hearing.

38. Accordingly, *it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specificed in a subsequent Order, upon the following issues:

1. To determine the nature and extent of Robert D. Kiley's involvement in the violations of Commission Rules and policies committed at Stations WIFE and WIFE-FM and the effect thereof on the basic or comparative qualifications of Radio Circle City, Inc.

2. To determine with respect to the litigation in which Edward J. Zebrowski is involved:

a. The effect thereof on the ability of Indianapolis Communications Corp. to secure its proposed $500,000 bank loan; and

b. The effect of the applicant's failure to report the litigation on its basic or comparative qualifications to be a licensee.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the above issues, which of the applications should be granted.

39. *It is further ordered*, That the petitions to specify issues filed in this proceeding are granted to the extent indicated above and are denied in all other respects.

40. *It is further ordered*, That the petition to supplement petition to designate issues against Mediacom, Inc., filed by Peoples Broadcasting Corp., is granted; that the request for official notice filed by Peoples Broadcasting Corp. is dismissed; that the motion for leave to file comments filed by Fairbanks Broadcasting Company Inc., is granted; that the supplement to petition to specify issues filed by Radio Corp. of Indiana is accepted to the extent indicated above and is rejected in all other respects; and that the application for review filed by Mediacom, Inc., is denied.

41. *It is further ordered*, That the petitions for leave to amend filed in this proceeding are granted and the related amendements are accepted.

42. *It is further ordered*, That any grant to Medicacom, Inc., is without prejudice to any action the Commission might deem appropriate as a result of the final disposition of the antitrust litigation involving its principals.

43. *It is further ordered*, That in the event of a grant to Radio Circle City, Inc., section 73.315(a) of our rules will be waived to the extent necessary to permit operation from the transmitter site and with the facilities described in the authorization.

44. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

45. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by section 1.594 (g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-23771 Filed 8-23-78; 8:45 am]

[37] With respect to RCI's request for a comparative coverage issue, we do not believe that a significant difference exists among the various proposals.

[38] To avoid any question as the scope of the Bureau Chief's delegated authority, we have considered the merits of the earlier decision on review.

[39] We will grant Fairbanks Broadcasting Company, Inc., leave to file comments on Mediacom's request.

[40] Martinsville, Ind. apparently receives only four aural services at night.

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

SPECIAL COMMITTEE No. 73

"MINIMUM PERFORMANCE STANDARDS (MPS) MARINE OMEGA RECEIVING EQUIPMENT"

Notice of third meeting, Tuesday, September 12, 1978, 9:30 a.m., conference room, Maritime Institute of Technology & Graduate Studies (MITAGS), 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Reports of working groups.

M. H. Carpenter, Cochairman, Maritime Institute of Technology & Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090, phone 301-636-5700.

CDR Thomas P. Nolan, Cochairman, Maritime Institute of Technology & Graduate Studies.

EXECUTIVE COMMITTEE MEETING

The next executive committee meeting will be on Thursday, September 14, at 9:30 a.m. in conference room 7200, Nassif Building, 400 Seventh Street SW. at D Street, Washington, D.C.

AGENDA

1. Call to order.
2. Administrative matters.
3. Approval of final report of SC-66, "Receiver Standards for the Maritime Mobile Service."
4. Approval of 1981 assembly meeting invitation from American River Pilots Association (ARPA), Memphis, Tenn., April 1981.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone 202-632-6490.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-23773 Filed 8-23-78; 8:45 am]

[6712-01]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: August 14, 1978.

Released: August 16, 1978.

By the Commission:

Cut-off date: October 16, 1978.

Notice is hereby given that the FM broadcast applications listed below will be considered as ready and available for processing on October 16, 1978. Since the listed applications are timely filed and mutually exclusive with the earlier-filed and cut-off application of Muskingum Broadcasting Co. (File No. BPH-10,747), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-11,012—NEW, Zanesville, Ohio, Maumee Valley Broadcasting Association. REQ: 92.7 MHz, #224A; 1.55kW; 400 feet.

BPH-11,014—NEW, Zanesville, Ohio, Christian Voice of Central Ohio. REQ: 92.7 MHz, #224A; 3 kW; 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-23772 Filed 8-24-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 16, 1978 (FMC), and August 17, 1978 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and FMC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 11, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of the reporting and record retention requirements contained in a new part 380 of the Board's special regulations—Public charters, specifically §§ 380.43 and 380.50(c). In part 380, the Board is replacing several different charter forms with one simplified public charter rule that does not require ground accommodations, advance payment for seats, minimum stay, or minimum group size, and allows one-way as well as round-trip travel. The public charter must be sold by an independent charter operator, and the rule contains various consumer protection provisions. Sections 380.43 requires the direct air carrier to retain the statement of flight performance transmitted to it pursuant to § 380.25(b) at its principal office in the United States for 2 years, or if the principal is outside the United States the copy must be sent to the Bureau of Consumer Protection within 7 days of performing the flight. Section 380.50(c) requires each charter operator which has transported one or more travel agents pursuant to § 380.16 to file with the Board a report identifying each charter on which one or more travel agents were so transported, and showing the name of each agent transported, the price each agent paid, the percentage relationship between the price paid and the full price of the charter. The CAB estimates potential respondents are approximately 500 air carriers and charter operators and that reporting burden will average 2 hours per semiannual report. CAB states that, it feels, the record retention requirement should not add any additional burden since the air carrier, as any prudent businessman, would retain the statement from the charter operator even in the absence of the Board's regulation.

FEDERAL MARITIME COMMISSION

The FMC requests an extension without change clearance of part 551 of Chapter IV: Title 46, CFR, General Order 35, Truck Detention in the Port of New York. The rule is designed mainly to provide an equitable solution in the delays in the handling and interchange of freight between ocean and motor carriers experienced at the Port of New York and in furtherance thereof requires certian tariff filings. The FMC estimates potential respondents are approximately 14 terminal operators in the Port of New York subject to Commission jurisdiction. The burden on respondents is very difficult to estimate; however, if it is a single terminal and if the operator promulgates his rules by incorporating by reference those parts of the Commission rule describing the service he

wishes to provide, then the burden will be approximately 2 hours of work.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-23846 Filed 8-23-78; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR G-134]

TRANSPORTATION AND MOTOR VEHICLES

Fuel Tanks That Present a Potential Fire Hazard

AUGUST 21, 1978.

TO: Heads of Federal agencies.

SUBJECT: Motor vehicles with fuel tanks that present a potential fire hazard.

1. *Purpose.* This bulletin announces action taken by the General Services Administration to temporarily remove from service 1971-76 Ford Pinto sedans in its Interagency Motor Pool System (IMPS) because of certain design aspects of the fuel tanks and recommends that other Federal agencies consider taking similar action.

2. *Expiration date.* This bulletin expires December 31, 1978.

3. *Background.* On June 9, 1978, the Department of Transportation (DOT) announced that the Ford Motor Co. had agreed to recall 1971-76 Ford Pinto sedans and 1975-76 Mercury Bobcat sedans to correct two aspects of the fuel tank design which can cause fires in the event of a rear-end collision; station wagons are not included in the recall. An investigation by DOT's National Highway Traffic Safety Administration (NHTSA) found that low to moderate speed rear-end collisions involving the Pinto and Bobcat sedans could produce extensive fuel leaks due to puncture or tearing of the fuel tank and separation of the filler pipe from the tank. Ford will begin notifying the owners of the affected vehicles in August 1978 and advising them when to bring the vehicles in for repair (approximately September 1978). NHTSA has designated the recall as "Campaign 78V-143" while Ford's designation is "Campaign 293."

4. *GSA action.* GSA has removed from service its inventory of approximately 300, 1976 Ford Pintos from the IMPS until the modifications to the fuel tanks can be accomplished. Every effort will be made to supply a temporary replacement for these vehicles.

5. *Suggested action.* Federal agencies are urged to review vehicle inventories for similar appropriate action.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc. 78-23891 Filed 8-23-78; 8:45 am]

[1505-01]

GOVERNMENT PRINTING OFFICE

MICROPUBLISHING ADVISORY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Micropubishing Advisory Council to the Public Printer will meet on September 1, 1978, at the Government Printing Office, North Capitol and H Streets NW., Washington, D.C. 20401.

The purpose of this meeting is to discuss the Depository Library Microform program.

The meeting will be open to the public. Any member of the public who wishes to attend should notify Miss Cindy Perry, Government Printing Office, Washington, D.C. 20401, telephone 703-557-2050.

Dated: August 11, 1978.

JOHN J. BOYLE,
Public Printer.

[FR Doc. 78-23739 Filed 8-23-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION MEETING

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Liaison Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, sec. 10(a)(2)).

DATE: September 21, 1978, 8 p.m. to 10 p.m.; September 22, 1978, 9 a.m. to 3 p.m.

ADDRESS: Airport Marina Hotel, 1380 Bayshore Highway, San Francisco. Calif. 94010.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216, 20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recomendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Committee duties and responsibilities;
Organization relations;
Clearinghouse;
Committee budgets.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on August 18, 1978.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-23687 Filed 8-23-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Effectiveness and Evaluation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, sec. 10(a)(2)).

DATE: September 15, 1978, 9 a.m. to 4 p.m.

ADDRESS: Center for Urban Education, 160 West Wendell Street, Chicago, Ill. 60610.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education, activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the committee shall be open to the public.

The proposed agenda includes:

USOE reporting instruments; Committee duties and responsibilities; Program duplication; Committee budgets.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on August 17, 1978.

GARY A. EYRE,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-23686 Filed 8-23-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

AGENCY

Meeting

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy and Practices, Legislation, Program Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to sectio 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: September 18, 19, and 20, 1978, 8:30 a.m. to 5 p.m.; The Executive Committee will meet September 19, 7 p.m. to 10 p.m.

ADDRESS: 1832 M Street, NW., No. 821, Washington, D.C.: 330 Independence Avenue, SW., Room 5051; 400 Maryland Avenue, SW., Room 3000.

FOR FURTHER INFORMATION CONTACT:

Laura Summers, National Advisory Council on Women's Educational Programs, 1832 M Street, NW., No. 821, Washington, D.C. 20036, 202-653-5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the Administration of the Women's Educational Equity Act of 1974: (b) advise and make recommendations to the Assistant Secretary for Education concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (2) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408, Pub. L. 93-380.

The meeting of the Executive Committee will take place on September 19, 1978 from 7 p.m. to 10 p.m. at 1832 M Street, NW., No. 821, Washington, D.C. The agenda will include fiscal year 1979 budget proposals and plans for the Council meeting.

The meetings of the Federal Policy and Practices Committee, the Legislation Committee, the Program Committee will take place on September 19, 1978 from 8:30 a.m. to 5 p.m. at 1832 M Street, NW., No. 821, Washington, D.C. The agenda for the Federal Policy and Practices Committee will include future priorities and strategies for comprehensive monitoring of Education Division programs. In addition, new areas of interest will be identified.

The agenda for the Legislation Committee will include discussion of the pending changes to Women's Educational Equity Act, changes to title IV of the Civil Rights Act of 1964, regulations for the Career Education Incentive Act and title IX policy issues.

The agenda for the Program Committee will include discussion of issues for WEEA regulations and the evaluation report of WEEA operations. Orientation for new members of the Nationa Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to noon on September 18, at 1832 M Street, NW., No. 821, Washington, D.C. Swearing in of new Council members will take place from 2 p.m. in Room 5051, 330 Independence Avenue, SW., Washington, D.C.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 3 p.m. to 5 p.m. on September 18 in Room 3000, 400 Maryland Avenue, SW., Washington, D.C. and from 8:30 a.m. to 5 p.m. on September 20 in Suite 821, 1832 M Street, NW., Washington, D.C. The agenda will include (1) report of the Planning Task Force and procedures modification; (2) report of the Executive Director; (3) report of the Women's Program Staff. On September 2, the agenda will include action on the budget, reports from all committees, and plans for future meetings.

The meetings of the Council and the committees will be open to the public, Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, NW., Suite 821, Washington, D.C.

Signed at Washington, D.C. on August 21, 1978.

JOY R. SIMONSON,
Executive Director.

[FR Doc. 78-23768 Filed 8-23-78; 8:45 a.m.]

[4110-84]

Public Health Service

HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part HS (Health Services Administration) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare (39 FR 10463, March 20, 1974, as amended most recently at 42 FR 61335 dated December 2, 1977) is amended to reflect: (1) The transfer of the international health activities function from the Office of Planning, Evaluation, and Legislation to the immediate Office of the Administrator, Health Services Administration; (2) the establishment of the Office of Fiscal Services within the Office of Management; (3) the deletion of the fiscal services and accounting functions from the Office of Financial Management; and (4) amendments to update the functions statement for the Office of Systems Management.

Section HS-B, Organization and Functions, is amended as follows: Under the Health Services Administration (HS) make the following changes:

(1) Delete item 9 from the functions statement for the Office of Planning, Evaluation, and Legislation (HSA3).

(2) Amend the functions statement for the Immediate Office of the Administrator (HSA1) by adding the following last sentence: "(4) Coordinates the overall direction of the international health activities of HSA."

(3) Insert the following statement after the Office of Manpower Management (HSA49):

Office of Fiscal Services (HSA4A). (1) Provides accounting and fiscal services for activities of the Health Services Administration, the Office of the Assistant Secretary for Health and other designated Public Health Service Agencies; (2) directs planning and implementation of accounting systems and procedures; (3) furnishes fiscal advice to contracting officers; (4) provides technical guidance to headquarters program offices and field accounting activities relative to accounting and fiscal matters for varied programs within selected activities of the Public Health Service; (5) maintains central and other accounts of designated health activities; (6) prepares and reviews requests for legal decisions relating to expenditures; (7) prepares financial statements and reports for internal and external use; (8) analyzes and audits financial transactions for headquarters activities; (9) participates in the design and development of new or revisions to accounting systems and makes recommendations as to the appropriateness of proposed modifications to ongoing systems; (10) serves as liaison with departmental and external control agencies relative to fiscal and accounting matters of the serviced health activities; and (11) provides for major departmental interfacing of accounting and related control systems.

(4) Delete items 7, 8, and 9 from the functions statement for the Office of Financial Management (HSA43).

(5) Delete the functions statement for the Office of Systems Management (HSA47) in its entirety and substitute the following:

Office of Systems Management (HSA47). (1) Plans, directs, coordinates, and implements HSA policies and procedures as they relate to the Department, PHS and other Federal requirements for automatic data processing (ADP), word processing (WP) and telecommunications (TC); (2) reviews/approves requests for the development and implementation of ADP, WP and TC projects and systems; (3) coordinates and directs the preparation and review of all ADP, WP and TC plans, reports and requests for information; (4) develops HSA information systems; (5) develops and implements HSA, ADP, WP, and TC evaluation programs to evaluate related resource utilization; (6) establishes the Data Base Administration program with HSA; (7) participates in the development of Public Health Service-wide information systems; (8) participates in audits of information systems; (9) participates in the development and implementation of a PHS nationwide communications network; and (10) develops and implements an agency ADP systems security program.

Dated: August 14, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-23698 Filed 8-23-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Aberdeen Area Office Redelegation Order 2, Amdt. 22]

SUPERINTENDENTS, FORT BERTHOLD AND FORT TOTTEN AGENCIES

Delegation of Authority on Regarding Land Acquisitions, Partitions, Exchanges and Sales; and Homesite Leases

AUGUST 17, 1978.

This notice is published in exercise of authority by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

This delegation is issued under the authority delegated to the Assistant Secretary—Indian Affairs from the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the area directors in 10 BIAM 3.

The Aberdeen area office redelegation order 2 was published on page 8756 of the December 21, 1954, issue of the FEDERAL REGISTER (19 FR 8756) and subsequently amended. It is further amended by adding two new sections 3.139 and 3.140 under the heading "Functions Relating to Lands and Minerals" in Part 3—Authority of Specifically Designated Employees. Section 3.139 gives the Superintendent of the Fort Totten Agency authority to approve acquisitions, partitions, exchanges and sales of trust or restricted lands between individual Indians or between individual Indians and the tribe. Section 3.140 gives the Superintendent of the Fort Berthold Agency all of the authority of the area director relating to leases of tribal and individually owned trust or restricted land for homesite purposes only to members of the tribe or to tribal housing authorities subject to certain provisions.

The sections are added to read as follows:

Section 3.139 approval for land acquisitions, partitions, exchanges and sales—Fort Totten. The Superintendent of the Fort Totten Agency may exercise all of the authority of the area director relating to the approval of acquisitions, partitions, exchanges and sales of trust or restricted lands between individual Indians or between individual Indians and the tribe: *Provided,* That the title to the land remains in a trust or restricted status; that fair market value is received by the Indian landowner in any transaction approved under this authority; and that all approved title documents be submitted to the Aberdeen area office for recording in the Aberdeen area title plant. This authority does not include the approval of issuance of patents in fee or the removal of restrictions from restricted fee patents or deeds.

Section 3.140 Leases for homesite purposes—Fort Berthold. The Superintendent of the Fort Berthold Agency may exercise all of the authority of the area director relating to leases of tribal and individually owned trust or restricted lands for homesite purposes only to members of the tribe or to tribal housing authorities: *Provided,* That all approved leases be submitted to the Aberdeen area office for recording in the Aberdeen area title plant. The term of the lease may not exceed 25 years but the lease may include provisions authorizing a renewal or ex-

tension for one additional term of not to exceed 25 years.

HARLEY D. ZEPHIER,
Area Director.

Approved: August 17, 1978.

RICK LAVIS,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 78-23676 Filed 8-23-78; 8:45 am]

[4310-84]

Bureau of Land Management

[AA-6709-A]

Alaska Native Claims Selection

On December 12, 1973, the Ounalaska Corp., for the Native Village of Unalaska, filed selection application AA-6709-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands within the Unalaska area, specifically lands located at Ballyhoo Dock on Amaknak Island.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 11 acres, is considered proper for acquisition by the Ounalaska Corp. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 72, S., R. 117 W.

A tract of land located on Amaknak Island within secs. 34 and 35 described as metes and bounds as follows:

Beginning at point 1, which bears N. 66°36'40" W., a distance of 4,150.78 feet from Spithead Light, Latitude 53°53'53.736" N., Longitude 166°30'48.405" W.; thence N. 47°00'00" E., a distance of 1,425 feet to point 2, thence S. 43°00'00" E., approximately 336 feet to point 3, at the intersection of the MHW line, thence meandering southwesterly along the MHW line to point 4, which bears S. 43°00'00" E., from the point of beginning, thence N. 43°00'00" W., approximately 310 feet to the point of beginning.

Containing approximately 11 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6709-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 11 C3, C4, D1) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 13 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

c. (EIN 15 C4) An easement sixty (60) feet in width for the existing Ballyhoo Road from the Dutch Harbor Airport to the U.S. Fish and Wildlife Service area on Amaknak Island. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation "Calista, et al. v. Andrus" and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)(1970)), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. The naval airspace reservation of Executive Order 8680 dated February 14, 1941;

4. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

5. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, the Aleut Corp., the Ounalaska Corp. and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for the Ounalaska Corp., serialized AA-6709-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Ounalaska Corp. is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 7,520.89 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 107,679.11 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to the Aleut Corp. when conveyance is granted to the Ounalaska Corp. for the surface estate and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until September 25, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Ounalaska Corp. or the Aleut Corp. objects to any easement which is identified

herein for reservation in the conveyance, and which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is to be taken, the adverse parties to be served are:

Ounalaska Corp.
Unalaska, Alaska 99685.
The Aleut Corp.
833 Gambell Street.
Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of Adjudication.

[FR Doc. 78-23684 Filed 8-23-78; 8:45 am]

[AA-6684-A and AA-6684-B]

ALASKA NATIVE CLAIMS SELECTION

On August 2, 1974 and November 27, 1974, the Chaluka Corp., for the Native village of Nikolski, filed selection applications AA-6684-A and AA-6684-B, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Nikolski area, including lands within the Aleutian Islands National Wildlife Refuge (Executive Order (EO) 1733).

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 1,205 acres of national wildlife refuge lands for conveyance to the Chaluka Corp., for a cumulative total of approximately 1,205 acres. This does not exceed the 69,120 acres permitted under section 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 63,138 acres, is considered proper for acquisition by the Chaluka Corp. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

LANDS OUTSIDE THE ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE (EO 1733)

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

Portions of land on Umnak Island, excluding any offshore islands, rocks and pinnacles within the following protracted description:

T. 82 S., R. 134 W.
Sec. 25 (fractional), all;
Secs. 26 to 32, inclusive, all;
Secs. 33 to 36 (fractional), inclusive, all.
Containing approximately 6,122 acres.

T. 83 S., R. 134 W.
Secs. 4 and 5 (fractional), all;
Sec. 6, all;
Secs. 7 and 8 (fractional), all;
Secs. 17, 18 and 19 (fractional), all.
Containing approximately 2,441 acres.

T. 82 S., R. 135 W.
Secs. 19 and 20 (fractional), all;
Secs. 21 to 29, inclusive, all;
Secs. 30 and 31 (fractional), all;
Secs. 32 to 36, inclusive, all.
Containing approximately 10,475 acres.

T. 83 S., R. 135 W.
Secs. 1 to 21, inclusive, all;
Secs. 22, 23 and 24 (fractional), all;
Secs. 26 to 31 (fractional), inclusive, all;
Secs. 33, 34 and 35 (fractional), all.
Containing approximately 17,174 acres.

T. 84 S., R. 135 W.
Secs. 5, 6, 7 and 8 (fractional), all;
Secs. 17 and 18 (fractional), all.
Containing approximately 1,440 acres.

T. 82 S., R. 136 W.
Secs. 25 and 36 (fractional), all.
Containing approximately 215 acres.

T. 83 S., R. 136 W.
Secs. 1, 2 and 3 (fractional), all;
Secs. 9 and 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Secs. 15 and 16 (fractional), all;
Sec. 22 (fractional), excluding PLO 2374 Tract A;
Sec. 23, excluding PLO 2374 Tract A;
Secs. 24 and 25, all;
Sec. 26, excluding PLO 2374 Tract A;
Sec. 27 (fractional), excluding PLO 2374 Tracts A and C;
Secs. 28 and 32 (fractional), all;
Sec. 33 (fractional), excluding U.S. Survey 4904 Tract A and U.S. Survey 5513;
Sec. 34 (fractional), excluding PLO 2374 Tracts B and C, U.S. Survey 808 Tracts A and B, U.S. Survey 3890 and U.S. Survey 4904 Tracts A and B;
Sec. 35, excluding PLO 2374 Tract B;
Sec. 36, all.
Containing approximately 10,246 acres.

T. 84 S., R. 136 W.
Secs. 1 and 2 (fractional), all;
Sec. 3, excluding U.S. Survey 808 Tract A and U.S. Survey 4904 Tract A;
Sec. 4 (fractional), excluding U.S. Survey 4904 Tract A and U.S. Survey 5513;
Secs. 5 and 6 (fractional), all;
Secs. 7 and 8, all;
Secs. 9 to 12 (fractional), inclusive, all;
Secs. 16 and 17 (fractional), all;
Sec. 18, all;
Secs. 19, 20 and 30 (fractional), all.
Containing approximately 8,365 acres.

T. 83 S., R. 137 W.
Sec. 36 (fractional), all.
Containing approximately 20 acres.

T. 84 S., R. 137 W.
Secs. 1 and 2 (fractional), all;
Secs. 11, 12 and 13 (fractional), all;
Secs. 23 to 35 (fractional), inclusive, all.
Containing approximately 4,735 acres.

T. 85 S., R. 138 W.
Secs. 5, 6 and 7 (fractional), all.
Containing approximately 405 acres.

T. 85 S., R. 139 W.
Secs. 11, 12 and 14 (fractional), all.
Containing approximately 295 acres.
Aggregating approximately 61,933 acres outside the Aleutian Islands National Wildlife Refuge (EO 1733).

LANDS WITHIN THE ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE (EO 1733)

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

Lands consisting islands, rocks and pinnacles within the following protracted description:

T. 83 S., R. 134 W.
Secs. 1 and 3 (fractional), all;
Sec. 8 (fractional), excluding Umnak Island.
Containing approximately 55 acres.

T. 83 S., R. 135 W.
Secs. 33 and 35 (fractional), excluding Umnak Island.
Containing approximately 25 acres.

T. 82 S., R. 136 W.
Sec. 25 (fractional), excluding Umnak Island.
Containing approximately 5 acres.

T. 83 S., R. 136 W.
Secs. 1 and 2 (fractional), excluding Umnak Island;
Sec. 5 (fractional), all;
Sec. 7 (fractional), excluding ANCSA Sec. 3(e) application AA-12853;
Sec. 8 (fractional), all;
Sec. 16 (fractional), excluding Umnak Island;
Sec. 33 (fractional), excluding Umnak Island.
Containing approximately 320 acres.

T. 85 S., R. 138 W.
Sec. 7 (fractional), excluding Umnak Island.
Containing approximately 10 acres.

T. 84 S., R. 138 W.
Secs. 9 and 10 (fractional), all;
Secs. 15 and 16 (fractional), all.
Containing approximately 145 acres.

T. 85 S., R. 139 W.
Secs. 19, 20 and 21 (fractional), all;
Secs. 29, 30 and 31 (fractional), all.
Containing approximately 645 acres.
Aggregating approximately 1,205 acres within the Aleutian Islands National Wildlife Refuge (EO 1733).

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. That right-of-way A-034234 and all appurtenances thereto, constructed by the

United States through, over or upon secs. 22, 27 and 34, T. 83 S., R. 136 W., Seward meridian, and the right of the United States, its agents or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States;

2. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6684-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 2 D9) A site easement upland of the ordinary high water mark in sec. 3, T. 84 S., R. 136 W., Seward meridian, on the northeast shore of an unnamed lake located adjacent to the village of Nikolski. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging, and vehicle use.

b. (EIN 2a D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 2 D9 westerly to the road to Nikolski (road EIN 4 C5). The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 4 C5) An easement sixty (60) feet in width for an existing road from the village of Nikolski to the village airstrip for access between the village and the airstrip. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

d. (EIN 5 C3, C4, D1) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

e. (EIN 6 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.* v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. ch. 2, sec. 6(g)(1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Free use permit AA-6064 to Sergie W. Ermeloff on Umnak Island within T. 83 S., R. 137 W., and T. 84 S., Rs. 136 and 137 W., Seward meridian, under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a and 471o);

4. Requirements of section 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (Supp. V, 1975)), that (a) the above-described lands which were within the boundaries of the Aleutian Islands national wildlife refuge on December 18, 1971, remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States;

5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

6. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, the Aleut Corp., the Chaluka Corp., and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for the Chaluka Corp., serialized AA-6684-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Chaluka Corp. is entitled to conveyance of 69,120 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date approximately 63,138 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 5,982 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above, excluding those lands which have been withdrawn by E.O. 1733 and which are reserved thereby as a national wildlife refuge, shall be granted to the Aleut Corp. when conveyance is granted to the Chaluka Corp. for the surface estate and shall be subject to the same conditions as the surface coveyance. Section 12(a)(1) provides that when a village corporation selects the surface estate of lands within a national wildlife refuge system, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by section 11(a) within the region.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until September 25, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Chaluka Corp. or the Aleut Corp. objects to any easement which is identified herein for reservation in the conveyance, and which is subject to the discretion of the State Director and not reserved pursuant to an express secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is to be taken, the adverse parties to be served are:

The Chaluka Corp., Nikolski, Alaska 99638.

The Aleut Corp., 833 Gambell Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief,
Branch of Adjudication.

[FR Doc. 78-23685 Filed 8-23-78; 8:45 am]

[4310-84]

[F-35871]

ALASKA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Army Corps of Engineers filed application, serial No. F-35871, on May 22, 1975, for a withdrawal in relation to the following described lands:

FORT GREELY MANEUVER AREA

A tract of land located in the Big Delta Area, and more particularly described as:

Beginning at the U.S.C. & G.S. Monument "Big Delta Airport," Latitude 63°59'35" N., Longitude 145°43'40" W., Thence N. 04°55'47.,3" E., 11,997.64 feet to mile post 270 on the Richardson Highway;

Thence due west to the mean high water line on the east bank of Delta River, which point is the true point of beginning for this description;

Thence southerly along the west boundary of the Big Delta Military Reservation to the southwest corner thereof;

Thence due east along the south boundary of the Big Delta Military Reservation to the north ¼ corner monument of section 23, T. 11 S., R. 10 E., Fairbanks meridian;

Thence south along the north-south centerlines of section 28 and 33; T. 11 S., R. 10 E., Fairbanks meridian, and section 4, 9, and 16, T. 12 S., R. 10 E., Fairbanks meridian, to the center section monument of section 16, thence east to the west ¼ corner monument of section 15, T. 12 S., R. 10 E.;

Thence S. 0°05' E. to the west section corner monument common to sections 15 and 22; thence east to the ¼ corner monument common to sections 15 and 22;

Thence south along the north-south centerline of sections 22, 27, and 34, T. 12 S., R. 10 E., Fairbanks meridian, to the south ¼ corner of section 34;

Thence east 74 feet, more or less, along the south boundary of section 34 to a point one-half mile west of the centerline of the existing Richardson Highway;

Thence southerly, parallel to and one-half mile west of said centerline to a point one-half mile due west of Donnelly, Alaska;

Thence N. 75°30' W., 190,740 feet, more or less, to the east bank of the Buchanan Creek;

Thence northerly along the east bank of Buchanan Creek and the east bank of the Little Delta River to a point 11,560 feet southerly from the point of confluence of the Little Delta River and the Tanana River, which point is also located at Latitude 64°15' N., Longitude 146°43' W., approximately;

Thence N. 60°43' E., 31,705 feet, more or less, to the point of beginning, excepting therefrom a 5-acre tract of land embraced in Trade and Manufacturing Site Claim, Fairbanks 157, located at the confluence of the Little Delta River East and West Forks, and more particularly described as;

Beginning at Corner No. 1, a stone monument located at the base of the bluff at Latitude 63°57'35" N., Longitude 146°55'23" W., thence south 660 feet to Corner No. 2, a blazed tree;

Thence west 330 feet to Corner No. 3, a blazed tree;

Thence north 660 feet to Corner No. 4, a 4x4-foot spruce post 4 feet high;

Thence east 330 feet to Corner No. 1, the point of beginning.

The area described above contains approximately 571,995 acres.

The applicant desires that the land be reserved for continued use as a weapons test range and maneuver area. The requested land has been used for this purpose since 1950.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 9, 1975, in volume 40, number 132, page 28820, under Bureau of Land Management serial No. F-019269, FR Document No. 75-17778.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 on or before October 8, 1978. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before October 8, 1978.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

ROBERT E. SORENSON,
Chief, Branch of Lands,
and Minerals Operations.

[FR Doc. 78-23740 Filed 8-23-78; 8:45 am]

[4310-84]

[Colorado 27013]

ARAPAHO NATIONAL FOREST, COLO.

Proposed Withdrawal and Reservation of Lands and Notice of Opportunity for Public Hearing

AUGUST 16, 1978.

The Forest Service, U.S. Department of Agriculture, on July 24, 1978, filed an application, Serial No. C-27013, for the withdrawal of the following described National Forest lands from settlement, sale, location, or entry under the general mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws, subject to valid existing rights.

The lands involved in the application are:

ARAPAHO NATIONAL FOREST

Summit County Road 700

Sixth Principal Meridian, Colo.

A tract of land in Section 30, Township 6 South, Range 77 West; and being more particularly described as follows:

Beginning at a point lying on the 3-4 line of the Rankin Placer, U.S. Mineral Survey No. 1364 whence the southwest corner of said section 30 bears S. 87°12'44" W. 320.32 feet distant; thence N. 04°38'35" W. a distance of 453.98 feet to a point on the 2-3 line of the Dora L. Lode, U.S.M.S. No. 16068; thence N. 60°54'10" E. along said 2-3 line of Dora L. Lode a distance of 26.91 feet to corner No. 2 of said Dora L. Lode; thence N. 25°15'20" W. along line 2-1 of said Dora L. Lode a distance of 151.53 feet to corner No. 1 of said Dora L. Lode also being corner No. 1 of Iron Mask Lode, U.S.M.S. No. 16068; thence N. 29°24'05" W. along the 1-2 line of said Iron Mask Lode a distance of 149.83 feet to corner No. 2 of said Iron Mask Lode; thence N. 60°49'44" E. along the 2-3 line extended of said Iron Mask Lode a distance of 100.68 feet; thence N. 04°38'35" W. a distance of 761.94 feet to a point on the 5-6 line of the Masonic Placer, U.S.M.S. No. 9616; thence N. 00°24'47" W. along the 6-5 line of said Masonic Placer a distance of 868.43 feet to corner No. 5 of said Masonic Placer; thence S. 89°57'51" E. a distance of 16.00 feet to a point on line 1-2 of the Magnum Bonum Placer, U.S.M.S. No. 3139; thence S. 04°38'35" E. along said line 2-1 of the Magnum Bonum Placer a distance of 2,124.46 feet to corner No. 1 of said Magnum

Bonum Placer, also being corner No. 18 of French Gulch Placer, U.S.M.S. No. 2589; thence S. 04 38'35" E. along line 18-19 of said French Gulch Placer a distance of 247.00 feet to corner No. 19 of said French Gulch Placer; thence continuing S. 04 38'35" E. a distance of 45.71 feet to a point on said 3-4 line of Rankin Placer; thence S. 89 24'26" W. along said 3-4 line of the Rankin Placer a distance of 80.20 feet to the point of beginning.

The intention of this withdrawal by the Forest Service is for administrative needs and for protection of public utilities and public road currently in use. The area to be withdrawn aggregates approximately 4.036 acres, more or less, is within Summit County and within the Arapaho National Forest, and will continue to be administered under laws and regulations applicable to National Forest lands.

For a period of 30 days from the date of publication of this notice (until September 25, 1978) all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, on or before September 25, 1978. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, § 2351.16B.

The Department of the Interior's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will detemine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2752). The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the State Director, Colorado State Office, Bureau of Land Management, Department of the Interior, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

JOHN R. BERNICK,
Acting Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-23743 Filed 8-23-78; 8:45 am]

[4310-84]

[Colorado 15142]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 9, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 15142, for withdrawal and reservation of lands for public purposes was published as FR Doc. 72-4500, on pages 6122-6123 of the issue of March 24, 1972 and republished pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 in order to give opportunity to request public hearing. The second notice was published as FR Doc. 77-37175 on pages 65283-65284 of the issue of December 30, 1977. The applicant agency has canceled its application insofar as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN
UNCOMPAHGRE NATIONAL FOREST

PROSPECT BASIN SKI AREA

T. 42 N., R. 9 W.
Sec. 1, lots 2, 3, S½NW¼, SW¼
Sec. 2, lots 1, 2, 3, and 4, S½NE¼, S½SW¼, SE¼
Sec. 3, SE¼SW¼
Sec. 4, lot 2, SW¼SE¼
Sec. 9, NW¼NE¼, S½NE¼, SE¼NW¼, SE¼
Sec. 10, SW¼NW¼, W½SW¼, E½SE¼
Sec. 11, All
Sec. 12, W½NW¼
Sec. 14, N½NE¼, SW¼NE¼, W½, NW¼NW¼SE¼
Sec. 15, E½, N½NW¼, SE¼NW¼
Sec. 22, NE¼NE¼
Sec. 23, NW¼NW¼
T. 43 N., R. 9 W.
Sec. 32, NE¼SW¼, N½SE¼
Sec. 33, NW¼SW¼
Sec. 35, S½SW¼, SW¼SE¼
Excluding all or portions of mineral patents M.S. 244, 658, 801, 2019, 2169, 2200, 2238, 4859A, 4883A, 7054, 8542, 9002, 9066A, 9148, 12688, 14485, 15337, 15525, 17044, 17980 and 24912.

The area described contains 3,014.0 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2300, such lands will be relieved of the segregative effect of the above mentioned application on September 22, 1978.

MERRILL G. ANDERSON,
Leader, Montrose Team,
Branch of Adjudication.

[FR Doc. 78-23741 Filed 8-23-78; 8:45 am]

[4310-84]

[NM 34150]

NEW MEXICO

Application

AUGUST 14, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 29 E.,
Sec. 15, N½SW¼;
Sec. 17, NE¼SE¼.

This pipeline will convey natural gas across 0.560 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-23744 Filed 8-23-78; 8:45 am]

[4310-84]

[NM 34111 and 34113]

NEW MEXICO

Applications

AUGUST 14, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for two 4-inch naural gas pipelines and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 26 E.,
Sec. 10, E½NE¼ and SW¼NE¼;
Sec. 11, NW¼NW¼.
T. 19 S., R. 33 E.,
Sec. 5, SW¼SW¼;
Sec. 6, S½NE¼ and E½SE¼;
Sec. 8, S½NE¼, E½NW¼ and NW¼NW¼;
Sec. 9, SW¼SW¼.

These pipelines will convey natural gas across 2.105 miles of public lands in Eddy and Lea Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Managment, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-23745 Filed 8-23-78; 8:45 am]

[4310-84]

[NM 34172]

NEW MEXICO

Application

AUGUST 15, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 6-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 20, SE¼SW¼;
Sec. 29, N½NW¼ and SW¼NW¼.

This pipeline will convey natural gas across 0.736 mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-23746 Filed 8-23-78; 8:45 am]

[4310-84]

[NM 34168]

NEW MEXICO

Application

AUGUST 15, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 10¾-inch and three 4½-inch natural gas pipelines rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 21 E.,
Sec. 17, W½SW¼;
Sec. 18, N½SE¼;
Sec. 20, SW¼NW¼, NE¼SW¼, W½SW¼, and NW¼SE¼;
Sec. 29, W½W½.
T. 20 S., R. 21 E.,
Sec. 5, lots 4, 5, SW¼NW¼ and W½SW¼;
Sec. 8, W½NW¼, N½SW¼, and SE¼SW¼;
Sec. 17, NE¼NW¼ and W½W½;
Sec. 20, W½W½ and SE¼SW¼;
Sec. 28, S½SW¼;
Sec. 29, SW¼NE¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 33, SW¼NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 34, SW¼SW¼.
T. 20½ S., R. 21 E.,
Sec. 34, lots 1, 2 and SE¼SE¼;
Sec. 35, S½SW¼.
T. 21 S., R. 21 E.,
Sec. 1, W½SW¼ and SE¼SW¼;
Sec. 12, W½NE¼, SE¼NE¼, NE¼NW¼, and NE¼SE¼.
T. 21 S., R. 22 E.,
Sec. 7, lot 3, NE¼SW¼ and NW¼SE¼.

These pipelines will convey natural gas across 12.722 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 78-23747 Filed 8-23-78; 8:45 a.m.]

[4310-84]

[Colorado 27063]

NORTHWEST PIPELINE CORP.

Pipeline Application

AUGUST 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch o.d. natural gas pipeline, approximately 0.743 miles long, across the following public lands in Mesa County:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 8 S., R. 104 W.,
Sec. 27, 28, and 34.

The proposed lateral pipeline will enable the applicant to convey natural gas from the Colver Government No. 1 well in the Bar X Field to an existing Rocky Mountain Natural Gas Gathering System.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 78-23742 Filed 8-23-78; 8:45 am]

[4310-84]

[Wyoming 64672]

WYOMING

Application

AUGUST 15, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 6⅝ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 28, W½NE¼, SE¼NE¼, and NE¼NW¼.

The pipeline will transport natural gas produced from the Higgins Unit No. 8 well, located in the SW¼ of section 27, into existing natural gas pipeline facilities located in the NW¼ section 28, T. 18 N., R. 98 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-23748 Filed 8-23-78; 8:45 am]

[4310-84]

[Wyoming 64383]

WYOMING

Application

AUGUST 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming, of Green River, Wyo., filed an application for a right-of-way to construct a 3-inch lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 104 W.,
Sec. 24, NE¼NW¼, NW¼NE¼, and S½NE¼.

The proposed pipeline will transport natural gas produced from the Petroleum, Inc., well located in the SW¼NW¼ of sec. 19, T. 20 N., R. 103 W., to a point of connection with Stauffer Chemical Co.'s existing pipeline in the NE¼NW¼ sec. 24, T. 20 N., R 104 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-23749 Filed 8-23-78; 8:45 am]

[4310-84]

[Wyoming 64645]

WYOMING

Application

AUGUST 8, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming, of Green River, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 112 W.,
Sec. 30, W½SE¼;
Sec. 31, lots 5 and 10, W½NE¼ and N½SE¼;
Sec. 32, NW¼SW¼, S½SW¼, and SW¼SE¼.

The proposed pipeline will transport natural gas produced from Shute Creek Well No. 3, located in the NW¼SE¼ of sec. 30, and Shute Creek Well No. 1, located in the SE¼NW¼ of sec. 31, to a point of connection with Stauffer Chemical Co. of Wyoming's existing pipeline in the SW¼SE¼ of sec. 32, T. 23 N., R. 112 W., all within Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-23750 Filed 8-23-78; 8:45 am]

[4310-31]

Geological Survey

OUTER CONTINENTAL SHELF OIL AND GAS SUMMARY REPORT

Request for Comments

The Geological Survey proposes to implement § 252.4 of 30 CFR chapter II by the preparation and distribution of a set of Summary Reports covering single States or multistate regions, as determined by the Geological Survey after consulting with affected States and other interested parties. Summary Reports will differ in content and coverage from State to State, taking into account regional needs and differences; however, their basic format will be compatible to permit regional comparisons and national data aggregations. The Geological Survey proposes to prepare Summary Reports according to the following basic outline:

(1) *Introduction.* (Purpose of the report; authority; description of geographic extent of area considered; critera used in issuing report; sources of information, cooperation, and review, 1-2 pp.)

(2) *Abstract.* (Executive Summary, 1 p.)

(3) *Geological and geophysical data summaries.* (Summarized technical information used to derive resource and reserve estimates. Included where appropriate, and in aggregated form such as to protect confidential and proprietary information and data, 10-15 pp.)

(4) *Oil and gas resource and reserve estimates.* (Approximate magnitudes and generalized locations of resources and reserves, together with broad categories of information sources; presented in tabular and small-scale map formats, 5-10 pp.)

(5) *Projections of the magnitude and timing of development.* (Estimates of development and production platform requirements, including development drilling and production schedules; citations of information sources, 8-10 pp.)

(6) *Description of the methods of oil and gas transportation to be used.* (Approximate routes to be followed by oil or gas pipelines and the probable location of associated near-shore and onshore facilities; citations of information sources, 5-10 pp.)

(7) *Description of the nature and location of near-shore and onshore facilities.* (Descriptions and estimates of

the numbers of service bases, ancillary industries, platform fabrication yards, pipe coating yards, gas processing plants, partial processing facilities, refineries, and marine terminals; citations of information sources, 5-10 pp.)

The Geological Survey requests comment on the proposed outline as described above. In addition to this opportunity for comment, a series of meetings will be held at various locations nationwide, at which the proposed outline will be explained in detail and opportunity for comment and discussion will be afforded to representatives of affected States, executives of local governments, and other interested parties. "Interested parties," for the purpose of the abovementioned meetings, will include those persons and organizations who comment on this proposed outline supplemented by those who are recommended by affected State and local governments. Subsequent to these meetings, and following due consideration of all comments received, the Geological Survey proposes to publish in the FEDERAL REGISTER a final outline for Summary Reports.

Comments must be received on or before September 25, 1978, and submitted to Chief, Resource and Land Investigations (RALI) Program, U.S. Geological Survey National Center, Mail Stop 750, Reston, Va. 22092.

W. A. RADLINSKI,
Acting Director,
Geological Survey.

[FR Doc. 78-23948 Filed 8-23-78; 8:45 am]

[4710-14]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

WATER LEVELS ON OSOYOOS LAKE AND OKANOGAN RIVER

Public Hearings

The International Joint Committee will hold public hearings at the times and places noted below to receive public comment concerning the possible improvement of water levels on Osoyoos Lake and the Okanogan River above Zosel Dam. The Commission is also interested in receiving comment about the possible structural improvement or replacement of Zosel Dam, or on any other matters of public concern related to the Commission's order of approval of September 12, 1946, for Zosel Dam.

A copy of the 1946 order of approval is available for public study at the public library, Oroville, Wash.

The hearings are international and citizens of both Canada and the United States are welcome to participate in both countries. Opportunity will be given to anyone, whether on his own behalf or in a representative capacity, to offer pertinent information to assist the Commission.

While not mandatory, written statements are desirable to supplement oral testimony and to insure accuracy of the record. When a written statement is presented, 30 copies should be provided, if this is possible, for distribution to the news media and for Commission purposes.

TIMES AND PLACES OF HEARINGS

September 13, 1978, 10 a.m., Community Hall, Osoyoos, British Columbia.

September 14, 1978, 10 a.m., Civic League Building, Oroville, Wash.

David G. Chance, Secretary, Canadian Section, International Joint Commission, 100 Metcalfe Street, 18th floor, Ottawa, Ontario K1P 5M1.

William A. Bullard, Secretary, U.S. Section, International Joint Commission, 1717 H Street NW., Room 203, Washington, D.C. 20440.

WILLIAM A. BULLARD,
Secretary, U.S. Section

AUGUST 18, 1978.

[FR Doc. 78-23677 Filed 8-23-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-201-37]

BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

Rescheduling of Date and Place of Hearing

Notice is hereby given that the U.S. International Trade Commission has rescheduled to September 11, 1978, the public hearing to be held in connection with investigation No. TA-201-37, bolts, nuts, and large screws of iron or steel. The hearing will begin at 10 a.m., e.d.t., and will be held in the Euclid Room, Sheraton Inn East, 27981 Euclid East, Cleveland, Ohio 44132. Requests to appear at the hearing should be filed with the Secretary of the Commission, in writing, at his office in Washington, D.C., 701 E Street NW., Washington, D.C. 20436, not later than noon, September 6, 1978. The hearing had previously been noticed to begin on September 6.

The prehearing conference in connection with this hearing, which was previously scheduled for Tuesday, August 31, 1978, has been rescheduled to 10 a.m., e.d.t., Wednesday, September 6, 1978, in room 117, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

Notice of the investigation and the prior hearing and prehearing conference dates were published in the FEDERAL REGISTER of August 15, 1978 (43 FR 436145).

By order of the Commission.

Issued: August 21, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-23845 Filed 8-23-78; 8:45 am]

[7020-02]

[AA1921-Inq.-14, AA1921-Inq.-15, and AA1921-Inq.-16]

PERCHLOROETHYLENE FROM BELGIUM, FRANCE, AND ITALY

Commission Determines "A Reasonable Indication of Injury"

On July 19, 1978, the United States International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act of 1921, as amended, antidumping investigations were being initiated with respect to perchloroethylene from Belgium, France, and Italy, and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigations led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of such perchloroethylene into the United States from Belgium, France, or Italy. Accordingly, the Commission, on July 24, 1978, instituted inquiries Nos. AA1921-Inq.-14, AA1921-Inq.-15, and AA1921-Inq.-16 under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 4, 1978, in Washington, D.C. Public notice of both the institution of the inquiries and of the hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER on July 31, 1978 (43 FR 33350).

The Treasury Department instituted its investigations after receiving a properly filed complaint on June 16, 1978, from counsel acting on behalf of PPG Industries, Inc., Pittsburgh, Pa., Stauffer Chemical Co., Westport, Conn., Diamond Shamrock Corp., Cleveland, Ohio, Vulcan Materials Co., Birmingham, Ala., and Dow Chemical U.S.A., Midland, Mich. The Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of July 24, 1978 (43 FR 32009).

On the basis of information developed during the course of these inquiries the Commission determines that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of perchloroethylene into the United States from Belgium, France, and Italy allegedly sold at less than fair value as indicated by the Department of the Treasury.[1]

VIEWS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On July 19, 1978, the United States International Trade Commission received advice from the Department of the Treasury that, during the course of a preliminary investigation with respect to perchloroethylene from Belgium, France, and Italy, Treasury had concluded from the information available to it "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States." Acting upon this advice, the Commission, on July 24, 1978, instituted inquiries Nos. AA1921-Inq.-14, AA1921-Inq.-15, and AA1921-Inq.-16 under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Treasury's preliminary antidumping investigation with respect to which the advice was received was initiated on the basis of a petition filed with Treasury by five domestic producers of perchloroethylene.

[1] Commissioners George M. Moore and Catherine Bedell determine that, on the basis of information developed during the course of these inquiries, there is a reasonable indication that an industry in the United States is being, or is likely to be injured by reason of the importation of perchloroethylene from Belgium, France, and Italy, allegedly sold at less than fair value as indicated by the Department of the Treasury. Chairman Joseph O. Parker used the statutory language in his vote and does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of perchloroethylene from Belgium, France, and Italy, allegedly sold at less than fair value, as indicated by the Department of the Treasury. Vice Chairman Bill Alberger and Commissioner Italo H. Ablondi determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of perchloroethylene from Belgium, France, and Italy, allegedly sold at less than fair value as indicated by the Department of the Treasury. Commissioner Daniel Minchew did not participate in the determinations.

DETERMINATION

On the basis of information developed during the course of inquiries Nos. AA1921-Inq.-14, AA1921-Inq.-15, and AA1921-Inq.-16, we determine that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for continuing the investigations have been met.

DISCUSSION

In the petition filed with the Department of the Treasury, petitioners alleged that perchloroethylene imported into the United States from Belgium, France, and Italy is being sold at prices equivalent to LTFV margins of approximately 43 percent, 47 percent, and 39 percent, respectively. Imports into the United States of perchloroethylene from these three countries increased from 15 million pounds in 1974 to 41 million pounds in 1977, or about 170 percent. The ratio of such imports to apparent U.S. consumption increased from 2.2 percent in 1974 to more than 6 percent in 1976 and 1977. Alleged LTFV imports from Belgium increased from 1.3 million pounds in 1974 (0.2 percent of apparent U.S. consumption) to 13.6 million pounds in 1977 (2 percent of U.S. consumption). Alleged LTFV imports from France amounted to 13.1 million pounds in 1977, and accounted for at least 2 percent of apparent U.S. consumption each year during 1974-77. Alleged LTFV imports from Italy amounted to 11.5 million pounds in 1976 and 14.1 million pounds, or 2.1 percent of apparent U.S. consumption in 1977. There were no such imports in 1975.

Virtually all imports of perchloroethylene from the three countries enter the United States through ports in the northeast. According to testimony at the Commission hearing, these imports are all sold within a 200-mile radius of the port of entry.[2] Thus, the impact of the imports allegedly sold at LTFV is much greater in the northeast market. The ratio of imports allegedly sold at LTFV to domestic consumption in the northeast market increased irregularly from about 9 percent in 1974 to about 28 percent in 1977.

U.S. production of perchloroethylene was irregular during 1974-77. Production in 1977 was slightly below that in 1976 and about 7 percent below that in 1974. U.S. producers' shipments followed a similar pattern; they were slightly lower in 1977 than in 1976 and about 9 percent below the 1974 level.

Between 1974 and 1977, apparent consumption of perchloroethylene in the northeast market declined by about 30 million pounds, or about 16 percent. U.S. producers' shipments into this market, however, fell from 162 million pounds in 1974 to 107 million pounds in 1977, or by 34 percent.

While perchloroethylene is manufactured in several grades depending upon its end use, drycleaning-grade perchloroethylene accounts for more than 75 percent of consumption. Therefore, the prices of this grade of perchloroethylene are generally representative of prices in the perchloroethylene market as a whole. Data gathered during the Commission's inquiries indicate that the average weighted price of drycleaning-grade perchloroethylene in both the national and northeast markets declined sharply from the first quarter of 1976 to the second quarter of 1977. In general, average weighted prices in both markets were about 14 cents per pound in 1976 and have since declined to about 9 cents per pound.

There has also been a deterioration in the profitability of U.S. firms in the production of perchloroethylene. Data reported to the Commission by six U.S. producers on their perchloroethylene operations indicate that profit declined from about $28 million in 1974, or about 40 percent of net sales, to $13 million in 1976, or about 18 percent of net sales. A net loss of about $1 million was experienced in 1977, equivalent to 1.6 percent of net sales. All but two producers indicated losses since 1977.

At least three domestic producers alleged specific instances of lost sales to imports allegedly sold at LTFV. Of the purchasers identified, all verified that perchloroethylene had been purchased from Belgium, France, and Italy. Most purchasers indicated that price was the primary reason for purchasing the imported product.

STATEMENT OF REASONS OF COMMISSIONER BILL ALBERGER [3]

STATUTORY CRITERIA OF SECTION 201(C)(2)

If the Secretary of the Treasury concludes during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[4] by reason of the importa-

[2] Transcript of the hearing, Aug. 4, 1978, pp. 10 and 80.

[3] Commissioner Italo H. Ablondi concurs with the result.

[4] Prevention of the establishment of an industry is not a question in these inquiries and will not be discussed further.

tion of merchandise allegedly sold in the United States at less than fair value (LTFV). Therefore, the Commission, on July 24, 1978, instituted inquiries AA1921-Inq.-14, AA1921-Inq.-15, and AA1921-Inq.-16, under section 201(c)(2) of that act, concerning perchloroethylene from Belgium, France and Italy.

DETERMINATION

On the basis of information developed during the course of these inquiries, I determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of perchloroethylene into the United States from Belgium, France and Italy allegedly sold at less than fair value, as indicated by the Department of the Treasury.

DISCUSSION

The imported article and the domestic industry. Perchloroethylene is a clear, heavy (1.6 times heavier than water), chlorinated, nonflammable liquid used primarily as a dry cleaning and industrial solvent, and as an intermediate in the synthesis of other chemicals. There are presently seven major producers [5] and sellers of perchloroethylene in the domestic industry operating plantsites which are located mostly in Texas and Louisiana. Five of these seven companies, PPG Industries, Inc., Stauffer Chemical Co., Diamond Shamrock Corp., Vulcan Materials Co., and Dow Chemical U.S.A., supported the petition as explained in an affidavit which was filed with the Commission. No explanation could be given by the complainants as to why the two remaining companies, DuPont Inc., and the Ethyl Corp. did not join the petition; however, the five named companies represent nearly all of the domestic perchloroethylene industry in terms of sales, production and employment.

Information received from the Department of Treasury on LTFV sales. The Department of Treasury advised the Commission that the petitioners alleged margins of sales at less than fair value of as much as 43 percent, 47 percent, and 39 percent with respect to imports of perchloroethylene from Belgium, France, and Italy, respectively.

NO REASONABLE INDICATION OF INJURY OR LIKELIHOOD OF INJURY TO U.S. INDUSTRY

Imports from Belgium, France and Italy.—Since 1974, imports of perchloroethylene from Belgium, France, and Italy increased from 15.4 million pounds to 45.4 million pounds in 1976, then decreased in 1977 to 40.8 million pounds, 6.1 percent of the total U.S. consumption. Imports from these countries continue to decline with only 14.5 million pounds being imported in the January-June 1978 period, 10.2 million pounds less than in the first 6 months of 1977.

U.S. production and shipments.—U.S. production of perchloroethylene has remained relatively stable over the past 3 years with an increase from 668 million pounds in 1975 to 683 million pounds in 1976 and a decline back to 672 million pounds in 1977. This period of 1975-77 does represent an overall decline from the 720.7 million pounds produced in 1974; however, 1974 was considered an unusually good year by many industry sources. Production for the first half of 1978 shows an increase of 25.4 million pounds over the quantity produced in the corresponding period of 1977. Shipments follow a similar pattern, but lagged behind production in 1977 as inventories rose.

Utilization of productive capacity.—Capacity utilization has remained relatively stable over the past 3 years, after a slight decline from 61.6 percent in 1974 to 57 percent in 1975. With 1974 being such a good year and stated capacity utilization being so low, capacity may be beyond reasonable levels of demand.

U.S. producers' inventories.—U.S. producers' inventories increased from 68 million pounds on December 31, 1974 to 167 million pounds on December 31, 1977. It should be noted that a large proportion of the inventories since 1975 are accounted for by only one company.

Employment.—The data available shows that employment has remained relatively stable with the average number of production and related workers producing perchloroethylene increasing slightly from 434 in 1974 to 449 in January-June 1978.

Profitability.—The profitability of perchloroethylene producers, in general, has shown downward trends since 1974. All the domestic producers reported net profits, although declining, through 1976. One producer reported substantial net profits for 1977 and for the period of January-June 1978 while generally pricing above the lowest priced import and domestic competitors. The degree of profitability of U.S. producers has been affected by the increase in production costs from an average of 5.8 cents per pound in 1974 to an average of 11.7 cents per pound in 1977. The average production cost, however, has decreased more recently from this 11.7 cents per pound in 1977 to 10.6 cents per pound in January-June 1978, when domestic producers report severe losses. In addition, production costs increased the greatest, from an average of 5.8 cents per pound in 1974 to 9.4 cents per pound in 1975 and up to 11.0 cents per pound in 1976 (the peak year of alleged LTFV imports), while the industry was reporting the highest profits.

Market share.—The ratio of alleged LTFV imports to U.S. consumption has shown downward trends since 1976 both nationally and in the northeast market. Alleged LTFV imports have declined from 6.8 percent of total consumption in 1976 to 4.1 percent in January-June 1978, and from 31.3 percent to 20.8 percent during the same periods when considering the northeast region alone.[6]

Exports.—In some years (1974, 1975, and the first 6 months of 1978), exports have actually exceeded imports.

Lost sales.—Three producers cited lost sales to Belgian, French, and/or Italian imports of perchloroethylene. Of the purchasers contacted, all verified that they had purchased imported perchloroethylene on occasion and indicated price as their primary reason, however, the majority of the purchasers also stated that they believed U.S. producers had initiated the downward price trend since about mid-1976. Since the market share of alleged LTFV imports is down, as is their volume of sales, importers must have lost sales to the domestic industry as well.

Prices.—Data compiled by the Commission do not support the contention that U.S. producers have been forced to lower their prices solely as a result of price reductions by importers of perchloroethylene from Belgium, France, and Italy. To the contrary, evidence gathered by the Commission indicates that it was the U.S. producers that had initiated the downward price trend of the last 2 years (for most of the time since 1976, U.S. producers show a lower aggregate weighted average price). Particularly in the last 2 years, the domestic producers are seemingly the price leaders in that statistics show that 50 percent of the time during 1977 and 67 percent of the time during January-June 1978, U.S. producers had a price in the northeast market lower than importers.

Data also show that outside the northeast market, some producers had lower weighted average prices than any importer's price within the northeast market in every bimonthyly period from September-October 1977 to May-June 1978. The regional market injury allegation presented by the petitioners is weakended further by the data showing that since November-December 1977, one U.S. producer has had a lower weighted average price outside the northeast region,

[5] One domestic company, Hooker Chemical Co., ceased production of perchloroethylene in March 1978.

[6] The northeast region includes the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania.

where there is no competition from alleged LTFV imports, than any source of perchloroethylene inside or outside the northeast market.

It is unlikely, therefore, that price depression of perchloroethylene in the domestic industry is by reason of alleged LTFV imports. It appears that the decline in prices is at least partly a consequence of oversupply and increasing inventories. The data show that since 1974, producers' inventories have been between three and six times greater than total imports from all three named countries. Such oversupply would pressure an industry into lowering prices regardless of imports.

CONCLUSION

The best arguments for the domestic industry are that imports from Belgium, France, and Italy have been priced so low that the domestic industry either had to meet the lower price or lose sales on a massive basis. They chose the former, and have thus lost profits. All other economic indicators are favorable or neutral, since the domestic industry decided to keep production, shipments, and employment up. And, the petitioners want us to focus on the regional market of the northeast.

These arguments fail because the evidence available to us suggests oversupply by the domestic industry, with inventory levels greater than alleged LTFV imports, price cutting leadership by certain domestic firms, higher prices and profits by one domestic firm, and lower prices by a domestic firm outside the northeast than within it. Since alleged LTFV imports are sold only in the northeast and mainly in New York City, it is clear that the lower pricing outside the northeast reflects national price battles among domestic competitiors and perhaps imports from Canada, which are not alleged to be LTFV. Thus, I cannot see any reasonable indication of injury by reason of LTFV sales. I have looked at these cases both country-by-country and cumulatively, and the picture remains the same.

By order of the Commission:
Issued: August 21, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-23844 Filed 8-23-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON ADVANCED REACTORS

Meeting

The ACRS Subcommittee on Advanced Reactors will hold an open meeting on September 12-13, 1978, at Sandia Laboratories, Albuquerque, N. Mex. to review matters related to the NRC-sponsored research on the safety of advanced reactor designs. Notice of this meeting was published June 16, July 17, and August 15, 1978 (43 FR 26161, 30631, and 36152, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), 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 practicable 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, SEPTEMBER 12 AND WEDNESDAY, SEPTEMBER 13, 1978

8 A.M. UNTIL THE CONCLUSION OF BUSINESS EACH DAY

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 and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to the above topics. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled 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 designated Federal employee for this meeting, Dr. Richard P. Savio, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: August 21, 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-23679 Filed 8-23-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAREGUARDS, SUBCOMMITTEE ON METAL COMPONENTS

Meeting

The ACRS Subcommittee on Metal Components will hold an open meeting on September 11-12, 1978, in Room 1046, 1717 H Street NW, Washington, D.C. 20555, to review NRC research activities in the areas of metallurgy and materials. Notice of this meeting was published August 15, 1978 (43 FR 36152).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), 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 practicable 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:

MONDAY, SEPTEMBER 11 AND TUESDAY, SEPTEMBER 12, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS EACH DAY

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 and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to the agenda items. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled 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 designated Federal employee for this meeting, Mr. Elpidio G. Igne, telephone 202-634-3314, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: August 21, 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-23678 Filed 8-23-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

METROPOLITAN EDISON CO., JERSEY CENTRAL POWER & LIGHT CO., AND PENNSYLVANIA ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment 6 to facility operating license No. DPR-73, issued to the Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co., for operation of the Three Mile Island nuclear station, unit 2 (the facility), located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

The license is amended by revising certain technical specifications to permit the following:

1. Alternate procedures for containment air lock seal leak rate testing.
2. Plant operation with increased ultimate heat sink temperatures.
3. Removal of most orifice rod assemblies and addition of retainers on the remaining orifice rod assemblies and on the burnable poison rod assemblies.
4. Replacement of the main steam safety valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The Commission has determined that the granting of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see: (1) Amendment No. 6, to facility operating license No. DPR-73, and (2) the Commission's related safety evaluation supporting amendment No. 6 to facility operating license No. DPR-73. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126.

Dated at Bethesda, Md., this 17th day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-23680 Filed 8-23-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-34]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Highway Accident Report

The National Transportation Safety Board has released its formal report on investigation into the overturn of a tractor-cargo-tank-semitrailer which occurred on State Route 11 in Beattyville, Ky., last September 24. The report, No NTSB-HAR-78-4, was released August 16.

Investigation indicated that the truck, which was hauling 8,255 gallons of gasoline, descended a 12-6-percent, 720-foot-long grade approaching a left curve and a railroad/highway crossing. The truck crossed the tracks against the flashing red lights and in front of an approaching train, and struck buildings adjacent to the edge of the road. It then overturned on top of a parked car. Escaping gasoline ignited and the fire destroyed six buildings and 16 parked vehicles. Seven persons died in the fire.

The Safety Board determined that the probable cause of this accident was the loss of vehicle control because of speed excesssive for highway geometry. Contributing to the accident was the truckdriver's lack of judgment when he failed to respond to the warnings and obey the rules of the road.

As a result of its investigation of this accident, the Safety Board on May 17 issued seven corrective recommendations (Nos. H-78-33 through 39) to the city of Beattyville and the State of Kentucky to improve highway safety in the area, including relocation of Route 11. Further, the Board on July 17 recommended that the Federal Highway Administration (1) act quickly on the findings of its study, "Analysis of Cargo-Tank Integrity in Rollovers" (H-78-51), and (2) research the possible use of energy absorbing devices to slow down runaway vehicles where truck escape lanes are impractical (H-78-52). (See 43 FR 22465, May 25, 1978, and 43 FR 32475, July 27, 1978, respectively.)

AVIATION SAFETY RECOMMENDATION LETTERS

A-78-59 through 62.—On July 27, 1976, a Piper PA 34-200 landed at night on runway 17 at Paul Windle Airport, Greensburg, Kans., continued past the end of the runway, struck the bank of a ditch, and came to rest in an open wheat field. Two passengers were killed, and the pilot and another passenger were seriously injured.

Investigation revealed that low-intensity runway lights were installed only on the south 2,176 feet of runway 17/35, which is 2,580 feet long. At that time, however, the current issue of the Airman's Information Manual (AIM) Airport Directory contained only the following pertinent information for the airport: Runway 02/20 is the longest of two runways and is 2,800 feet long; low-intensity runway lighting; airport attended dawn to dusk and other times on call; powerlines on approach to runways 20 and 17.

A remark reflecting the correct runway lighting condition had been in the FAA Airport Master Record as early as 1965, but was not published in the AIM until the Fall/Winter 1976/77 issue. The Safety Board believes that the inaccuracy of the published information on the Greensburg airport, coupled with failure of the system to detect that the information contained in the AIM and in the National Flight Data Center (NFDC) data base was not consistent, may be symptomatic of a system problem and not an isolated occurrence. Accordingly, on August 18, 1978, the Safety Board recommended that the Federal Aviation Administration—

Review the procedures employed in the Airport Data Program to insure that instructions to airport managers/owners for annual solicitation of data are clearly and concisely stated, and that data from the Airport Master Record are compared in detail to that published in the National Ocean Survey Airport/Facility Directory. (A-78-59)

Examine the NFDC data base to determine what airport data are not published in the directory, test those data against the publication criteria, and publish as appropriate. Identify nonpublished data so that they are easily recognized as such by airport managers/owners when conducting annual reviews. (A-78-60)

In coordination with the National Ocean Survey and other appropriate agencies, establish symbology for use on the Sectional Aeronautical Chart that will indicate general limitations of airport lighting, with cross-referencing to the appropriate sources for details of the limitation. (A-78-61)

Establish the complete program of airport data verification. (A-78-62)

Each of the above recommendations is designated "Class II, Priority Action."

A-768-63 through 65.—A Piper PA-31 Navajo Chieftan was substantially damaged last May 19 at Martinsville, Va., when it ran off the end of the runway and over an embankment after an aborted takeoff. An elevator cable became caught on the edge of a fuselage bulkhead lightening hole during the takeoff roll and prevented the pilot from moving the elevators and rotating the airplane for liftoff.

As a result of investigation of this accident, and inspection by FAA maintenance personnel of several other Piper Navajo Chieftan airplanes, the Safety Board on August 17 recommended that the Federal Aviation Administration—

Issue an Airworthiness Directive applicable to Piper PA-31 Navajo Chieftan aircraft requiring corrective action, such as a plastic guard around the lightening hole at fuselage station 87.50, to prevent elevator control cable interference. (A-78-63)

Evaluate the adequacy of current Piper PA-31 Navajo Chieftan service information and maintenance procedures employed in connection with the rigging and adjustment of elevator controls. Include any necessary data on elevator cable tension-temperature compensation in the Navajo Chieftan Service Manual. (A-78-64)

Evaluate the engineering feasibility on Piper Navajo Chieftan airpanes of: Increasing the elevator control cable tension; increasing the size of the lightening hole at fuselage station 87.50; and covering or relocating the elevator control cable turnbuckles. (A-78-65)

Recommendations A-78-63 and A-78-64 are designated "Class I, Urgent Action"; A-7-65 is a Class II recommendation, for priority action.

A-78-66.—On July 9, 1978, a McDonnell Douglas DC-3 carrying 40 parachutists crashed shortly after takeoff from Richmond (Ind.) Airport. The aircraft was heavily damaged, and 11 of the 42 persons on board were injured, four seriously.

Investigation indicated that after application of takeoff power during the takeoff roll, the flightcrew began to bring the tail up and found that they were unable to move the elevator control forward. As the throttles were being closed, the aircraft rotated to an extremely nosehigh attitude and became airborne. At an altitude of about 50 feet, the aircraft started a sharp bank to the left and crashed on the left side of the departure runway.

Further, the Safety Board's investigation of the elevator control system revealed evidence that the swaged terminals on the elevator "up" cables had rubbed where the cables pass through a bulkhead at fuselage station 63, below the cockpit floor, and were "hanging up" there.

The Safety Board is aware that as a result of this accident the Federal Aviation Administration has issued an in-house Maintenance Alert Directive to inspect the elevator "up" cables on its DC-3 aircraft at fuselage station 63 within 10 flight-hours. Also, the Board is aware that FAA on August 1 issued a General Notice (GENOT) which applies to DC-3 aircraft operated in the United States. However, because of the circumstances of this accident and the potential for accidents in other countries, the Safety Board recommends that the Federal Aviation Administration—

Issue an immediate Airworthiness Directive requiring an inspection of the DC-3/C-47 elevator "up" cables for interference where they pass through the bulkhead at fuselage station 63. Those aircraft which are found to have cables which can interfere with the bulkhead should be corrected before their next flight. (Class I, Urgent Action) (A-78-66)

Responses to Safety Recommendations

Aviation

A-76-62.—Letter of July 24, 1978, from the Federal Aviation Administration supplements initial response of April 2, 1976. This recommendation asked FAA to require, until the CF-6 engine is modified, that a bird patrol sweep runways at all airports which have recognized bird problems and are served by CF-6 powered aircraft. To the July 24 letter is attached a copy of FAA Order 5200.6, "Guidelines for the National Plan on Bird Hazard Detection and Control." FAA believes that the implementation of this order, when combined with "our actions pertinent to the CF-6 engine," meets the requirements of this recommendation. FAA plans no further action on the recommendation at this time.

A-77-37.—FAA's letter of July 24 concerning this recommendation, which dealt with the transfer of the runway and approach lighting controls to the local Flight Service Station when the Air Traffic Control Tower closed at night, is in reply to the Safety Board's inquiry of June 28. The recommendation stemmed from the fact that four fatal accidents occurred at the DuPage County (Ill.) Airport close to the nightly shutdown time for the control tower.

In answer, FAA refers to its August 1, 1977, response which indicated that of the 65 flight service stations that were collocated with an airport traffic control tower, 56 have the capability to control airport lighting systems during the tower's nonduty status and the capability would be extended to additional locations. FAA now assures that action to extend this capability to all 65 facilities was completed on June 19, and the probability of recurrence of similar type accidents has been appreciably reduced.

A-78-34.—Also on July 24 FAA responded to a recommendation issued following investigation of the crash last December 11 of an Air Indiana DC-3 shortly after takeoff from Dress Regional Airport, Evansville, Ind. The recommendation asked FAA to install an alerting feature on all equipment used for disseminating essential weather information in all air traffic control facilities, at positions that require timely information and at positions that are required to issue current weather information as a part of their air traffic control functions.

FAA reports that on May 30 it sent a letter to its regional offices requesting that air traffic facility chiefs be directed to review their procedures on dissemination of weather and to ensure that controllers are aware of new weather as it is received. Additionally, FAA requested the regions to evaluate this problem and provide background information and recommendations upon which a systemwide solution might be based.

Highway

H-77-41.—Letter of July 25 from the Federal Highway Administration is in response to a recommendation resulting from investigation of the August 20, 1976, collision of a tractor-semitrailer with multiple vehicles in Valley View, Ohio. The recommendation asked FHWA to require local jurisdictions to obtain State approval before installing traffic control devices on State routes through their jurisdictions.

FHWA's response quotes from sections 4511.09 and 4511.11(A) of the Revised Code of Ohio to indicate that these sections provide both authority for local jurisdictions and control over them in the installation of devices. FHWA notes that the "permission" referred to in section 4511.09 is deemed to be obtained when the devices are installed in conformity with the Ohio Manual on Uniform Traffic Control Devices (MUCTD).

FHWA states that requiring local jurisdictions to obtain specific State approval before installing specific traffic control devices on State routes through their jurisdictions would be a major changes in responsibility and would require changes in State and local laws. It would also impact on available resources since it would serve to increase workload. "Increased education at the local level is considered an alternative means of accomplishing the intent of this recommendaton," FHWA stated.

Pipeline

P-78-1 through 8.—Letter of July 17 from Consolidated Gas Supply Corporation responds to recommendations issued following investigation of the

propane pipeline rupture and fire near Ruff Creek, Pa., July 20, 1977.

Recommendation P-78-1 asked Consolidated to inspect the field sagbend under the stream and adjacent to the overbend that failed and wherever the pipeline has undergone settlement of this type with the magnetic-particle-inspection or other suitable technique, for signs of stress cracking, and to replace the sagbend or other pipe if incipient cracking is present. Consolidated reports that the exterior surface of the sagbend was inspected last April 3 utilizing X-ray magnetic particle, dye penetration, and visual inspection. The inspection was performed to determine the presence of any primary or secondary transverse cracks. The tests showed that no stress-corrosion cracking was present. The visual inspection showed the pipe to be in very good condition.

In response to P-78-2, which asked Consolidated to test pipe for stress-corrosion cracking using a nondestructive testing method such as the magnetic-particle-inspection method everytime the pipeline is exposed for maintenance purposes, Consolidate reports that it has developed and will soon issue "Operation and Maintenance Procedures," including inspection for stress-corrosion cracking. The pipe in LPG pipeline G-136 will be tested as recommended, Consolidate states.

Concerning recommendation P-78-3, Consolidated reports that a draft of written procedures for the safe operation and maintenance of LPG pipelines and related facilities, as recommended, is being reviewed by Company management personnel. These procedures will be issued to operating personnel as soon as possible.

In answer to P-78-4, which recommended installation of a meter at the Hastings Extraction plant on the inlet to the propane pipeline to determine how much liquid is entering the pipeline, Consolidate reports that a 2-inch rotary meter to measure product input in the pipeline has been installed on the discharge of the pumps at the Hastings plant. The signal from the meter is transmitted to and displayed on an odometer at the Hastings plant.

Recommendation P-78-5 asked Consolidated to investigate the feasibility of detecting pipeline leaks by using electronic in/out flow monitors or other leak detection devices and to install one capable of detecting both small and large leaks. Consolidated states that an acoustic pipeline monitoring system was installed on line G-136 in January 1978 and became operational 1 March 7. The system, manufactured by Bethany International, Inc., monitors from both ends of the system along with a distance calculator to allow for calculating the distance from Hastings to the leak, line break, or other malfunction. Consolidated states that the system is considered experimental on liquid lines and will be observed closely for a period of time; additional tests and operating time are required to evaluate the system.

Recommendation P-78-6 asked Consolidated to establish a control center for the liquid propane pipeline and telemeter all pressure, flow, and other pertinent data necessary for safe operation of the pipeline to this central location. Consolidated reports that the responsibility for operating G-136 has been assigned to the Gas Control Center at Clarksburg, W. Va. A main control center has been established at the Control House at the Hastings Extraction Plant. Both centers are manned 24 hours a day. Consolidated further reports that there are six instruments to monitor G-136, all located in the Hastings Control Center: (1) acoustic pipeline monitor, (2) distance calculator, (3) two odometers, (4) two recorders with two pens each, (5) a red light alarm system, and (6) a pressure recording controller. Information obtained is transmitted on an hourly basis by telephone to the Gas Control Center in Clarksburg.

Recommendation P-78-7 called for inspection on a random sample basis of the segment of pipeline 10-miles downstream of the former Preston Compressor Station, including the area between Interstate Highways 70 and 79 where coal mines are prevalent, for other evidence of stress-corrosion cracking or increased-depth, general corrosion pitting. Consolidated was also asked to increase cathodic protection or to consider line replacement where severe corrosion or stress-corrosion cracking is found. In response, Consolidated reports that two locations have been inspected between I-70 and I-79 for the presence of stress-corrosion cracking. None was found. Additional locations will be scheduled for work later this year, Consolidated said.

In response to P-78-8, which recommended that Consolidated train pump station personnel on pump maintenance procedures and how to tell the difference between line pressure losses caused by leaks and pumps being vapor locked, Consolidated reports that three meetings have been held at Hastings to explain pump operation along with the new monitor system and procedure to follow when monitors indicate an alarm condition. A ¼-inch nipple and valve were installed at Hastings to help operators determine if a vapor lock condition exists. The valve can be cracked to see if vapor or liquid is released.

P-78-34 through 37.—The American Gas Association on July 24 reported that the conduct of studies, as recommended, has been referred to its Coordinating Group for Pipeline Safety for consideration. The Safety Board will be advised of action taken at a meeting of that group on August 7 and 8. The recommendations were issued following investigation of an explosion and fire last December 15 in Lawrence, Kans., which was caused by pullout of a plastic gas main from a compression coupling.

Railroad

R-71-6; R-72-2, 4 and 5; R-75-3; R-75-9; and R-75-36.—On July 14 the Federal Railroad Administration responded to the Safety Board's inquiry of January 31 as to the status of seven safety recommendations. these recommendations resulted from Board investigation of five different railroad accidents which occurred in the early seventies.

recommendation R-71-6, resulting from the January 27, 1970, accident at Franconia, Va., asked FRA to institute immediate regulations requiring the equipment of all future, new and rebuilt, passenger cars with secured seats, and luggage retention devices. FRA reports that in June 1974 its Office of Research and Development initiated a study entitled "Rail Safety/Equipment Crashworthiness" at Transportation Systems Center (TSC) in Cambridge, Mass. Included in the scope of the study were the safety implications of both passenger seats and baggage racks. The study is now complete, is being revised, and will be published within a month of receipt at TSC, at which time FRA will consider the need for regulatory action.

Recommendations R-72-2, 4 and 5 were based on findings in the investigation of the derailment of a freight train and subsequent collision between passenger train and the derailed equipment at Sound View, Conn., October 8, 1970. R-72-2 asked FRA to promulgate regulations requiring interlocking couplers on all passenger-carrying equipment including the passenger locomotive. In response, FRA speaks of a full-scale testing completed at the TSC in Pueblo, Colo., and a survey made by FRA's Office of Safety of all carriers operating passenger-carrying equipment, including the passenger locomotive, to determine the extent to which it is equipped with interlocking couplers. FRA notes that because rapid transit systems no longer are subject to FRA regulation, they were excluded from the survey. The survey, completed last May, concluded; (a) The majority of cars and locomotives presently used in passenger service are equipped with interlocking couplers; (b) practically all passenger cars and locomotives built since 1946 are equipped with interlocking couplers; (c) those passenger cars

and locomotives presently in service that are not equipped with interlocking couplers were constructed in the thirties and are rapidly being retired from service; and (d) the costs associated with converting these older, nonequipped passenger cars and locomotives to interlocking couplers would be unjustifiable expenditures, FRA states, "* * * regulatory action to require passenger cars and locomotives to be equipped with interlocking couplers is unwarranted."

Concerning R-72-4, which recommended that FRA research the determination of the value of track guardrails to keep derailed equipment in line with the track and the development of safety standards for railroad aerial track structures, FRA now states that guardrails are not a major safety factor within the rail industry and that their use does not constitute a high priority. Currently there are in progress no studies to evaluate the ability of guardrails to keep derailed equipment in line with the track, nor are any such studies planned according to FRA.

Recommendation R-72-5 asked FRA to continue to a conclusion its efforts to improve the design of a locomotive operator compartment to resist crash damage, and, in conjunction with the Association of American Railroads, to review modern design crashworthiness concepts to identify applicability in the railroad industry. FRA reports that in June 1974 a three-phase study was initiated at the Cambridge TSC to evaluate and improve the crashworthiness of passenger-carrying vehicles in intercity service. The study is entitled "Structural Design of a Crashworthy Locomotive Cab." Phase I of the study consisted of a survey of accident data for 1966-1973 and a structural analysis of a commuter car. Phase II, which commented in the fall of 1974, extended the structural analysis to the caboose and locomotive cab. During Phase III, a potential design for a crash survivable locomotive cab was developed. The final report of research results and recommendations is currently under TSC review. No regulatory decisions will be made until FRA reviews the study results.

Recommendation R-75-3 resulted from investigation of the derailment of an Amtrak train at Melvern, Kans., July 5, 1974, and asked FRA to promulgate regulations to require that all passenger-carrying railcars be provided with emergency exits and with emergency lights that will function when regular power is lost. FRA reports that passenger car crashworthiness research was initiated at the Cambridge TSC in 1974 to assist FRA in determining the need for minimum safety standards for passenger cars. Research was completed earlier this year and FRA is awaiting the final report of results and recommendations now under contractor review at TSC.

Recommendation R-75-9 resulted from the May 24, 1973, accident at Benson, Ariz., and asked FRA to develop and required the use of a mechanism for the timely detection of fire by crews of trains carrying Class A explosives. In response, FRA states that it has sponsored the development of two concepts to detect overheated rail car journal bearings. One concept, which senses ambient air temperature inside the bearing end cap, has been successfully tested in a prototype configuration at Transportation Test Center. Another concept, which senses internal metal temperature within the bearing, is still in preliminary stages of development. As soon as a prototype of this concept is available, FRA says both will be comparison-tested in a laboratory setting to validate their relative capabilities of detecting incipient bearing failures. Also, laboratory endurance/reliability tests are planned for both devices, and these laboratory tests will be followed by in-service validation/relibaility tests. Further, FRA is following very closely the work of the U.S. Navy to develop rail car onboard fire detection systems. Upon successful completion of all these development programs, FRA says it will assess the need for regulatory action.

Recommendation R-75-36, resulting from the January 2, 1975, accident at Botanical Gardens Station in New York City, asked FRA to promulgate regulations that will insure that commuter trains will be controlled as required by the signal system in the event the engineer fails to do so. FRA states that after the decision of the U.S. Court of Appeals for the Seventh Circuit that rapid transit systems are not railroads and therefore are not subject to compliance with FRA regulations, and considering the Department of Transportation position that the Urban Mass Transportation Administration has total responsibility in this area, FRA will not pursue rulemaking concerning signal systems on commuter rialroads and rapid transit lines. FRA advises that in November 1978 it will convene a 2-day public hearing on signal and communication systems as part of its safety inquiry to review existing regulations and to determine the need for additional regulations. The question of signal systems on commuter railroads will be considered at this hearing, tentatively scheduled for November 15.

NOTE.—The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of the accident report and the Board's recommendation letters in their entirety are available to the general public without charge. Copies of the full text of the responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction.

All requests to the Board for copies must be in writing, identified by report or recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register
Liaison Officer.

AUGUST 21, 1978.

[FR Doc. 78-23784 Filed 8-23-78; 8:45 a.m.]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

URBAN AND COMMUNITY IMPACT ANALYSIS

Office of Management and Budget Circular A-116, the text of which follows, has been prepared to implement the urban and community impact analysis system initiated by the President in his Executive Order 12074. This is a procedure to assist Administration policymakers in assessing the likely effects of proposed agency initiatives on cities, counties and other communities.

Status: The Circular puts the impact analysis system into effect immediately. A draft of the Circular was subject to a brief and informal period of agency and public comment. This was done instead of the customary 60-day formal comment period in order to enable agencies to prepare impact analyses in time for them to be considered during the 1980 Budget cycle commencing in September. A special procedure for the preparation of impact analyses for the 1980 Budget review is included in the text of the Circular under the section on procedures, 6 (b)(iii).

Public comment: Public comments are invited and will be taken into consideration for subsequent revisions of the Circular. These should be addressed to the Office of Management and Budget, Deputy Associate Director for Organization Studies/Economic Development Division, Washington,

D.C. 20503. The due date is October 16, 1978.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[Circular No. A-116]
AUGUST 16, 1978.

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Agency Preparation of Urban and Community Impact Analyses.

1. *Purpose.* This Circular provides instructions for the preparation and submission of urban and community impact analyses by executive branch agencies. These analyses are to identify the likely effects of proposed major program and policy initiatives in cities, counties, and other communities as defined below and to inform decisionmakers of proposed agency actions that may run counter to the goals of the President's urban policy.

2. *Background.* The President, in his March 27, 2978, urban policy message to the Congress, announced that executive agencies would be required to prepare urban and community impact analyses for major policy and program initiatives which they propose. He determined that such analyses are necessary in order to insure that potentially adverse impacts of proposed Federal policies on cities, counties, or other communities be identified during the decisionmaking process.

3. *Proposals to be assessed.* Urban and community impact analyses are to be prepared on proposed major policy and program initiatives identified by each agency. All types of initiatives should be considered candidates for this type of analyses, including new programs, expansions in budget outlays, program changes leading to shifts of resources among recipients, program changes affecting State and local governments, changes in tax provisions, new regulations, new regulatory authorities, and other changes in policy or program direction. This Circular is not intended to require urban and community impact analyses of individual projects, however.

Of the types of initiatives identified above, agencies are to subject only their major initiatives to urban and community impact analysis. It is recognized, however, that there is no simple, uniform rule that can be applied to all agencies to identify the initiatives that are major. The following general criteria are therefore intended to provide agencies some guidance in making these selections.

a. In the case of regulations, major initiatives are those that will be the subject of economic analyses under Executive Order 12044; and

b. In the case of all other initiatives, major initiatives are those that are clearly the most important agency proposals in terms of any of the following:

i. Direct budget cost, either immediately or over time;

ii. Costs for entities other than the Federal Government;

iii. Centrality to the agency's or Administration's mission or purposes;

iv. Visibility;

v. Likely impact on cities or other types of communities, either in absolute terms or in terms of giving advantages to one type of city or community over other types; or

vi. Such other factors as the agency considers necessary or appropriate to identify its major initiatives.

As specified more fully in the procedures section below, agencies will indicate in advance which of their initiatives they consider major and therefore subject to the requirements of this Circular. The Office of Management and Budget (OMB), in consultation with the Domestic Policy Staff, will review these agency designations and make any necessary modifications.

4. *Impacts to be analyzed.* In order to guarantee uniformity and focus in agency efforts, sections (a), (b), and (c) below outline the general guidelines agencies should follow in conducting urban and community impact analyses. Not every category or locus of impact will be appropriate in each agency's analyses, however, and some agencies may anticipate urban or community impacts not identified in the guidelines. Therefore, agencies may, with OMB's concurrence, add to or amend the guidelines in order to report the urban and community impacts that are most relevant and useful.

a. *Type of impacts.* To the extent analytically feasible, analyses should identify the impact a proposed major initiative is anticipated to have with respect to:

i. Employment, especially minority employment;

ii. Population size and composition, including the degree of racial concentration or deconcentration;

iii. Income, especially that of low-income households;

iv. The fiscal condition of State and local governments; and

v. Such other factors as the agency may consider appropriate and feasible to analyze, such as neighborhood stability, housing availability, availability and quality of public services, degree of urban sprawl, environmental quality, cost of living, or others.

b. *Locus of impacts.* For each of the foregoing types of impact, the analysis should seek to identify:

i. Absolute impacts, including direct or indirect benefits or costs, on the following types of places: central cities; suburban communities; nonmetropolitan communities; communities with higher than average rates of unemployment; communities with per capita income lower than the U.S. average, taking account, where possible, of differences in tax rates and cost of living; such other categories of places as the agency considers appropriate and necessary;

ii. Relative impacts, that is, any differential effects that an initiative is likely to have on one type of place as compared to other types, with special attention to the types of places noted in b(i) above.

c. *Time period.* Analyses should clearly identify the time period over which the indicated impacts are anticipated. Where appropriate, impacts that are short term (under 3 years) should be differentiated from those that are long term (3 or more years).

5. *Types of analysis.* Projected urban and community impacts should be quantified to the extent possible. However, where reliable quantification is not possible, qualitative assessments are acceptable. Urban and community impact analyses are to be brief (about 15-20 pages) and should contain a 2-3 page summary of impacts accompanied by explanatory material indicating the basis for the judgments in the summary. Attachment A provides a suggested format for the summary of impacts, but agencies may alter this format if necessary.

To the extent possible, agencies should utilize the regulatory analyses required under Executive Order 12044 and the assessments of impacts on the "quality of the human environment" required under Executive Order 11514 in completing their urban and community impact analyses.

6. *Procedures.* The procedures to be used for different types of major initiatives are as follows:

a. Regulations. The procedures outlined in Executive Order 12044 will apply. Urban and community impact analyses should be incorporated into the economic analyses of significant regulations required in Executive Order 12044.

b. Legislative and budgetary proposals.

i. By August 31 of each year, each executive department or agency, unless specially exempted by the Director of OMB, shall submit to the Director of OMB, with a copy to the Assistant to the President for Domestic Affairs and Policy, brief summaries of all the initiatives it tentatively expects to include in its legislative program or budget submission, and nominate those it will subject to urban and community impact analysis. OMB, in consultation with the Domestic Policy Staff, will review these agency nomi-

nations and request additions or deletions as appropriate. When proposals are advanced at other times of the year, a similar procedure will apply to determine which should be subjected to urban and community impact analysis, and this procedure should be activated as far in advance of the final Executive Office decision as possible.

ii. For the initiatives so identified, agencies shall submit urban and community impact analyses as part of their regular legislative and budget submissions, according to the procedures outlined in OMB Circular A-19 for legislation and OMB Circular A-11 for budget proposals. OMB, in consultation with the Domestic Policy Staff, will review the resulting analyses to determine their compliance with the requirements of this Circular and may request revisions by either the submitting agency or any other agency with expertise in the area.

iii. For the fiscal year 1980 budget season, the procedures outlined in 6(b)(ii) above will apply, except that agency designation of which initiatives to subject to urban and community impact analysis will be due on September 15, 1978, and the analyses themselves will be due one day prior to the agency's budget hearing at OMB.

c. Other major initiatives. For other proposed major policy or program changes, agencies should submit urban and community impact analyses to OMB and the Domestic Policy Staff as far in advance of decisions as possible. Such analyses will form part of the material required for final action.

7. *Definitions.* For purposes of this Circular, the following definitions apply:

a. Central city—a city of 50,000 population or more forming the central core of a Standard Metropolitan Statistical Area, as defined and designated by OMB Circular A-46, as revised.

b. Suburban community—any place, other than a central city, within a Standard Metropolitan Statistical Area.

c. Nonmetropolitan community—any place located outside a Standard Metropolitan Statistical Area.

d. Fiscal condition—the relationship between the resources available to units of general government and the expenditures committed and other financial obligations undertaken by such governments.

e. Direct costs—those costs experienced by the Federal Government, either in the form of budget outlays or in the form of revenue losses.

f. Indirect costs—costs resulting from Federal Government action but borne by others (e.g., business cost increases due to pollution control requirements or increases in the cost of delivering State and local government services). Included here are reallocations of benefits among geographic areas, type of recipients, etc., due to changes in eligibility, distribution formulae, and the like.

g. Minorities—Hispanic; Black, not of Hispanic origin; Asian or Pacific Islanders; American Indian or Alaskan Native.

h. Low income—Households with low income as defined in the Comprehensive Employment and Training Act.

8. *Effective Date.* This Circular is effective immediately and will remain in effect until rescinded.

9. *Inquiries.* All questions or inquiries should be directed to the Office of Management and Budget, Deputy Associate Director for Organization Studies, Economic Development Division. Telephone 202-395-5017.

NOTE.—The original of this circular was signed by James T. McIntyre, Jr., Director.]

ATTACHMENT A

PROPOSED FORMAT FOR SUMMARY OF URBAN AND COMMUNITY IMPACTS

The attached is intended to provide a suggested format for summarizing the results of urban and community impact analyses. The summaries are not intended to substitute for the impact analyses themselves, but rather to supplement them by providing a succinct overview of the basic conclusions. The summaries should be attached to the complete analyses when they are submitted to OMB.

The impacts to be summarized in the summary sheets are those identified in section 4(a) of the Circular plus such others as the agency considers necessary and appropriate. As indicated, both absolute and relative impacts are to be noted. Relative impacts are those that affect different places disproportionately—for example, an investment tax credit may benefit both central cities and suburbs absolutely, but may provide special advantages to suburbs compared to central cities because new plant investment may tend to concentrate in noncentral city locales.

Each conclusion noted on the summary should be supported and explained in the body of the impact analysis. Where quantitative assessments and empirical proof are lacking, qualitative judgments supported by expert opinion, simulations, or state-of-the-art judgments will be acceptable.

Agency: _____

URBAN AND COMMUNITY IMPACT ANALYSIS

Summary

A. *Background.*
1. Initiative:
2. Brief description of initiative (including extent of Federal control over uses of funds):
3. Overall objectives and likely benefits:
4. Costs:

B. *Impacts.*
1. *Impacts on central cities,* including those with high unemployment rates and those with low per capita incomes.
a. *Absolute impacts.*
b. *Relative impacts.*
2. *Impacts on suburban communities,* including those with high unemployment rates and low per capita incomes.
a. *Absolute impacts.*
b. *Relative impacts.*
3. *Impacts on nonmetropolitan communities,* including those with high unemployment rates and those with low per capita incomes.
a. *Absolute impacts.*
b. *Relative impacts.*
4. Other (please specify):
a. *Absolute impacts.*
b. *Relative impacts.*

Prepared by: _____.
Telephone number: _____.
Approved by: _____.
Date prepared: _____.

[FR Doc. 78-23689 Filed 8-23-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NUCLEAR WASTE MANAGEMENT TECHNICAL ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Nuclear Waste Management Technical Advisory Group.

DATE: September 12, 1978.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF REVIEW PANEL: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends with respect to long-term management of nuclear wastes, will identify and delineate viable alternative technology strategies or planning approaches to the problem of disposal and isolation of all nuclear waste other than that categorized as low level.

AGENDA: 9 a.m. to 4 p.m.—a discussion of draft materials prepared as

part of the policy review process for the President.

PHILLIP SMITH,
Assistant Director.

[FR Doc. 78-23793 Filed 8-23-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Application No. 08/08-5044]

AURORA BUSINESS CAPITAL CORP.

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Aurora Business Capital Corp. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders of the applicant are as follows:

Donald G. Child, 2065 Lincoln Lane, Salt Lake City, Utah 84117, president, general manager, director and 5 percent stockholder.

Keith D. Erickson, 1170 Elgin Avenue, Salt Lake City, Utah 84106, vice president, consultant, director, and 90 percent stockholder.

Ronald J. Schneider, 3091 Grace Street, Salt Lake City, Utah 84109, secretary/treasurer, assistant general manager, director and 5 percent stockholder.

The applicant, a Utah corporation, with its principal place of business located at 220 South 200 East, Suite 320, Salt Lake City, Utah 84111, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 25,250 shares of common stock.

The applicant will conduct its activities principally in the State of Utah, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than September 8, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Salt Lake City, Utah.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 16, 1978.

PETER F. MCNEISH,
Deputy Associate Adminstrator for Investment.

[FR Doc. 78-23682 Filed 8-23-78; 8:45 am]

[8025-01]

REGION III ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Pittsburgh, will hold a public meeting at 9:30 a.m. on Thursday, September 28, 1978, in conference room B, Carlton House, 550 Grant Street, Pittsburgh, Pa., to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Jack C. Forbes, District Director, U.S. Small Business Administration, 1401 Federal Building, Pittsburgh, Pa. 15222, 412-644-2784.

Dated: August 17, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-23683 Filed 8-23-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 22d meeting of the Board for International Food and Agricultural Development on September 28, 1978.

The purpose of this meeting is to receive and discuss progress reports of the Joint Research Committee, including status of collaborative research support programs (CRSP's), and discuss activities on contract research programs; to receive and discuss progress reports of the Joint Committee on Agricultural Development, including status of title XII country projects and programs, eligible universities baseline studies, and strengthening of universities; to discuss the role of BIFAD/JCAD in participating with AID in developing country programs; and to hear various other reports on conferences and activities, including the recommendations of the women in development seminar.

The meeting will begin at 9 a.m., adjourn at 4:30 p.m., and will be held in room 1105, State Department Building, 21st and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, AID, is designated as AID Advisory Committee representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: August 15, 1978.

ERVEN J. LONG,
AID Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 78-23727 Filed 8-23-78; 8:45 am]

[4710-02]

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 15th meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on September 11, 12, and 13, 1978.

The purpose of the meeting is to review progress on the collaborative research support grants (CRSPs) on small ruminants, sorghum/millet, fisheries, and nutrition; review the scopes of work on new CRSPs on beans and soil management; consider measures for investigating research priorities on nutrition in cooperation with the Research Advisory Committee (RAC); discuss alternative models for planning CRSPs; consider priorities for future exploratory and planning contracts, grants; discuss procedures and mechanisms for cooperative effort with RAC for determining contract research priorities; discuss the University of Maine's domestic and international research programs in agriculture and aquaculture; and consider other matters brought before the Committee.

The meeting will commence at 7 p.m. to 10 p.m. on September 11 and 8 a.m. to 1 p.m. on September 12, 1978 at the meeting room of the Keddy's Motor Inn, Presque Isle, Maine. The meeting on the 13th will be held at 8 a.m. to 12 m. at the Ramada Inn, Brunswick, Maine. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extend the time available for the meeting permits.

Mr. William F. Johnson, Agricultural Economist, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Respresentative for the meeting. If you have questions, contact him at 703-235-9054.

Dated: August 16, 1978.

WILLIAM F. JOHNSON,
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-23728 Filed 8-23-78; 8:45 am]

[4710-2]

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 14th meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on September 11 and 12, 1978.

The purpose of the meeting is to discuss the procedures for reviewing university proposals for strengthening grants; to consider the need for development of a different kind of agenda for the JCAD Committee; to revise the proposal for title XII field representation; to discuss A.I.D.'s agricultural development strategy; and to consider other business brought before the Committee.

The meeting on September 11, 1978, will convene in regional work groups (RWGs): Africa RWG at 9:30 a.m. in Room 2941, New State Department Building; Asia RWG at 9:30 a.m. in Room 322, Rosslyn Plaza Building, 1601 North Kent Street, Rosslyn, Va.; Near East RWG at 9:30 a.m. in Room 6484, New State Department Building, and Latin America RWG at 9:30 a.m. in Room 2242, New State Department Building. The meeting on September 12, 1978, will convene from 9 a.m. to 5 p.m. in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Carl E. Ferguson, Office of Title XII Coordination, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: August 17, 1978.

CARL E. FERGUSON,
A.I.D. Advisory Committee Representative Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-23729 Filed 8-23-78; 8:45 am]

[4710-08]

[Public Notice 623]

PARTICIPATION OF PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATIONS

Proposed Guidelines

AGENCY: Department of State.

ACTION: Proposed guidelines.

SUMMARY: This notice is issued to invite public comments on proposed guidelines concerning participation of private citizens as representatives of affected private sector interests on U.S. delegations to international conferences, meetings, and negotiations. The guidelines address criteria for inviting such participation on various delegations and the role on the delegation of such private citizens.

DATE: Comments due on or before September 25, 1978.

ADDRESS: Send comments to Lee R. Marks, Deputy Legal Adviser, Department of State, 2201 C Street NW, Washington, D.C. 20520. Telephone 202-632-8460.

SUPPLEMENTARY INFORMATION: Many international meetings and negotiations concern subjects directly affecting one or more private U.S. interests, such as industry, labor, farmers, fishermen, the scientific community, consumers or environmental interests. For many years the Government has invited private citizens representing affected interests (private-sector representatives) to participate on various U.S. delegations to such meetings or negotiations.

Private-sector representatives on delegations do not negotiate for the United States or decide U.S. policy, but provide the responsible U.S. Government officials with on-the-spot views and information based on their private perspectives. In this role, private-sector representatives are not special Government employees within the meaning of 18 U.S.C. 202. (See Federal Personnel Manual, chapter 735, appendix C, for the distinction between "special Government employees" and persons who are invited to work with an agency in a representative capacity.)

Though there is a substantial history of including private-sector representatives on delegations, the proposed guidelines would constitute the first detailed written procedures on this subject.

The Department is also publishing in this issue of the FEDERAL REGISTER separate but related guidelines concerning financial assistance to participants in State Department proceedings. The latter guidelines do not address the selection and role of private-sector representatives on U.S. delegations, but set forth procedures for implementing section 113 of Pub. L. 93-105, under which the Department can provide financial assistance to certain interest groups for participation in State Department proceedings, including U.S. delegations.

FOR FURTHER INFORMATION CONTACT:

Charles E. Roh, Jr., Deputy Assistant Legal Adviser, Department of State, 2201 C Street NW., Washington, D.C. 20520. Telephone 202-632-3970.

I. General Policy

As pertinent to private-sector representatives, the general policies of the Department of State concerning delegations to international conferences and meetings emphasize the need to limit the size of each U.S. delegation to that necessary to best carry out the mission of the delegation. Private-sector representatives shall be invited to participate on U.S. delegations only when participation is consistent with these general policies and will further the public interest. Nothing in these guidelines shall be construed to require inclusion of private-sector representatives on any delegation or to accord any right to any person, private association or interest group to participate on any delegation.

II. Objectives of Including Private Sector Representatives on Delegation

Private sector representatives are invited to participate on delegations in order to:

(a) Provide, on an individual basis, informed views on policy and technical details of matters under discussion, including matters that may arise in the course of the delegation's activities (such as the need to develop a response to proposals put forth by other countries during a conference).

(b) Enable representatives of private interests directly affected by a negotiation to understand the positions being taken by other countries, the alternatives available to the United States, and the process by which agreements are reached.

III. Balanced Representation

Many international negotiations and meetings concern matters directly and substantially affecting two or more private interests with materially differing views, including, in some cases, particular economic interests, such as industry, labor, or agricultural producers, and broader-based interests, such as retail consumer or environmental interests. When private sector representatives are to be invited to participate on a U.S. delegation in such cases, officers responsible for selection and/or accreditation of the delegation shall endeavor to obtain a balanced representation of interests on the delegation. The responsible officers shall exercise judgment as to what private interests are most likely to be directly and substantially affected and the degree of difference of interest, bearing in mind the provisions set forth in section IV(b). In exercising such judgment, the responsible officers shall place special emphasis on inviting a qualified representative or representatives of broadly based interests, such as retail consumers or environmental groups, where these interests are directly and substantially affected and one or more representatives of particular economic interests are invited to participate on the delegation.

IV. Selection of Private Representatives

(a) *Responsibility of Departmental officials.*

With respect to delegations accredited by the Office of International Conferences, Department of State, that office, in consultation with the head of delegation, shall be responsible for inviting participation of private sector representatives in accordance with these regulations. With respect to all other delegations accredited or selected by the Department of State, the action office, in consultation with the head of delegation, shall be responsible.

(b) *Initial justification.*

In determining whether private sector representatives should be invited to participate on a delegation, the following factors shall be considered:

(1) The importance of obtaining the informed views of private interests during the conference or negotiation;

(2) Whether consultations, or the opportunity to provide written comments prior to the conference, would be an adequate alternative to including particular private sector representatives on the delegation;

(3) The need to limit overall delegation size to the minimum necessary to carry out the mission of the delegation;

(4) The number of private-sector representatives that would be required, if any such representatives are included on the delegation, to provide balanced representation of the interests directly affected.

(c) *Selection procedures.*

(1) Private-sector representatives may be invited from labor groups, the academic community, trade associations, specific business firms, public interest groups, or from any other sources, including the public at large. To the extent feasible, the responsible office should consult with and seek the recommendations of representative private groups and associations before inviting private-sector representatives, but the responsible office shall not be bound by recommendations of such groups, nor shall the recommendation of such a group be required before a private-sector representative may be invited to participate on a delegation.

(2) The responsible office shall not be required to invite more than one representative of a private-sector interest merely because there is more than one private association or because there are differing views among individuals or entities within a private-sector interest group. The representative invited is not required to commit his or her interest group, entity, or association.

(3) Private-sector representatives shall be given written letters of invitation. The letter of invitation shall describe the role of the representative and outline the limitations on participation as set forth in sections V and VI of these guidelines. The letter of invitation to private-sector representatives of trade or business interests shall enclose antitrust guidance prepared by the Antitrust Division, Department of Justice.

(4) The Department shall publish monthly in the Federal Register a list of those delegations which included private-sector representatives, and the names of Government officials and private-sector representatives participating in each such delegation during the previous month. The private affiliation or interest group of such private-sector representative shall be included in the published list.

(5) Private-sector representatives must have security clearances from the Government at a level equivalent to the classification of information they may receive as a result of participation on the delegation.

V. Role of Private-Sector Representatives

(a) Subject to the provisions of these guidelines and any applicable law, private-sector representatives on the delegation may offer views and information to Government officials on the delegation, and Government officials may solicit such views and information, on any matter under consideration by the delegation. The head of delegation will decide when private-sector representatives may attend any meeting of the delegation or any meeting with foreign officials.

(b) Government officials shall not discuss or reveal any commercially sensitive information of an individual business entity, except with other U.S. Government officials with a need-to-know of such information. Commercially sensitive information includes an individual business entity's specific or anticipated costs, prices, profit margins, or production goals, unless this information is already public. Government officials may not solicit or recieve commercially sensitive information from a private-sector representative in the presence of anyone other than Government officials, and may disseminate such information only on an aggregated basis and only if such aggregated information will not tend to reveal the commercially sensitive information of any individual business entity. Aggregated information may be solicited from or provided by a private-sector representative, provided that

such information was aggregated by an independent auditor or other independent body, or the Government. No private-sector representative is obligated, by participation on a delegation, to provide any commercially sensitive information.

(c) Government officials shall take account of the private interests of an adviser in assessing any views or information received. Government officials, wherever possible, shall seek views of other private-sector representatives on the delegation representing different private interests, if views on a material point are received from one such representative.

(d) Subject to any limitations established by the head of delegation and the provisions of these guidelines, Government officials may, in their discretion, provide to private-sector representatives any information pertaining to the negotiation, provided that:

(1) No information classified above the level at which the private-sector representatives have security clearance shall be provided, nor shall any classified information be provided to such representative if it is not necessary to their function;

(2) No information shall be provided to any private-sector representative if such information knowingly could be used for private gain, unless such information is made available to the public in timely fashion so as to preclude special financial advantage for private-sector representatives. This shall include all information and proposals which would have the effect of giving commercial, competitive, or market advantage to the private-sector representatives or their employers or interest groups.

(e) The head of delegation shall assure that the private affiliation of private-sector representatives on the delegation is made known to other delegations, wherever possible by inclusion of the private affiliation in listings of the delegation on conference records.

(f) It is not expected that private-sector representatives will present joint views or a joint report to Government officials, and Government officials shall not request joint views or a joint report.

VI. LIMITATIONS ON PRIVATE-SECTOR REPRESENTATIVES

(a) No Government official shall permit private-sector representatives to speak for the U.S. Government at any meeting with foreign government officials. However, the head of delegation may authorize a private-sector representative to explain a technical or factual point, if, in the judgment of the head of delegation, (1) this will advance U.S. objectives at the conference or negotiation; and (2) the private representative is best able to speak on the point under discussion.

(b) Heads of delegation shall remind private-sector representatives that they may not, by law, divulge classified information to anyone not authorized to receive such information. The head of delegation shall inform private-sector representatives what information provided orally or in written form is classified.

(c) Private-sector representatives shall not at any time negotiate or purport to negotiate for the U.S. Government, nor shall they advocate positions outside of the delegation during a conference or negotiation which are contrary to U.S. Government policies, as determined by the head of delegation. However, no private citizen or entity shall be prohibited from expressing views on publicly available U.S. positions, whether or not the interest of the citizen or entity is represented by a private-sector representative on the delegation, nor shall any private-sector representative be prohibited from expressing views on the outcome of a negotiation after conclusion of the negotiation, so long as classified information is not released thereby.

(d) Private-sector representatives are not immune from any laws or regulations of the United States as a result of participation on a U.S. delegation, and no Government official may represent that participation confers any such immunity.

(e) Private-sector representatives are not to be considered employees of the Government. The Government will not pay any expenses of private-sector representatives, except as funds are authorized and appropriated for this purpose. Private-sector representatives are not entitled to use of any facilities of the Government, if such use would entail additional expense to the Government, nor shall they be given access to Government files or communications facilities (except facilities which do not entail additional expense to the Government, or which are necessary to protect the security of information pretaining to official functions of the delegation).

(f) The head of delegation or the Office of International Conferences may limit the period of participation on a delegation of any private-sector representative. The head of delegation may exclude from the delegation any private-sector representative whose conduct or actions are (1) contrary to the provisions of these guidelines; (2) contrary to limitations or prohibitions imposed by the head of delegation pursuant to these guidelines or other authority, or (3) prejudicial to the interests of the United States, including the effective functioning of the delegation. No private-sector representative, however, may be excluded from the delegation merely because of views provided in good faith to Government officials on the delegation, nor may a private-sector representative be excluded from the delegation for declining to provide views on a matter where he or she believes this would be inappropriate or prejudicial.

After consideration of all comments received these guidelines will be published in the Foreign Affairs Manual.

Dated: August 18, 1978.

BEN H. READ,
Deputy Under Secretary for Management.

[FR Doc. 78-23860 Filed 8-23-78; 8:45 am]

[4710-08]

[Public Notice 624]

FINANCIAL ASSISTANCE TO PARTICIPANTS IN STATE DEPARTMENT PROCEEDINGS

Implementation of Section 113 of Public Law 95-105 of August 17, 1977

AGENCY: Department of State.

ACTION: Request for public comment.

SUMMARY: The Department of State is issuing this notice for comments on the procedures for implementing section 113 (Biden amendment) of Pub. L. 95-105 of August 17, 1977 relating to public participation in State Department proceedings. The procedures involve (A) Guidelines for Compensating participants in Department Proceedings (Foreign Affairs Manual Circular No. 745, dated March 27, 1978) (set forth below); and (B) a Questionnaire to be filled out by all applicants (set forth below).

It should be noted that the Department is also publishing in this issue of the FEDERAL REGISTER related but independent proposed guidelines concerning participation in U.S. delegations to international conferences by representatives of various interests. The latter guidelines address the selection and role of such representatives exclusively for U.S. delegations; decisions as to which, if any, such representatives should be compensated under the Biden amendment would be taken in accordance with the procedures set forth below.

DATE: Comments due on or before September 25, 1978.

ADDRESS: Send comments to Hodding Carter III, Assistant Secretary of State for Public Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520, telephone: 202-632-9606.

FOR FURTHER INFORMATION CONTACT:

Ely Maurer, Assistant Legal Adviser, Department of State, 2201 C Street, NW., Washington, D.C. 20520, telephone 202-632-2682; Daniel O. Newberry, Director, Office of Plans and Management of the Bureau of Public Affairs, 2201 C Street NW., Washington, D.C. 20520, telephone 202-632-0472.

A. GUIDELINES FOR COMPENSATING PARTICIPANTS IN DEPARTMENT PROCEEDINGS (FOREIGN AFFAIRS MANUAL CIRCULAR NO. 745, DATED MARCH 27, 1978)

1. *Purpose.* This circular transmits guidelines established for implementation of a new provision of law designed to increase public participation in Department proceedings, advisory committees, and delegations to international conferences.

2. *Background.* Section 113 of Pub. L. 95-105, approved August 17, 1977, provides for compensating persons or organizations for the cost of participating in a proceeding, or on an advisory committee, or a delegation of the State Department under certain circumstances. Funds, not to exceed $250,000 in any fiscal year, are available for such compensation. This circular describes the criteria and conditions for such compensation.

3. *Definitions.* For purposes of implementing this circular, the following definitions shall apply:

a. "Proceeding" means a specific administrative process the purpose of which is to adjudicate a case, produce a rule or order, or establish a policy of general applicability.

b. "Advisory committee" has the same meaning as stated in the Federal Advisory Committee Act (5 U.S.C. App. sec. 3(2)).

c. "Delegation" means a group of persons representing the United States at a conference or meeting attended by representatives of one or more foreign governments or one or more international organizations to conduct official business.

4. *Eligibility for compensation.* To be eligible for financial assistance to participate in a Department of State proceeding, advisory committee, or delegation, a determination must be made that the organization or person:

a. Is representing an interest which would otherwise not be adequately represented and whose participation is necessary for a fair determination of the issues taken as a whole; and

b. Would otherwise be unable to participate because such organization or person cannot afford to pay the costs of such participation.

5. *Special considerations.* In addition to determining eligibility as stated in paragraph 4, the bureau or office concerned shall consider the following:

a. Whether the requesting organization or person has representation at the site of the event in question;

b. Whether the organization or individual has participated at their own expense in one or more State Department proceeding, advisory committee, or delegation during the past 3 years; and

c. Whether the individual or organization seeking financial assistance will be recognized or accepted by the international organization or host government to permit meaningful participation.

6. *International conferences.* In responding to a request by an organization or person to be made part of an official delegation to an international conference, the bureau or office concerned shall, in addition to the special considerations listed above, determine:

Whether, in conformity with the Department's policy of limiting official delegates to the minimum number essential to the negotiations, participation by the organization or person in formal pre-conference deliberations (in lieu of actual participation in the conference) would be sufficient.

7. *Coordination and accounting.* When the bureau or office concerned decides to invite, or accept the request of an organization or person to participate in a proceeding, advisory committee, or delegation, and to offer financial assistance, it shall:

a. Coordinate with the Bureau of Public Affairs (PA), on the basis of the criteria established by that bureau, the availability of funds for financial assistance.

b. In the case of delegations, obtain approval also from the Office of International Conferences, Bureau of International Organization Affairs (IO/OIC).

c. Disbursing and vouchering of funds shall be the responsibility of the bureau or office which invites the participant.

d. Each bureau or office requesting funds shall maintain appropriate records for audit and report purposes.

B. QUESTIONNAIRE

Applicants for funding to participate in proceedings, advisory committee meetings and delegations to international conferences under the "Biden amendment" (Pub. L. 95-105, section 113) are requested to provide the following information to assist in determining eligibility:

1. Name. Name of individual or organization seeking financial assistance.

2. Purpose. Purpose for which funds are being sought, including information concerning time and place of proceeding, advisory committee meeting, or conference which applicant wishes to attend.

3. Subject. Subjects of special interest to applicant at such proceeding, meeting, or conference.

4. Preparatory sessions as a possible substitute. In the case of international conferences, would it be possible for the individual/organization to participate in preconference/meeting deliberations which will formulate the U.S. position on the question at issue in lieu of attending the conference/meeting itself?

5. Need for oral presentation. Would it be possible for the individual/organization to submit views to the meeting/conference in writing in lieu of being present in person? If not, why not?

6. Role. Role applicant wishes to play at the meeting/conference. (Participant? Observer? Combination of these? Other?)

7. Representative character of applicant organization. Indication of the constituency actually represented by the applicant organization. The information should be quite specific (numerical size of membership) rather than general ("represents consumers").

8. Existing representation at site. Does the individual/organization have representation at the site of the meeting/conference? (For instance, an office in Washington or wherever the meeting is to occur.)

9. Justification for participant in conferences. In the case of international meetings/conferences, it is the goal of the United States to keep official participation as small as possible. Explain the importance, in terms of the formulation of the U.S. objectives at the conference, and in terms of the attainment of these objectives during the course of the conference, of having personal participation by a representative of the applicant organization.

10. Ability to contribute to the success of the U.S. endeavor at the conference. An explanation of the individual applicant's expertise in the subject matter to be considered at an international meeting/conference; documentation of his or her ability to contribute *significantly* to U.S. success at the meeting.

11. Recognition credentials. If the individual/organization is seeking Department of State financial assistance to attend an international meeting/conference, can the individual/organization furnish assurance that they will be officially recognized by the body convening the meeting/conference so as to be able to participate meaningfully in its deliberations?

12. Previous participation. Has the individual/organization previously participated in one or more Depart-

ment of State proceedings? If so, what, when, and where? How was participation financed?

13. Financial assistance desired. Can the individual/organization pay part, if not all, of the expenses involved in attending the meeting/conference? If so, how much? If not, why not?

14. Biographic data. Individuals participating in certain conferences and meetings are required to have a security clearance, for which an extensive background investigation is required. The attached *Request for Biographic Data* form should be filled in to provide information necessary for this investigation.

WILLIAM D. BLAIR, Jr.,
Acting Assistant Secretary for Public Affairs.

AUGUST 21, 1978.

[FR Doc. 78-23861 Filed 8-23-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-115]

NATIONAL BOATING SAFETY ADVISORY COUNCIL CANOE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Canoe Subcommittee to be held on September 27, 1978, at the Holiday Inn, Edens Expressway and Lake Cook Road, Chicago, Ill. The meeting is scheduled to begin at 12 noon and adjourn at 3 p.m.

The purpose of this meeting is to demonstrate and discuss the final results of the canoe research program which may lead to regulations for canoe construction.

Attendance is open to the interested public. With approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the subcommittee at any time. Additional information may be obtained from the Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C., or by calling 202-426-1080.

Issued in Washington, D.C., on August 16, 1978.

B. E. THOMPSON,
Rear Admiral, U.S. Coast Guard Chief, Office of Boating Safety.

[FR Doc. 78-23783 Filed 8-23-78; 8:45 am]

[4910-13]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 133—AIRBORNE WEATHER AND GROUND MAPPING PULSED RADAR

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 RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radar to be held September 19 through 21, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of the fifth meeting held April 4 through 6, 1978; (3) briefing on Federal Aviation Administration helicopter program; (4) report of test procedures working group; (5) report of ARB/RACON working group; (6) review of European Organization for Civil Aviation electronics draft minimum performance standards; (7) review RTCA draft minimum operational performance standards; (8) assignment of tasks; and (9) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 17, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-23675 Filed 8-23-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

Notice of Grants and Denials

APPLICATIONS FOR EXEMPTIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's hazardous materials regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted July 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for emergency exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
930-P	DOT-E 930	Airco Industrial Gases, Murray Hill, N.J.	49 CFR 172.101, 173.2, 173.34(d)(3), 173.328.	To become a party to exemption 930. (See application No. 930-X.) (Modes 1, 2, and 3.)
2732-X	DOT-E 2732	U.S. Department of Energy, Washington, D.C.	49 CFR 173.65 (a), (b), and (c).	To ship high explosives in non-DOT specification packagings. (Modes 1 and 2.)
3128-X	DOT-E 3128	Walter Kidde and Co., Inc., Belleville, N.J.; U.S. Department of Defense, Washington, D.C.	49 CFR 173.304, 175.3	To ship a class C explosive and a liquefied nonflammable gas in non-DOT specification cylinders. (Modes 1, 2, 3, and 4.)
3563-X	DOT-E 3563	U.S. Department of Energy, Washington, D.C.	49 CFR 172.101, 173.302(a), 173.395.	To ship a nonflammable, nonliquefied compressed gas in non-DOT specification cylinders. (Modes 1, 2, 4, and 5.)
3606-X	DOT-E 3606	Walter Kidde and Co., Inc., Belleville, N.J.	49 CFR 173.304, 175.3	To ship a nonflammable compressed gas in a non-DOT specification container. (Modes 1, 2, 3, and 4.)
3744-P	DOT-E 3744	Moreland Chemical Co., Inc., Spartanburg, S.C.	49 CFR 173.266(b)(7)	To become a party to exemption 3744. (See application No. 3744.) (Modes 1 and 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
4338-X	DOT-E 4338	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.245(a), 173.247(a), 173.247a.	To ship corrosive liquids in DOT specification 3E1800 and 3AA2015 cylinders. (Modes 1, 2, and 3.)
4850-X	DOT-E 4850	Ensign Bickford Co., Simsbury, Conn.	49 CFR 173.100(cc), 175.3	To ship an explosive in strong wooden or fiberboard boxes in compliance with 173.104. (Modes 1, 2, and 4.)
5196-X	DOT-E 5196	El Paso Products Co., Odessa, Tex.	49 CFR 172.101, 173.315(a)(1).	To ship a flammable gas in a non-DOT specification insulated cargo tank, designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
5322-X	DOT-E 5322	Boston Gas Co., Boston, Mass.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in non-DOT specification perlite insulated tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
5372-X	DOT-E 5372	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.301(d), 173.301(a)(3), 173.304(a)(2).	To ship certain compressed gases in a DOT specification 3T cylinder. (Modes 1 and 3.)
5615-X	DOT-E 5615	Ashland Chemical Co., Columbus, Ohio.	49 CFR 173.245, 173.247, 173.263, 173.268, 173.269, 173.272, 173.349.	To ship certain hazardous materials in non-DOT specification glass carboys in polystyrene overpacks. (Modes 1, 2, and 3.)
5849-X	DOT-E 5849	PPG Industies, Pittsburgh, Pa.; Olin Chemicals Group, Stamford, Conn.; U.S. Department of Defense, Washington, D.C.	49 CFR 173.217(a)(5), 175.3	To ship a certain oxidizer material in a DOT specification 21C fiber drum. (Modes 1, 2, 3, and 4.)
5852-X	DOT-E 5852	South Jersey Gas Co., Folsom, N.J.	49 CFR 172.101, 173.315(a)	To ship certain flammable liquefied compressed gases in a non-DOT specification insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
5967-X	DOT-E 5967	Northwest Orient Airlines, Inc., St. Paul, Minn.	49 CFR 173.304(a)(2), 175.3	To ship a nonflammable gas in non-DOT specification cylinders. (Modes 1, 2, 4, and 5.)
6064-X	DOT-E 6064	Martin Marietta Corp., Charlotte, N.C.	49 CFR 173.65(e), 178.24-4(e).	To ship a certain high explosive in a DOT specification 21P fiber drum. (Mode 1.)
6113-X	DOT-E 6113	Valley Gas Co., Cumberland, R.I.; Public Service Electric and Gas Co., Newark, N.J.; L. P. Transportation Co., Chester, N.Y.; New Jersey Natural Gas Co., Asbury Park, N.J.; Providence Gas Co., Providence, R.I.; Hartford Electric Light Co., Hartford, Conn.; Southern Connecticut Gas Co., New Haven, Conn.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank, designed and constructed in accordance with sec. VIII of the ASME code.(Mode 1.)
6205-X	DOT-E 6205	Northern Petrochemical Co., Des Plaines, Ill.	49 CFR 173.315(a)(1), 172.101.	To ship certain flammable gases in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
6253-X	DOT-E 6253	Hapag-Lloyd AG, Hamburg, West Germany; Atlantic Cargo Services AB, Gothenburg, Sweden.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.266, 173.294, 173.346, 173.365.	To ship hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
6260-X	DOT-E 6260	Amtrol, Inc., West Warwick, R.I.; State Industries, Inc., Ashland City, Tenn.; Hoyt Corp., Rogers, Ark.; Starite Industries, Delavan, Wis.	49 CFR 172 subpts. D, E, and F, 173.302(a), pts. 174 except 174.24, pt. 177 except 177.817.	To manufacture, mark and sell non-DOT specification steel tanks for shipment of nonflammable gases. (Modes 1, 2, and 3.)
6397-P	DOT-E 6397	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.346(a)	To become a party to exemption 6397. (See application 6397-X.) (Modes 1 and 2.)
6530-X	DOT-E 6530	Union Carbide Corp., Tarrytown, N.Y., Airco Industrial Gases, Murray Hill, N.J.; Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.302(c)	To ship certain flammable gases in DOT specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6536-P	DOT-E 6536	South Jersey Gas Co., Folsom, N.J.; New Bedford Gas & Edison Light Co., New Bedford, Mass.; L. P. Transportation Corp., Chester, N.Y.; Allied Chemical Corp., Morristown, N.J.; Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 172.101, 173.315(a)	To ship certain flammable and nonflammable gases in a non-DOT specification cargo tank. (Mode 1.)
6536-P	DOT-E 6536	Utility Propane Co., Elizabeth, N.J.; Fitchburg Gas and Electric Light Co., Canton, Mass.	do	To become a party to exemption 6536. (See application No. 6536-X.) (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
6704-X	DOT-E 6704	Dow Chemical Co., Midland, Mich.	49 CFR 173.245a, 173.249, 173.253, 173.294, 178.340, 178.343.	To ship certain corrosive liquids in non-DOT specification cargo tanks. (Mode 1.)
6738-X	DOT-E 6738	El Paso Products Co., Odessa, Tex.	49 CFR 172.101, 173.315(a)...	To ship a flammable gas in non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
6758-X	DOT-E 6758	Roper Plastics, Inc., Oakbrook, Ill.	49 CFR pt. 173, subpt. F; 49 CFR, 173, subpt. D, 178.19.	To manufacture, mark, and sell non-DOT specification removable head polyethylene container for shipment of corrosive liquids and flammable liquids. (Modes 1, 2, and 3.)
6898-X	DOT-E 6898	Allied Chemical Corp., Morristown, N.J.; Ashland Chemical Co., Columbus, Ohio.	49 CFR 178.150-4(a)(1)	To ship certain corrosive liquids in inside containers overpacked in a DOT specification 33A polystyrene case. (Modes 1, 2, and 3.)
6904-X	DOT-E 6904	Aldrich Chemical Co., Milwaukee, Wis.	49 CFR 173.246(a), 175.3	To ship a certain corrosive material in a DOT specification 12A fiberboard box. (Modes 1, 3, and 4.)
6919-X	DOT-E 6919	Northern Petrochemical Co., Des Plaines, Ill.; American LNG Co., Oakbrook, Ill.	49 CFR 172.101, 173.315(a)...	To ship certain flammable gases in a non-DOT specification insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
6963-X	DOT-E 6963	I.S.C. Chemicals Ltd, Bristol, England.	49 CFR 173.264(a), 173.264(b).	To ship certain hazardous materials in a non-DOT specification intermodal portable tank. (Modes 1 and 3.)
7003-X	DOT-E 7003	General Electric Co., Philadelphia, Pa.	49 CFR 173.21(a), 173.304(a), 175.3.	To ship solid methane and solid ammonia in non-DOT specification cryogen coolers. (Modes 1 and 4.)
7023-X	DOT-E 7023	Ashland Chemical Co., Columbus, Ohio.	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), (i)(24).	To ship an oxidizer or corrosive material in non-DOT specification steel portable tanks built in compliance with DOT specification 60 with certain exceptions. (Mode 1.)
7031-X	DOT-E 7031	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.63, 173.64(a)(2), 178.209.	To ship certain class A and B explosives in a non-DOT specification fiberboard box which meets DOT specification 12H requirements with certain exceptions. (Modes 1, 2, and 3.)
7042-X	DOT-E 7042	Walter Kidde & Co., Inc., Belleville, N.J.	49 CFR 173.302(a)(1), 173.304(a), 175.3.	To ship certain compressed gases in non-DOT specification seamless cylinders. (Modes 1, 2, 3, and 4.)
7077-X	DOT-E 7077	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315(a)(1)	To ship certain nonflammable and flammable gases in a non-DOT specification ISO portable tank. (Modes 1 and 3.)
7208-X	DOT-E 7208	The National Aeronautics and Space Administration, Greenbelt, Md.	49 CFR 175.3, 173.30(a)(1), 172.101.	To ship class B explosives in quantities exceeding present limitations. (Mode 4.)
7270-X	DOT-E 7270	Dow Chemical Co., Freeport, Tex.	49 CFR 98.35	To ship combustible liquids in non-DOT specification portable tanks. (Mode 3.)
7407-X	DOT-E 7407	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101(b)(7), 172.204, 172.300, 172.400, 173.88, 173.91, 175.3, 175.75(a)(2).	To ship explosive B incendiary grenades under certain conditions via cargo-only aircraft. Mode 4.)
7454-X	DOT-E 7454	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.83, 176.410(e)(2)	To ship nitro carbo nitrate in the same magazine with certain explosives without a separating bulkhead. (Mode 3.)
7524-X	DOT-E 7524	.....do	49 CFR 173.314(c), 173.315(a).	To ship monobromotrifluoromethane in DOT specification 51 portable tank, MC-331 cargo tank, DOT specification 105A500W tank car tank, and a non-DOT specification AAR120A500W tank car tank. (Modes 1, 2, and 3.)
7573-X	DOT-E 7573	U.S. Department of Defense, Washington, D.C.	49 CFR 175.3, 175.30(a)(1)....	To ship explosives and other specified hazardous materials which are forbidden from carriage by cargo-only aircraft or in quantities greater than those prescribed for cargo-only aircraft. (Mode 4.)
7586-X	DOT-E 7586	Rockwell International Corp., Downey, Calif.	49 CFR 173.88(e)(2)(ii), 173.92.	To ship a rocket motor, as part of a global positioning systems, in a propulsive state. (Mode 1.)
7589-X	DOT-E 7589	Recordati, Milano, Italy	49 CFR 173.245(a)	To ship corrosive liquids in a non-DOT specification cylindrical glass carboy overpacked in a steel drum/wooden box packaging. (Modes 1 and 3.)
7600-X	DOT-E 7600	Lubbock Manufacturing Co., Lubbock, Tex.	49 CFR 172.101, 173.315(a)(1).	To manufacture, mark, and sell non-DOT specification insulated cargo tanks for shipment of liquefied ethylene. (Mode 1.)
7638-X	DOT-E 7638	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 173.304(a), 175.3	To manufacture, mark, and sell DOT specification 4L cylinders for shipment of nonflammable gases. (Modes 1, 2, 3, and 4.)
7654-P	DOT-E 7654	Eastman Kodak Co., Rochester, N.Y.	49 CFR 173.119(f)	To become a party to exemption 7654. (See application No. 7654-X.) (Modes 1 and 2.)
7743-X	DOT-E 7743	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.315	To ship a certain flammable gas in a DOT specification 51 portable tank. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
7753-X	DOT-E 7753	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.190(b)(2)	To ship a certain flammable solid in DOT specification 17C steel drums. (Modes 1, 2, and 3.)
7754-X	DOT-E 7754	Hercules Inc., Wilmington, Del.	49 CFR 173.66, 173.103(a), 177.835(g)(2)(1).	To ship a class C explosive in polyethylene plastic bags, overpacked in a DOT specification 12H65 fiberboard box. (Mode 1.)
7768-X	DOT-E 7768	Plasti-Drum Corp., Lockport, Ill.	49 CFR 173.217, 173.245b, 178.19.	To manufacture mark and sell non-DOT specification removable head polyethylene drums, for shipment of certain oxidizers and corrosive solids. (Modes 1, 2, and 3.)
7891-X	DOT-E 7891	United Parcel service, Greenwich, Conn.	49 CFR 172.400, 172.402(a)(2), (a)(3), 172.504(a) and table 1, 173.25(a).	To except special small quantity class B poison packages from labeling requirements, and shipment of certain flammable solids from placarding requirements. (Modes 1 and 2.)
7894-P	DOT-E 7894	Erving Paper Mills, Erving, Mass.	49 CFR 173.186	To become a party to exemption 7894. (See application No. 7894-N.) (Modes 1 and 2.)
7902-X	DOT-E 7902	Rogers, Hoge & Hills Co., New York, N.Y.	49 CFR pt. 107 app. B; 172.504, 172.506.	To ship certain class C explosives in motor vehicles placarded "DANGEROUS" instead of "FLAMMABLE." (Mode 1.)
7943-X	DOT-E 7943	Swimming Pool Chemical Manufacturers Assoc., Seal Beach, Calif.	49 CFR 173.263(a)(15), 173.272(c), (i)(12), 173.277.	To ship corrosive liquids in fiberboard boxes complying with DOT specification 12B except for handholes. (Mode 1.)
7886-N	DOT-E 7886	W. M. Barr & Co., Memphis, Tenn.	49 CFR 173.245, 178.210	To ship a corrosive liquid in non-DOT specification metal can/fiberboard boxes. (Mode 1.)
7921-N	DOT-E 7921	Becton, Dickinson & Co., Arlington, Tex.	49 CFR pt. 100-199 except pt. 107 and 171.2, 173.6(b), 173.21, 173.22a, 173.24.	To ship small quantities of hazardous materials in sealed glass ampules which do not exceed 1 ml. capacity, each, overpacked in composite packagings. (Modes 1, 2, 3, 4, and 5.)
7934-N	DOT-E 7934	Carroll Co., Garland, Tex	49 CFR pt. 173, subpt. F	To manufacture, mark, and sell corrugated fiberboard boxes built in compliance with DOT specification 12B for shipment of corrosive liquids. (Mode 1.)
7938-N	DOT-E 7938	Bignier Schmidt-Laurent, Paris, France.	49 CFR pt. 173	To ship certain flammable, corrosive, class B poisonous and combustible liquids and ORM-A in non-DOT specification portable tanks. (Modes 1 and 3.)
7949-N	DOT-E 7949	Riegel Textile Corp., Ware Shoals, S.C.	49 CFR 173.249(a)(7)	To ship a certain corrosive liquid in collapsible rubber container designated as "SEALDTANK." (Mode 1.)
7953-N	DOT-E 7953	Pennwalt Corp., Buffalo, N.Y.	49 CFR 173.157(a)(5), 173.157(b)(3).	To allow an increase in the net weight of wet benzoyl peroxide in certain DOT-12B packagings. (Modes 1 and 3.)
7963-N	DOT-E 7963	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.360(a)(5)	To ship a class B poison in monel tanks constructed in accordance with DOT specification 51 with certain exceptions. (Mode 1.)
7972-N	DOT-E 7972	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.504	To transport small quantities of class A and B explosives in a special shipping container without placarding the vehicle. (Mode 1.)
7990-N	DOT-E 7990	Hill Bros. Chemical Co., Phoenix, Ariz.	49 CFR 173.217(a)	To ship a dry oxidizer in DOT specification 12A or 12B corrugated fiberboard boxes. (Mode 1.)
7991-N	DOT-E 7991	Union Pacific RR., Omaha, Neb.	49 CFR pts. 100-177	To transport railway torpedoes and fuses carried as carriers' equipment excepted from certain regulations. (Mode 1.)
8004-N	DOT-E 8004	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.367(a)(1), 173.365.	To ship a class B poison in DOT specification 17C metal drums having removable heads. (Modes 1 and 3.)
		EMERGENCY EXEMPTIONS		
		[Applications received and granted]		
EE8041	DOT-E 8041	Flying Tiger Line, Los Angeles, Calif.	49 CFR 172.101, 175.30(a)(1)	To transport 1 shipment of ammunition for cannon, class A or B explosives, via cargo-only aircraft. (Mode 4.)

DENIAL

4168-X Request by Allied Chemical Corp., Morristown, N.J.—To ship sulfur hexafluoride in DOT specification 3A1000 and 3AA1000 cylinders, denied July 27, 1978, as being unnecessary. (HM-121 obviates the need.)

4168-X Request by Air Products & Chemicals, Inc., Allentown, Pa.—To ship sulfur hexafluoride in DOT specification 3A1000 and 3AA1000 cylinders, denied July 27, 1978, as being unnecessary. (HM-121 obviates the need.)

4168-X Request by Union Carbide Corp., Tarrytown, N.Y.—To ship sulfur hexafluoride in DOT specification 3A1000 and 3AA1000 cylinders, denied July 27, 1978, as being unnecessary. (HM—121 obviates the need.)

4168-X Request by Liquid Carbonic Corp., Chicago, Ill.—To ship sulfur hexafluoride in DOT specification 3A1000 and 3AA1000 cylinders, denied July 27, 1978, as being unnecessary. (HM—121 obviates the need.)

6749—X Request Bio-Lab, Inc., Conyers, Ga.—To ship certain oxidizing materials in various polyethylene packagings not provided for in the regulations, denied July 18, 1978, as being unnecessary.

7820—X Request by Permal International, Inc., New York, N.Y.—To ship trimethyl phosphite in non-DOT specification

IMCO type 1 insulated portable tank, denied July 18, 1978.

7841—N Request by Mortell Co., Kankakee, Ill.—To ship certain viscous liquids in reconditioned DOT specification 17E drums, which have been converted to non-DOT specification removable head drums, denied July 28, 1978, as being unnecessary.

7920—N Request by Marubeni America Corp., New York, N.Y.—For importing a class B poisonous liquid, in foreign-made steel drums comparable to a DOT specification 5B drum, denied July 28, 1978, as being unnecessary.

7993-N Request by Burlington Industries, Inc., Greensboro, N.C.—To transport sodium hydroxide solution and ammonium hydroxide solution in DOT specification 57 portable tanks, denied July 18, 1978.

EE8042-N Request by U.S. Department of Defense, Washington, D.C.—To ship palletized military ammunition bearing the appropriate DOT label altered to meet IMCO requirements, denied July 21, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-23835 Filed 8-23-78; 8:45 am]

[1505-01]

APPLICATIONS FOR EXEMPTIONS

Correction

In FR Doc. 78-23213 appearing at page 37051 in the issue for Monday, August 21, 1978, third column, under dates, "September 30," should read "September 20,".

[4910-59]

National Highway Traffic Safety Administration

[Docket No. EX78-2; Notice 2]

GENERAL ENGINES CO.

Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice grants the petition by General Engines Co. of Sewell, N.J., for a 1-year exemption from Federal Motor Vehicle Safety Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars, on the basis that it would facilitate the development and field evaluation of a low emission motor vehicle. It also provides an interpretation that S5.1 of Standard No. 123, Motorcycle Controls and Displays, is inapplicable to petitioner's battery-powered vehicle.

Notice of the petition was published on April 20, 1978 (43 FR 16842) and an opportunity afforded for comment.

Petitioner's Electric Products Division manufactures a "low emission motor vehicle", specifically electric motor driven cycles, the Pedalpower Electroped GX 2000 and the Pedalpower Electroscooter, by adding motors to moped frames imported from West Germany. The tires with which the vehicles are equipped (16 x 2.125 on 12-inch rims) are classified as bicycle tires by the Tire and Rim Association, and do not meet Standard No. 120. Motorcycle tires and rims that comply with Standard No. 120 do not fit the frames or rims already imported. Petitioner argued that an exemption will not unduly degrade motor vehicle safety as "the capacity of the Continental moped tire has proven more than adequate with weight loads of 150, 200, and 250 pounds." The top speed of the Electroped is 15 mph and that of the Electroscooter, 20 mph. It estimated that up to 1,000 vehicles might be produced under the exemption.

Petitioner has also asked NHTSA how the requirement in Standard No. 123 for a supplemental engine stop control applies to its vehicles whose driving force (electric current) is shut off when the manual power controls are released. NHTSA replied that this portion of the standard was not intended to cover electric-power motorcycles, but that until the standard could be amended appropriately the control is a required equipment item. NHTSA suggested that the petition be supplemented to include a request for exemption from the requirement, and petitioner has agreed to it.

The company believes that an exemption would be in the public interest as its vehicles are fuel efficient, reducing air and noise pollution.

One comment was received, from the Administrator, Motor Vehicle Safety Office, Department of Transportation, Hawaii, who opposed the exemption from Standard No. 120, and approved, with a proviso, the request concerning Standard No. 123. The Department is concerned with operator protection on a vehicle with a small silhouette, and commented that "a reduction in the wheel diameter will result in a further reduction of the visibility profile and increase the hazard". It commented that the exemption from Standard No. 123 should be granted "provided that electric propulsion power is controlled by a master key-locked on/off switch located within reach of a driver seated in the operating position on the vehicle".

NHTSA may grant petitioner a temporary exemption upon a finding that it would facilitate the development or field evaluation of a low emission motor vehicle and that the exemption would not unduly degrade the safety of the vehicle (15 U.S.C. 1410(a)(1)(c)). Because there appear to be no other electric powered mopeds on the market it is found that a temporary exemption would facilitate the development and field evaluation of a low emission motor vehicle. While NHTSA is concerned with the visibility and safety of operators of vehicles of low profile (see opinion, *Mini-bikes*, October 3, 1969, 34 FR 15416), the motor driven cycles which are the subject of the petition appear to be similar in height to most bicycles and mopeds already on the road. There is no data indicating that their lack of visibility is a causal factor in accidents. As a powered vehicle, it cannot be legally operated on the public roads without a license. Most jurisdictions in the United States require the operator of such a vehicle to be not less than 15 or 16 years old. This assures NHTSA that the mopeds are unlikely to be used by children on city streets. Therefore, the NHTSA finds that an exemption from Standard No. 120 would not unduly degrade the safety of the vehicle.

With respect to the requirement in Standard No. 123 that motorcycles be equipped with a supplementary engine stop control, the NHTSA, has concluded that this requirement does not apply to electric vehicles such as petitioner's where the engine "stops" whenever the hand control is released. Therefore in NHTSA's view petitioner may certify compliance with Standard No. 123, provided that the standard's other requirements are met, without the necessity of an exemption.

In consideration of the foregoing General Engines Co. is hereby granted NHTSA Temporary Exemption No. 78-2 from 49 CFR 571.120 Motor Vehi-

cle Safety Standard No. 120, expiring August 1, 1979.

(Sec. 3, Pub. L. 92-548, 86 Stat 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on: August 16, 1978.

HOWARD DUGOFF,
Deputy Administrator.

[FR Doc. 78-23504 Filed 8-23-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 22]

DECISION-NOTICE

Decided: August 11, 1978.

The following applications are governed by special rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failing to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willingly, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered:

In the absence of legally sufficient protestants, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Acting Secretary.

MC 1783 (Sub-21F), filed July 13, 1978. Applicant: BLUE LINE EXPRESS, INC., 260 D.W. Highway South, Nashua, NH 03060. Representative: Charles A. Webb, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of International Paper Co., at or near Ticonderoga and Corinth, NY, to New York, NY, and points in Suffolk Counties, NY, NJ (except those in the New York, NY, commercial zone), CT, MA, RI, ME, VT, and NH. (Hearing site: Concord, NH, or Boston, MA.)

MC 9325 (Sub-75F), filed July 10, 1978. Applicant: K LINES, INC., 17765 SW. Boones Ferry Road, Lake Oswego, OR 97034. Representative: Jerry R. Woods, Suite 1440, 200 Market Building, Portland, OR 97201. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk commodities*, between points in ID, OR, and WA, on the one hand, and, on the other, points in CA, MT, and NV. (Hearing site: Portland, OR.)

MC 9444 (Sub-7F), filed June 18, 1978. Applicant: BILOXI TRANSFER AND STORAGE CO., INC., P.O. Box 361, Biloxi, MS 39533. Representative: B. W. LaTourette, Jr., 11 South Maramec, Suite 1400, St. Louis, MO 63105. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, (1) between points in Covington, Forrest, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Perry, Pike, Walthall, and Wayne Counties, MS, (2) between points in Baldwin, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington Counties, AL, and (3) between points in Jefferson, Orleans, St. Bernard, St. Tammany, and Washington Parishes, LA, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: Biloxi, MS, or New Orleans, LA.)

MC 16503 (Sub-9F), filed July 12, 1978. Applicant: GUEX TRUCKING, INC., P.O. Box 359, Shawano, WI 54166. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from New Richmond, Gillett, Coleman, Eden, and Oakfield, WI, to points in AL, FL, GA, KS, MO, and NE, under a continuing contract with Friday Canning Corp., of New Richmond, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 30518 (Sub-5F), filed July 17, 1978. Applicant: CARLOS J. STILWELL, d.b.a. STILWELL TRUCK SERVICE, Detroit, IL 62332. Repre-

sentative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *animal and poultry feeds*, (2) *feed ingredients*, (3) *animal poultry health care products*, (4) *animal and poultry feeding equipment and animal and poultry feeding supplies*, and (5) *bagged lawn and garden fertilizers*, between Pittsfield, Griggsville, and Blandinsville, IL, on the one hand, and, on the other, points in MO and IA, under continuing contracts with (1) King Feed Co., of Blandinsville, IL, and (2) M. D. King Milling Co., of Pittsfield, IL. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 30844 (Sub-613F), filed June 15, 1978. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (Same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *general commodities* (except foodstuffs, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those which require special equipment), and (2) *foodstuffs*, when moving in mixed loads with the commodities in (1), from Chicago, IL, to Dallas, Houston, San Antonio, Amarillo, Lubbock, and Laredo, TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders. (Hearing site: Dallas, TX.)

MC 30844 (Sub-614F), filed June 16, 1978. Applicant: KROBLIN REFRIGERATED EXPRESS INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhoades (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near (1)(a) Estherville and Sioux City, IA, and (b) Sioux Falls, SD, to points in FL, GA, SC, and TN, (2) East St. Louis, IL, to points in OH and MI, (3) St. Paul, MN, to points in FL, GA, NC, SC, TN, CT, DE, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, and (4) Ft. Smith, AR, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, restricted in (1), (2), (3), and (4) to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 30844 (Sub-615F), filed June 19, 1978. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Authority granted to operate as *a common carrier*, by motor vehicle, over irregular routes, transporting (1) *such articles as are dealt in by grocery and hardware stores*, (a) from Ft. Madison, IA, to points in TX, GA, MA, NY, NJ, PA, IL, IN, OH, MI, KY, WI, MN, ND, SD, KS, MO, NE, AR, TN, OK, and CO, and (b) from points in MA, CT, RI, NY, NJ, and PA, to points in IA, MO, IL, IN, and MI, and (2) *chemicals, and materials used in the manufacture and distribution of* (a) *chemicals, and* (b) *such articles as are dealt in by grocery and hardware stores*, from points in MA, CT, RI, NY, NJ, and PA, to points in IA, MO, IL, IN, and MI. (Hearing site: Washington, DC.)

MC 34087 (Sub-9F), filed May 1, 1978, and previously noticed in the FEDERAL REGISTER issue of June 22, 1978. Applicant: NORMAN HILLS, Rural Delivery No. 1, McAllister Road, Fredonia, NY 14061. Representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Fremont and Toledo, OH, to points in NY, and those in NJ on and north of NJ Hwy 33, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, under a continuing contract with Heinz U.S.A., Division of H. J. Heinz Co. of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

NOTE.—This republication indicates the restriction on traffic being transported.

MC 35628 (Sub-403F), filed July 17, 1978. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville Avenue, SW., Grand Rapids, MI 49502. Representative: Michael P. Zell (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Cable Corp., at Cass City, MI, as an off-route point in connection with applicant's presently authorized regular-route service. (Hearing site: New York, NY, or New Haven, CT.)

MC 56679 (Sub-107F), filed June 30, 1978. Applicant: BROWN TRANSPORT CORP., P.O. Box 6985, Atlanta, GA 30315. Representative: Leonard S. Cassell (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co. and Ore-Ida Foods, Inc., at or near Plover, WI, to Kansas City, KS, and points in AL, AR, CT, DE, FL, GA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 59655 (Sub-14F), filed July 11, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10952. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *containers, container closures, and container components*, from Fairport and Rochester, NY, to Nashua, NH; and (2) *materials and equipment*, used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: New York, NY, or Washington, DC.)

MC 78228 (Sub-89F), filed July 21, 1978. Applicant: J. MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Authority granted to operate a as *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *prefabricated metal building products*, and (b) *materials and supplies* used in the manufacture of prefabricated metal building products, between Ambridge, PA, and Connersville, IN, on the one hand, and, on the other, points in the United States (except AK, AZ, CA, CO, HI, ID, MT, ND, NM, NV, OR, SD, UT, WA, and WY); and (2)(a) *ventilators, ventilator parts, air louvers, and prefabricated building metal work*, and (b) *materials and supplies* used in the manufacture of ventilators, ventilator parts, air louvers, and prefabricated building metal work, between Batavia, OH, on the one hand, and, on the other, points in the United States (except AK, AZ, CA, CO, HI, ID, MT, ND, NM, NV, OR, SD UT, WA, and WY). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 94350 (Sub-408F), filed May 15, 1978, previously noticed in the FR issue of July 18, 1978. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 19602. Representative: Mitchell King, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting *buildings*, in sections, mounted on wheeled undercarriages, from points in Marion County, FL, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. Condition: The certificate to be issued herein shall be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 2.5 years or more than 2.75 years prior to the expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Atlanta, GA.)

NOTE.—This republication includes FL as a destination State.

MC 103051 (Sub-445F), filed June 30, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Sulphuric Acid*, in bulk, in tank vehicles, from Clarksville, TN, to points in AL, AR, GA, IL, IN, KY, MS, MO, NC, OH, SC, and TN. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 103051 (Sub-446F), filed June 30, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37204. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fish solubles*, in bulk, in tank vehicles, from Beaufort and Southport, NC, to points in FL and GA. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 103926 (Sub-72F), filed June 21, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott P.O. Box 947, Box 872 Atlanta, GA 30301. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, pipe fittings, valves, hydrants, and castings*, and (2) *accessories and parts* for the commodities in (1) above, from points in Jefferson and Talladega Counties, AL, to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, SC, TN, TX, VA, WV, and DC. (Hearing site: Birmingham, AL, or Atlanta, Ga.)

MC 105813 (Sub-240F), filed July 12, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 South West 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products*, from Ticonderoga and Corinth, NY, to points in FL, GA, NC, SC, AL, and MS. (Hearing site: New York, NY, or Washington, DC.)

MC 106398 (Sub-818F), filed July 21, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic pipe and fittings* from the facilities of Clow Corp., at or near Buckhannon, WV, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106603 (Sub-179F), filed July 13, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride* (except in bulk), from Ludington and Midland, MI, to points in IL, IN, IA, KY, MO, OH, PA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107515 (Sub-115F), filed June 26, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor Lenox Towers I, Atlanta, GA 30326. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Campbell Soup Co. in DE, MD, NJ, and PA to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, MI, OH, VT, and WV, restricted to the transporting of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 108341 (Sub-106F), filed June 19, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings, building panels, and building parts, and* (2) *materials, accessories, and supplies* used in the construction of the commodities named in (1) above (except commodities in bulk), from the facilities of Addison Steel, in and east of MN, IA, MO, AR, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 108461 (Sub-128F), filed May 25, 1978. Applicant: SUNDANCE FREIGHT LINES, INC., dba, SUNDANCE TRANSPORTATION, 821 East Pasadena, P.O. Box 7676, Phoenix, AZ 85011. Representative: James E. Snead, P.O. Box 2828, Santa Fe, NM 87501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Amarillo, TX, and Carlsbad, NM; from Amarillo over U.S. Hwy 87 to Lubbock, TX, then over U.S. Hwy 62 to Carlsbad, and return over the same route, serving the intermediate points of Lubbock, TX, and Hobbs, NM; (2) between Amarillo, TX, and Roswell, NM; from Amarills over Interstate Hwy 27 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Roswell, and return over the same route, serving the intermediate points of Clovis and Portales, NM; (3) between Lubbock, TX, and Clovis, NM, over U.S. Hwy 84, serving no intermediate points, and (4) Serving Hobbs, NM, as an intermediate point in connection with carrier's presently authorized regular-route between Dallas, TX, and Carlsbad, NM. (Hearing sites: Albuquerque, Hobbs, and Roswell, NM, and Lubbock, TX.)

MC 110098 (Sub-169F), filed July 14, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed, feed ingredients, and additives;* and (2) *materials and supplies* used in the manufacture and distribu-

tion of animal feed (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, at Mattoon, IL. (Hearing site: San Antonio, TX, or Los Angeles, CA.)

MC 111401 (Sub-528F), filed July 3, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meiklejohn, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid petroleum, petroleum products*, and *chemicals*, in bulk, in tank vehicles: (1) From points in NM, to points in AZ, CA, CO, ID, KS, LA, NE, OK, TX, UT, and WY; and (2) from those points in TX on and south of U.S. Hwy 66, and on and west of U.S. Hwy 83, to points in AZ, CO, ID, KS, NE, NM, OK, UT, and WY, restricted in (1) above against the transportation of liquefied petroleum gases destined to points in CO. (Hearing site: Amarillo, TX, or Albuquerque, NM.)

NOTE.—To the extent that the certificate in this proceeding authorized the transportation of liquefied petroleum gases it will expire 5 years from the date of issuance.

MC 112989 (Sub-73F), filed July 17, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures, container accessories;* and (2) *materials* used in the manufacture and distribution of the commodities in (1) above, between points in CA, on the one hand, and, on the other, points in ID, OR, and WA. (Hearing site: San Francisco, CA.)

MC 113666 (Sub-134F), filed June 16, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *carbon petroleum* from Manahawkin, NJ, to Freeport, PA; and (2) *salt* and *salt products*, from the facilities of: (a) Diamond Crystal Salt Co., at or near Akron, OH; and (b) Standard Terminals, at or near New Kensington, PA, to points in CT, DE, MD, MA, NJ, NY, PA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113908 (Sub-443F), filed June 15, 1978. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180, G.S.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fruit juice and fruit juice concentrates*, in bulk, (a) between points in AR, MI, NY, PA, and WA, and (b) from points in CA to points in AR, MI, NY, PA, and WA; (2) *fruit juice, fruit juice concentrates, d'limonene, and fruit oil*, in bulk, from ponts in FL, to points in AZ, AR, DE, FL, IN, IA, KY, ME, MA, MI, MO, NH, NC, OK, TN, TX, VT, WA, and WV; (3) *alcoholic liquors* (except whiskey), in bulk, from Bardstown, KY, to points in NJ; (4) *vinegar and vinegar stock* (except wine vinegar and wine products), in bulk, from Manitowoc, WI, to points in CA; and (5) *beverage base, beverages, beverage concentrates, and fruit emulsions*, in bulk, from Chicago, IL, to North East, PA. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 114273 (Sub-403F), filed June 30, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative Kenneth L. Core (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *cosmetics, toilet preparations, sundries, and premiums*, and (b) *equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from Hoboken, NJ, and Suffern, NY, to Chicago, IL, and Kansas City, MO; and (2) *glass containers*, from Millville, NJ, to Chicago, IL. Condition: in view of the findings in No. MC-114273 (Sub-Nos. 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114569 (Sub-234F), filed July 20, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, In containers, in vehicles equipped with mechanical refrigeration, from Watertown, WI, to Rochester, NY. (Hearing site: Rochester, NY, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 115078 (Sub-7F), filed July 18, 1978. Applicant: SINDALL TRANSPORT, INC., 102 North Custer Avenue, New Holland, PA 17557. Representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority granted to operate as a *common carrier, by motor vehicle, over irregular routes, transporting: (1) agricultural machinery, implements, accessories, and parts*, and (2) *materials and supplies* used in the manufacture, repair, assembly, and distribution of agricultural machinery and implements (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Sperry New Holland Division of Sperry Rand Corp., in PA, on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, in NY, restricted to the transportation of traffic in foreign commerce and further restricted to the transportation of traffic originating at or destined to points in the Province of ON, Canada. (Hearing site: Harrisburg, PA, or Washington, DC.) Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complimentary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 115496 (Sub-92F), filed June 21, 978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building materials*, and (2) *materials* used in the installation of the commodities in (1) above (except commodities in bulk), from Charleston Heights, SC, to

points in AL, FL, GA, KY, TN, and VA, and (3) *materials and equipment* used in the manufacture and installation of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 115826 (Sub-327F), filed June 21, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from points in GA, IA, IL, IN, KS, NE, WI, and DC, to Laramie, WY. (Hearing site: Denver, CO.)

MC 116254 (Sub-203F), filed June 16, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *coal tar*, in bulk, in tank vehicles, from Granite City, IL, to points in AL. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 116254 (Sub-204F), filed June 12, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Authority granted to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel Mechanical Jacks, attachments for steel mechanical jacks, and steel rods* (1) between Kansas City, KS, on the one hand, and, on the other, points in AL, AR, DE, GA, IN, IL, LA, KY, NE, MD, MS, OH, NC, PA, SC, WV, MN, IA, and MI, and (2) between points in AL, AR, DE, GA, IN, IL, LA, KY, NE, MD, MS, OH, NC, PA, SC, WV, MN, IA, and MI. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 116254 (Sub-205F), filed June 12, 1978. Applicant: CHEM HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *(1) construction machinery, industrial machinery, and farm machinery, and (2) attachments for the commodities listed in (1) above*, (1) from points in CA, IA, WI, TX, PA, NE, and IL to Blue Springs, MO, and (2) from Blue Springs, MO, to points in IL, IN, WI, OK, TX, AR, LA, TN, and MI. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 116254 (Sub-206F), filed June 12, 1978. Applicant: CHEM HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *steel articles*, from Kansas City, KS, to points in AL, IN, LA, MS, NY, NJ, and PA. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 116628 (Sub-22f), filed July 17, 1978. Applicant: SUBURBAN TRANSFER SERVICE, INC., P.O. Box 168, Rutherford, NJ 07070. Representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Highway 34, Colts Neck, NJ 07722. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in and used by retail department stores, between point in NJ, NY, PA, and MI, under a continuing contract with Arnold Constable Corp., of New York, NY. (Hearing site: New York, NY, or Newark, NJ.)

MC 116915 (Sub-62F), filed May 30, 1078. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY. 40602. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *cranes, draglines, backhoes, shovels, and loaders*, and (2) *machinery, attachments, accessories, and parts* used in connection with the commodities in (1) above, between the facilities used by Gleason Equipment, Inc., Gleason Crane Rental, Inc., and Gleason Service, Inc., in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 117940 (Sub-283F), filed June 28, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those which require special equipment, and foodstuffs), from Seattle and Longview, WA, and Portland, OR, to points in IL, IN, and WI, restricted to the transportation of traffic, (a) originating at the named origins or having an immediately prior movement by water, and (b) destined to the indicated destinations. Condition: The certificate to be issued herein shall be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Seattle, WA.)

MC 117940 (Sub-284F), filed June 26, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those which require special equipment, and foodstuffs), from Berlin, CT, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY. Condition: The certificate to be issued herein shall be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Hartford, CT, or New York, NY.)

MC 118159 (Sub-276F), filed July 21, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except commodities in bulk), from the facilities of Swift & Co., at Kansas City, KS, Kansas City, MO, and East St. Louis, Rochelle, St. Charles and Bradley, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC; and (2) *equipment and materials*, used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 118159 (Sub-277F), filed July 17, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

Meat, meat products and meat byproducts, and articles distributed by meatpacking houses, as described in sections A and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766, (except commodities in bulk), from Fort Morgan, CO, to points in AL, CT, FL, GA, IN, KY, MD, MA, NH, NJ, NY, OH, PA, TN, and TX; and (2) *equipment and materials,* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 119619 (Sub-127F), filed July 20, 1978. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43d Street, Chicago, IL 60609. Representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *confectionery,* from Boston and Mansfield, MA, North Grosvenordale, CT, West Reading PA, and Ashton, RI, to Pittsburgh, PA, Louisville, KY, and points in IL, IN, IA, MI, MO, MN, OH, and WI. (Hearing site: Boston, MA.)

MC 119619 (Sub-128F), filed July 20, 1978. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43d Street, Chicago, IL 60609. Representative: Arthur J. Piken, Suite 1515, 1 Lefrak City Plaza, Flushing, NY 11368. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), from those points in NY on, north, and west of Interstate Hwy 84, to Louisville, KY, St. Louis, MO, and points in IL, IN, MI, OH, and WI. (Hearing site: Rochester or Buffalo, NY.)

MC 119765 (Sub-53F), filed July 10, 1978. Applicant: EIGHT WAY EXPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Allied Shippers & Receivers Association, at or near Chicago, IL, to Omaha, NE, and Kansas City, MO. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 119789 (Sub-498F), filed July 13, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold Jr., P.O. Box 226188, Dallas, TX 75266. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting such *commodities* as are dealt in and used by manufacturers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in AZ, CA, CO, FL, GA, ID, KS, NC, NM, OK, OR, SC, TX, and WA. (Hearing site: Hartford, CT.)

MC 119789 (Sub-499F), filed July 13, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *foodstuffs* (except in bulk), and (2) *plastic and rubber articles* when moving in mixed shipments with foodstuffs (except commodities in bulk), from the facilities of Ross Laboratories Division of Abbott Laboratories, at or near Altavista, VA to points in AZ, AR, CA, CO, LA, MO, OK, OR, TX, UT, and WA. (Hearing site: Columbus, OH.)

MC 119789 (Sub-501F), filed July 19, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *paint,* in containers, and *materials* used in the sale or application of paint, from Dallas, TX, to points in NJ and OH; and (2) *insecticides and insect repellent* (except agricultural), *vermin exterminators, and animal repellents* from Dallas, TX to points in NJ. (Hearing site: Dallas, TX.)

MC 120279 (Sub-10F), filed July 17, 1978. Applicant: F. G. McFARLAND and S. R. HULLINGER, a partnership, d.b.a. McFARLAND & HULLINGER, P.O. Box 238, Tooele, UT 84074. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *siliceous fluxing ore,* (1) from the facilities of Kennecott Copper Corp., near Eureka, UT, to Tooele, UT, and (2) from Tooele, UT, to the facilities of Kennecott Copper Corp., near McGill, UT. (Hearing site: Salt Lake City, UT.)

MC 123407 (Sub-480F), filed June 23, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *building panels,* from Salt Lake City, UT, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 124211 (Sub-332F), filed June 29, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles,* and (2) *such commodities* as are used in the manufacture, distribution, and erection of commodities described in (1) above (except commodities in bulk, and commodities in dump vehicles), between Rock Falls and Sterling, IL, on the one hand, and, on the other, Memphis, TN, and those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 124896 (Sub-60F), filed June 21, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority granted to operate as a *common carrier,* by motor vehicle, over irregeular routes, transporting: (1) *Petroleum, petroleum products, vehicle body sealers, and deadener compounds* (except commodities in bulk), and (2) *oil filters and air filters,* from Buffalo, NY, and Emlenton, Farmers Valley, New Kensington, and North Warren, PA, to points in AL, GA, NC, and SC. (Hearings site: Pittsburgh, PA, or Kansas City, MO.)

MC 125254 (Sub-42F), filed May 22, 1978, and previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pet food and prepared animal and poultry feed,* (except commodities in bulk), from Mansassas, VA, to those points in the United States in and east of AR, IA, LA, MN, and MO (except VA), and (2) *equipment and materials* used in the manufacture and distribution of the commodities in (1) above, (except in bulk), in the reverse direction. (Hearing site: Kansas City or St. Louis, MO.)

MC 125254 (Sub-46F), filed May 22, 1978, and previously noticed as Sub-33F in the FEDERAL REGISTER of July 6, 1978. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative:

Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages* (except in bulk), from St. Paul, MN, to Muscatine, IA. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 125533 (Sub-25F), filed July 17, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *clay roofing tile* and (2) *materials* used in the installation of clay roofing tile, from New Lexington, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, OH.)

MC 126489 (Sub-34F), filed July 18, 1978. Applicant: GASTON FEED TRANSPORTS, INC., P.O. Box 1066, Hutchinson, KS 67501. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *animal feed* (except in bulk), from the facilities of Kal-Kan Foods, Inc., at or near Matoon, IL, Terre Haute, IN, and Columbus, OH, to points in the United States (except AK, CT, HI, ME, MA, NH, NJ, NY, PA, RI, and VT), and (2) *equipment and materials* used in the manufacture and distribution of animal feed, from the destinations named in (1) above, to the facilities of Kal-Kan Foods, Inc., at or near Matoon, IL, Terre Haute, IN, Columbus, OH, and Hutchinson, KS. (Hearing site: Kansas City, MO.)

MC 127283 (Sub-16F), field July 10, 1978. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *sand*, in bulk, from points in Benton County, TN, and Tuscaloosa County, AL, to points in TN, IN, KY, GA, MO, KS, OH, PA, AL, MS, AR, and IL, under a continuing contract with Hardy Sand Co., of Evansville, IL. (Hearing site: Chicago, IL.)

MC 129645 (Sub-72F), filed July 10, 1978. Applicant: BASIL J. SMEESTER and JOSEPH G. SMEESTER, a partnership, d.b.a. SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Representative: John M. Nader, Route 3, Box 4, Bowling Green, KY 42101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *building boards, wall boards, and insulating boards*, and (2) *materials* used in the installaltion of the commodities in (1) above (except commodities in bulk), from the facilities of Armstrong Cork Co. at or near Macon, GA, Marietta, PA, and Pensacola, FL, to points in CO, IA, KS, MI, MN, MT, ND, NE, SD, WI, and WY. (Hearing site: Philadelphia, PA, or Atlanta, GA.)

MC 129701 (Sub-6F), filed June 23, 1978. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, IN 47542. Representative: Orville G. Lynch (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *radios, phonographs, and components for radios and phonographs and* (2) *materials* used in the manufacture of radios and phonographs, between Santa Claus, IN, New York, NY, and Los Angeles, CA. (Hearing site: Indianapolis, IN.)

MC 134477 (Sub-251F), filed June 26, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. 6010, West St. Paul, MN 55118. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes transporting *novelties, and accessories* for artificial Christmas trees, and *artificial Christmas trees*, from Aurora, IL, to points in IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 134484 (Sub-20F), filed June 19, 1978. Applicant: Edwards Bros., Inc., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 706, from the facilities of Country Meats, at or near Blackfoot, ID, to points in AZ, CA, MT, NV, OR UT, and WA. (Hearing site: Boise, ID.)

MC 135053 (Sub-2F), filed July 14, 1978. Applicant: FINE ART SERVICES TRANSPORT LTD., 142 Curzon Avenue, Toronto, ON, Canada MHM 385. Representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are dealt in by art and antique dealers* (except in armored vehicles), between ports of entry on the International Boundary line between the United States and Canada in NY, MI, and VT, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, KS, OK, and TX, restricted to the transportation of traffic moving in foreign commerce from or to points in Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian Authority or explaining why no such Canadian authority is necessary. (Hearing site: Buffalo, NY.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of ALB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 135237 (Sub-3F), filed June 26, 1978. Applicant: EAST PENN TRUCKING CO, a corporation, R.D. 1, Lehighton, PA 18235. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foods, food products, food ingredients, animal food, animal food ingredients, and meat byproducts* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between Lemon Township, Upper Macungie Township, Scranton, and Allentown, PA, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, DE, MD, VA, WV, OH, KY, TN, NC, SC, GA, AL, FL, and DC; and (2) *ice cream, ice milk, and water ice novelties*, from Marietta, GA, and Sylacauga, AL, to points in FL. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 135598 (Sub-13F), filed July 24, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, MO, and St. Paul, MN, to Bur-

lington, IA. (Hearing site: St. Louis, MO.)

NOTE.—Dual operations are involved in this proceeding.

MC 136343 (Sub-140F), filed June 23, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and perishable foodstuffs), between the facilities used by General Warehousing of DuBois, at or near DuBois, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 136343 (Sub-146F), filed July 17, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from the facilities of Howard Paper Mills, Inc., at Dayton and Urbana, OH, to points in ME, NH, VT, and VA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Columbus, OH, or Indianapolis, IN.)

MC 136343 (Sub-147F), filed July 17, 1978. Applicant MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *highway marking strip, glass, ballotini, and materials and equipment* used in the manufacture and sale of highway marking strip glass and ballotini (except commodities in bulk, in tank vehicles), between the facilities of Potters Industries, Inc., at Cleveland, OH, on the one hand, and, on the other, points in NC, SC, GA, FL, AL, MS, TN, KY, and LA. (Hearing site: New York, NY, or Washington, DC.)

MC 139078 (Sub-13F), filed July 19, 1978. Applicant: MIDCOAST TRUCKING, a corporation, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic containers, and materials* used in the manufacture of plastic containers, between the facilities of Hedwin Corp., at or near Spartanburg, SC, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MI, MS, MO, NC, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WV, and DC, under a continuing contract with Hedwin Corp., of Spartanburg, SC. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 139078 (Sub-14F), filed July 21, 1978. Applicant: MIDCOAST TRUCKING, a corporation, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic pellets* (except in bulk), (1) from Houston, TX, to Melrose Park, IL, and points in CT, DE, MD, NH, NJ, NY, PA, and VA, (2) from Melrose Park, IL, to points in IN, IA, MO, MI, OH and WI, and (3) from Baltimore, MD, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MI, MS, MO, NC, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WV, and DC, under a continuing contract with Soltex-Polymer, Inc., of Houston, TX. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 139577 (Sub-23F), filed June 26, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *metal containers and container ends* from the facilities of American Can Co., at or near Chicago and Hoopeston, IL, Austin, Hammond, and Indianapolis, IN, Fort Dodge, IA, St, Paul, MN, Whitehouse, OH, and Milwaukee, WI, to points in IL, IN, IA, MI, MN, MO, OH, and WI; (2) *plastic containers and container ends* from the facilities of American Can Co., at or near Batavia, IL, to points in IL, IN, IA, MI, MN, MO, OH, and WI; and (3) *materials and equipment* used in the manufacture and distribution of metal and plastic containers and container ends, in the reverse direction, restricted in (1) and (2) to the transportation of traffic originating at the named origins and in (3) to the transportation of traffic destined to the indicated destinations. (Hearing site: Chicago, IL, or Madison, WI.)

MC 139579 (Sub-9F), filed July 19, 1978. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, from Buffalo and Lockport, NY, to Wilson, NY, under a continuing contract with Hunt-Wesson Foods, Inc., of Fullerton, CA. (Hearing site: Buffalo, NY.)

MC 140693 (Sub-18F), filed July 13, 1978. Applicant: BEER TRANSPORTATION CO., a corporation, RD 5, Lincoln Avenue, Vineland, NJ 08360. Representative: Edward J. Kiley, Suite 501 1730 M Street NW., Washington, DC 20036. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, to the facilities used by Midland Glass Co., Inc., in Onondaga and Oswego Counties, NY, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC)

MC 140829 (Sub-124F), filed July 18, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations*, in vehicles equipped with mechanical refrigeration from the facilities of Iodent Chemical Co., at Elizabethton, TN, to points in CA, FL, IL, IN, IA, KS, ME, MI, NE, NJ, NY, OH, PA, TX, WV, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 140943 (Sub-4F), filed July 13, 1978. Applicant: CHEYENNE ROAD TRANSPORT, LTD., Box 968, Cochrane, Alberta, Canada T0L0W0. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from ports of entry on the international boundary line between the United States and Canada at Portal, ND, Sweetgrass, MT, Eastport, ID, and Sumas and Oroville, WA, to points in AR, CO, IA, IL, IN, KS, MI, MN, MO, MT, NE, OH, OK, ND, SD, TX, UT, WI, and WY, restricted to the transportation of traffic moving in foreign commerce from or to points in British Columbia and Alberta, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its comple-

mentary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Seattle Spokane, WA.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 140986 (Sub-7F), filed June 21, 1978. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ. 08904. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *coal* (except in bulk), from Butler, PA, to points in the United States (except AK and HI), and (2) *materials* used in the sale and distribution of coal, in the reverse direction, under a continuing contract with Cozy Coal Co., Inc., of Lake Ronkonkoma, NY. (Hearing site: Newark, NJ, or New York, NY.)

MC 141197 (Sub-25F), filed June 26, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64105. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority granted to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *coal* from the facilities of Mid Missouri Coal Co., in Randolph County, MO, to the Dallman Lakeside Powerplant, at or near Springfield, IL. (Hearing Site: Kansas City, MO.)

MC 141548 (Sub-5F), filed July 19, 1978. Applicant: INTERIOR TRANSPORT, INC., 2124 Waterworks Way, P.O. Box 3347 TA, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *irrigation pipe and irrigation systems*, and (2) *equipment and materials* used in the manufacture and installation of irrigation systems, from Eugene, OR, and Pasco, Moses Lake, and Toppenish, WA, to points in AZ, CA, CO, ID, NV, NM, OK, OR, TX, and WA, under a continuing contract with Western Irrigation & Manufacturing, Inc., of Eugene, OR. (Hearing site: Seattle, WA.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Dual operations are involved in this proceeding.

MC 141774 (Sub-13F), filed June 16, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *insulating materials and mineral wool*, from the facilities of Rock Wool Manufacturing Co., at or near Leeds, AL, to New Orleans, LA, points in FL, MS, KY, those points in GA on and south of U.S. Hwy 80, and those points in TN on and west of Interstate Hwy 65. (Hearing Site: Birmingham, AL, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 142606 Sub-7F, filed June 21, 1978. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, Suite L, West Covina, CA 91790. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *paper forms*, from Leitchfield, KY, to points in CA, under a continuing contract with Huron Copysette, Inc., of Leitchfield, KY. (Hearing site: Los Angeles, CA.)

MC 142874 Sub-1F, filed June 12, 1978. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *games, toys, juvenile furniture, and playground apparatus*, from points in OH, IN, MO, LA, MI, NC, IL, AL, WI, and KY, to Houston, TX, and points in CA, under a continuing contract, with Lash-Tamaron Division of Toys-R-Us, Inc., of Saddlebrook, NJ. (Hearing site: New York, NY.)

MC 143059 Sub-17F, filed June 29, 1978. Applicant: MERCER TRANSPORTATION CO., a Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Ft. Worth, TX 76102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *bentonite* from points in Big Horn County, WY; *lignite coal* from Gascoyne, ND; (3) *barytes* from Battle Mountain, NV, and (4) *clay* from Kosse, TX, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 143542 Sub-2F, filed June 15, 1978. Applicant: SHERRILL KENDALL CONTRACTING, INC., 219 West Main Street, Magnolia, AR 71753. Representative: Sherrill Kendall (same address as applicant). Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *parts and equipment*, between the facilities of Dow Chemical Co. and Ethyl Corp., in Columbia County, AR, on the one hand, and, on the other, Houston, Dallas, and Beaumont, TX, Shreveport, Baton Rouge, and New Orleans, LA, and Memphis, TN, under continuing contracts with Dow Chemical Co., of Magnolia, AR, and Ethyl Corp., of Magnolia, AR. (Hearing site: El Dorado, AR, or Texarkana, AR-TX.)

MC 143853 (Sub-5F), filed July 13, 1978. Applicant: SME EXPRESS, INC., P.O. Box 571, Upland, IN 46989. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Rockville, MD, to points in AZ, CA, CO, FL, GA, IL, IN, LA, MI, MN, MO, NC, OH, OK, PA, TX, UT, and WI, under a continuing contract with Fawcett Printing Corp., of Rockville, MD. (Hearing site: Washington, DC.)

MC 144439 (Sub-2F), filed July 12, 1978. Applicant: JOHN WELCH, WILLIAM WELCH, AND W. D. WELCH, a Partnership, d.b.a. WELSH BROS. TRUCKING CO., 1105 South Boulder, Partales, NM 88130. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, NM 87102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products, roofing supplies, roofing equipment, and insulation materials*, (except commodities in bulk, in tank vehicles), from the facilities of Owens-Corning Fiberglas Corp., at or near Lubbock, TX, to points in AZ. (Hearing site: Albuquerque, NM.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Dual operations are involved in this proceeding.

MC 144612 (Sub-2F), filed June 21, 1978. Applicant: THOMAS GARY WEBB, d.b.a., T. G. WEBB CO., P.O. Box 414, Camden Street, Wingate, NC 28174. Representative: Thomas J. Caldwell, 314 North Hayne Street, P.O. Box 99, Monroe, NC 28110. Authority granted to operate as a *con-*

tract carrier, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, in dump vehicles, from Hartsville and Kershaw, SC, to Monroe, NC, under continuing contracts with Producers Cooperative Feed Mill, Inc., of Monroe, NC, and Hartsville Oil Mill, of Hartsville, SC. (Hearing site: Charlotte, NC.)

MC 144680F, filed May 1, 1978. Applicant: AMERICAN RIVER LINES, INC., P.O. Box 853, Greenville, MS 38701. Representative: John H. Cox, III, P.O. Box 558, Greenville, MS 38701. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *used agricultural machinery and implements* and (2) *equipment and supplies* for the commodities in (1) (except in bulk, between points in AR and MS, on the one hand, and, on the other, points in TX. (Hearing site: Greenville or Jackson, MS.)

MC 144688 (Sub-4F), filed July 18, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses (except frozen commodities and commodities in bulk), from Jeffersonville, IN, to points in FL and GA, restricted to the transportation of traffic originating at the facilities of Colgate-Palmolive Co., Inc., at or near Jeffersonville, IN, and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 144688 (Sub-5F), filed July 19, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *charcoal, wood chips, lighter fluid*, and *sawdust- and wax-impregnated fireplace logs* (except commodities in bulk), (a) from the facilities of Hickory Charcoal, at or near Crossville, TN, to points in AL, FL, GA, NC, and SC, and (b) from the facilities of the Kingsford Co., at or near Dothan, AL, to points in FL, GA, NC, and SC, and (c) from the facilities of the Kingsford Co., at or near Burnside, KY, to points in FL, GA, and TN; and (2) *materials and equipment* used in the manufacture and distribution of charcoal, wood chips, lighter fluid, and sawdust- and wax-impregnated fireplace logs, from points in AL, FL, GA, NC, SC, and TN, to the facilities of Hickory Charcoal, at or near Crossville, TN, and the facilities of the Kingsford Co., at or near (a) Dothan, AL, and (b) Burnside, KY, restricted in (1) above to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations, and restricted in (2) above to the transportation of traffic originating at the indicated origins and destined to the named destination facilities. (Hearing site: Louisville, KY, or Atlanta, GA.)

MC 144846 (Sub-1F), filed June 6, 1978, and previously published in the FEDERAL REGISTER on July 18, 1978. Applicant: TRANSTATES, INC., a Delaware corporation, 3216 East Westminster, Santa Ana, CA 92703. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *transformers and electrical and switching equipment*, from Jefferson City, MO, to points in CA, OR, WA, AZ, NV, UT, MT, ID, ND, and SD. (Hearing site: Huntington, PA.)

NOTE.—The purpose of this republication is to change the docket number from MC 144848 (Sub-1F) to MC 144846 (Sub-1F).

MC 144939 (Sub-1F), filed July 11, 1978. Applicant: LARRY A. HOUSEHOLDER, d.b.a. Householder Trucking, R.R. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps, bone meal, and blood meal*, between Estherville and Spencer, IA, on the one hand, and, on the other, Magnolia, MN. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 145056F, filed June 16, 1978. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs*, (2) *liquid drink dispensers and coffee brewing equipment*, and (3) *parts and accessories* for the commodities named in (2) above (except commodities in bulk), from the facilities of the Coca-Cola Co., Foods Division, at Houston, TX, to points in AZ, CA, NV, OR, and WA, under a continuing contract with the Coca-Cola Co., Foods Division, of the Coca-Cola Co., of Atlanta, GA. (Hearing site: Houston, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 145078F, filed July 17, 1978. Applicant: RAYMOND SEMRAU, 904 Miller Street, Marinette, WI 54143. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *cheese*, from Lena, WI, to Maywood, CA, under a continuing contract with Frigo Cheese Corp., of Lena, WI (Hearing site: Green Bay or Milwaukee, WI.)

MC 145079F, filed July 10, 1978. Applicant: ALBERT J. AMATUZIO AND RICHARD A. AMATUZIO, d.b.a. AMO EXPRESS, 2206 Winter Street, Superior, WI 54880. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in by wholesale and retail automotive supply houses and stores, and (2) *materials* used in the manufacture and distribution of such commodities, between points in the United States (except AK and HI), under a continuing contract with Ams/Oil, Inc., of Superior, WI. (Hearing site: Minneapolis, MN.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23646 Filed 8-23-78; 8:45 am]

[7035-01]

[Volume No. 111]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

AUGUST 18, 1978.

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with special rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall in-

*Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

clude a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 1305 (M1F) (notice of filing of petition to modify certificate), filed May 17, 1978. Petitioner: SELECTIVE TRANSPORTATION CORP., 560-60th Street, West New York, NJ 07093. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 1305, issued April 5, 1973, authorizing transportation over irregular routes of: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between points in that part of NY, CT, and NJ within 50 miles of Columbus Circle, New York, NY. By the instant petition, petitioner seeks to expand the territorial radius to points within 75 miles of Columbus Circle.

MC 2599 (M1F) (notice of filing of petition to modify certificate), filed June 5, 1978. Petitioner: STATE MOTOR HAULAGE, INC., Sunflower Avenue, Paramus, NJ 07452. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 2599, issued September 29, 1959, authorizing transportation over irregular routes of: *Building and construction machinery and equipment*, between points in NY and NJ. By the instant petition, petitioner seeks to modify the commodity description of its certificate to read: (1) Commodities, the transportation of which, because of their size or weight, requires the use of special equipment, (2) self-propelled articles, each weighing 15,000 pounds or more, (restricted to commodities transported on trailers), and (3) building and construction machinery and equipment.

MC 29613 (M1F) (Notice of filing of petition to modify certificate), filed May 22, 1978. Petitioner: JAYNE'S MOTOR FREIGHT INC., 860 North Avenue, Elizabeth, NJ 07201. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC29613, issued January 24, 1963, authorizing transportation over irregular routes, as pertinent, *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 Newark, NJ., on the one hand, and, on the other, points in that part of NJ on and south of a line beginning at the NJ-NY State line at Jersey City, NJ, and extending along U.S. Hwy 1 to junction U.S. Hwy 9, then along U.S. Hwy 9 to junction NJ Hwy 70, then along NJ Hwy 70 through Camden, NJ, to the NJ-PA State line, except Point Pleasant, Bay Head, and Lakewood, NJ, and points in Monmouth County, NJ, on and east of U.S. Highway 9. By the instant petition, petitioner seeks to add Philadelphia, Pa. to the territorial description.

MC 100458 (M1F) (Notice of filing of petition to modify certificate), filed June 9, 1978. Petitioner: TRACEY'S SERVICE STATION, INC., Route 2, Lincoln, MA 01773. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Petitioner holds Certificate No. MC 100458 issued September 16, 1976, authorizing operations as a motor *common carrier*, over irregular routes, transporting *disabled motor vehicles*, (1) between Boston, MA, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, and RI; (2) between points in Massachusetts within 50 miles of Boston, not including Boston, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, and RI; and, (3) between Boston, MA, and points in Massachusetts within 50 miles of Boston, on the one hand, and, on the other, points in New York. By the instant petition, petitioner seeks to modify the commodity description to read "disabled, wrecked, repossessed, stolen and replacement motor vehicles." The territorial description remains the same.

MC 108449 (Sub-409) (M1F) (Notice of filing of petition to modify E-letter notices), filed May 5, 1978. Petitioner: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck (Same address as petitioner). Petitioner holds motor *common carrier* certificates in MC 108449 Subs E-13, -38, -39, -47, -48, and -49, published in the FEDERAL REGISTER issues of November 7, 1974; September 9, 1974; September 10, 1974 (Subs E-39, E-47); and September 11, 1974 (Subs E-48, E-49); respectively. MC 108449 Sub E-13 authorizes transportation, over irregular routes, of *Petroleum products*, as described in appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, from Lemont and Lockport, IL. to points in MT. MC 108449 E-38 authorizes transportation, over irregular routes, of *liquefied petroleum gas*, in bulk, in tank vehicles, from the port of entry on the United States-Canada International Boundary line at Pine Creek, MN, to points in MO. MC 108449 Sub E-39 authorizes transportation, over irregular routes, of *liquid petroleum gas*, in bulk, in tank vehicles, from the port of entry on the United States-Canada International Boundary line at Noyes, MN, to points in IA and IL. MC 108449 Sub E-47 authorizes transportation, over irregular routes, of *liquefied petroleum gas*, in bulk, in tank vehicles, from the port of entry on the United States-Canada Boundary line at Maida, ND, to points in WY. MC 108449 Sub E-48 authorizes transportation, over irregular routes, of *liquefied petroleum gas*, in bulk, in tank vehicles, from the port of entry on the United States-Canada Boundary line at or near Pine Creek, MN, to points in IA. MC 108449 Sub E-49 authorizes transportation, over irregular routes, of *liquefied petroleum gas*, in bulk, in tank vehicles, from the port of entry on the United States-Canada International Boundary line at or near Maida, ND, to points in SD. By the instant petition, petitioner seeks to reinstate petitioner's certificates and to extend the expiration dates.

NOTE.—Docket number MC 108449 Sub 409 is assigned for publication and reference purposes.

MC 117119 (Sub-583) (M1F) (notice of filing of petition for modification of certificate), filed June 1, 1978. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as above). Petitioner holds a motor *common carrier* certificate in MC 117119 (Sub-583), issued August 1, 1977, authorizing transportation over irregular routes of: *Soy products and byproducts*, not frozen (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Central Soya Co. at Chicago and Gibson City, IL, Decatur and Indianapolis, IN, Belmond, IA, Bellevue, OH, and Chattanooga, TN, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin points. By the instant petition, the petitioner seeks to modify the origin territory to include the origin point of Peoria, IL. The certificate, otherwise, would remain the same.

MC 117685 (M1F) (notice of filing of petition to modify certificate), filed May 17, 1978. Petitioner: CONSOLIDATED TRUCK SERVICE INC., 1 Scout Avenue, South Kearny, NJ 07032. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07036. Petitioner holds a motor *common carrier* certificate in MC 117685, issued March 26, 1962, authorizing transportation, over irregular routes, of (1) *coffee beans*, from points

in NY and NJ within the New York, NY, harbor area—as defined by the Commission in Ex Parte 140, Determination of the Limits of New York Harbor and Harbors Contiguous Thereto, 49 CFR 363—to Jacksonville and Miami, FL; Indianapolis, IN; Wichita, KS; Grand Rapids, MI; Moorhead and St. Paul, MN; Kansas City and St. Louis, MO; Greensboro, NC; Buffalo, Elmira, and Utica, NY; Chattanooga, TN; and Milwaukee, WI; and to points in IL, OH, and PA, (2) *tea*, from the New York, NY, harbor area as described above, to Cleveland, OH, (3) *cocoa beans*, from the New York, NY, harbor area as described above, to Chicago, IL, and (4) *nuts*, when moving at the same time and in the same vehicle with coffe beans, from the New York, NY, harbor area as described above, to Chicago, IL, and Kansas City, MO. By the instant petition, petitioner seeks to modify the commodity description by substituting coffee for coffee beans in (1) above, and cocoa for cocoa beans in (3) above.

MC 117823 (Sub-35) (M1F) (notice of filing of petition to modify certificate), filed June 2, 1978. Petitioner: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, UT 84104. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Petitioner holds a motor *common carrier* authority in MC 117823 (Sub-35), issued May 19, 1970, authorizing transportation over irregular routes of *foodstuffs*, when transported at the same time and in the same vehicle with frozen foods, from points in WA and OR to Twin Falls, Pocatello, and Idaho Falls, ID, and points in UT. By the instant petition, petitioner seeks to delete the phrase "when transported at the same time and in the same vehicle with frozen foods".

MC 117823 (Sub-40) (M1F) (notice of filing of petition to modify certificate), filed May 15, 1978. Petitioner: DUNKLEY REFRIGERATED TRANSPORT, INC., 240 West California Avenue, Salt Lake City, UT 84115. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Petitioner holds a motor *common carrier* certificate in MC 117823 (Sub-40), issued December 4, 1970, authorizing transportation over irregular routes of *foodstuffs*, when transported at the same time and in the same vehicle with frozen foods, from points in Davis, Weber, Salt Lake, Utah, and Cache Counties, UT, to points in CA. By the instant petition, petitioner seeks to delete the words "when transported at the same time and in the same vehicle with frozen foods".

MC 134838 (Subs-6, 10, E-1, E-2) (M1F) (notice of filing of petition to modify certificates) filed April 3, 1978. Petitioner: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 32936, Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Petitioner holds motor *common carrier* certificates in MC 134838 (Subs-6 and -10), issued September 4, 1974, and served October 23, 1974; and (Sub-10) issued January 12, 1976; and E-letter notices as follows: (Sub E-1) published in the FEDERAL REGISTER issue of September 19, 1974, and (Sub E-2) published in the FEDERAL REGISTER issue of November 12, 1974. MC 134838 (Sub-6), authorizes transportation, as pertinent, over irregular routes, of *Rough lumber*, (1) Between points in GA, Florence, Athens, and Huntsville, AL, and points in that part of AL on and south of a line beginning at the MS-AL State line and extending eastward along U.S. Hwy 80 to junction AL Hwy 14 near Selma, AL, then along AL Hwy 14 to Auburn, AL, then along U.S. Hwy 29 to the AL-GA State line. (2) Between points in FL, Florence, Athens, and Huntsville, AL, and points in that part of AL on and south of a line beginning at the MS-AL State line and extending eastward along U.S. Hwy 80 to junction AL Hwy 14 near Selma, AL, then along AL Hwy 14 to Auburn, AL, and then along U.S. Hwy 29 to the AL-GA State line. (3) Between points in FL and Valdosta, Macon, Camilla, East Point, Brunswick, and Savannah, GA. MC 134838 (Sub-10), authorizes transportation, over irregular routes, of *Rough lumber* between Florence, Athens, and Huntsville, AL, and points in that part of AL on and south of a line beginning at the MS-AL State line and extending eastward along U.S. Hwy 80 to junction AL Hwy 14 near Selma, AL, then along AL Hwy 14 to Auburn, AL, and then along U.S. Hwy 29 to the AL-GA State line, and points in FL and GA, on the one hand, and, on the other, points in NC, SC, and TN. NC 134838 (Sub E-1), authorizes transportation, over irregular routes, as pertinent, of *Rough lumber*, (1) between points in that part of AL in and south of Choctaw, Marengo, Dallas, Autauga, Elmore, Macon, and Lee Counties (except those points north of a line beginning at the MS-AL State line, then along U.S. Hwy 80 to junction AL Hwy 14, then along AL Hwy 14 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the AL-GA State line), on the one hand, and, on the other, points in that part of TN in and east of Macon, Trousdale, Smith, Dekalb, Warren, Grundy, and Marion Counties. (2) Between Florence, Athens, and Huntsville, AL, and points in that part of AL on and south of a line beginning at the MS-AL State line, then along U.S. Hwy 80 to junction AL Hwy 14, then along AL Hwy 14 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the AL-GA State line, on the one hand, and, on the other, points in NC and SC. (3) Between points in FL, on the one hand, and, on the other, points in that part of SC in and west of Lancaster, Kershaw, Richland, Calhoun, Orangeburg, Bamberg, and Allendale Counties, SC. (4) Between points in that part of FL in and west of Jefferson County, on the one hand, and on the other, points in SC. (5) Between points in that part of FL in and south of Hillsborough, Hardee, Highlands, Okeechobee, and Saint Lucie Counties, on the one hand, and, on the other, points in Chesterfield, Marlboro, Darlington, Lee, Sumter, Clarendon, and Florence Counties, SC. (6) Between ponts in FL, on the one hand, and, on the other, points in NC (except points in and south of Scotland, Hoke, Cumberland, Sampson, Wayne, Greene, Pitt, Beaufort, and Hyde Counties). (7) Between points in that part of FL in and west of Jefferson County, on the one hand, and, on the other, points in NC. (8) Between points in FL (except Nassau, Clay, St. Johns, Putnam, Flagler, Volusia, Lake, Brevard, and Indian River Counties), on the one hand, and, on the other, points in NC (except Columbus, Brunswick, and Ponder Counties), and (9) Between points in that part of FL in and south of Hillsborough, Hardee, Highlands, Okeechobee, and Saint Lucie Counties, on the one hand, and, on the other, points in NC. MC 134838 Sub E-2 authorizes transportation, over irregular routes, as pertinent of, *Rough lumber*, between points in that part of AL in and south of Washington, Clarke, Monroe, Butler, Crenshaw, Pike, and Barbour Counties, on the one hand, and, on the other, points in that part of TN in and east of Fentress, Cumberland, Bledsoe, and Hamilton Counties (Atlanta, GA).

By this petition, petitioner seeks to change the commodity description in the above authorities from "rough lumber" to be "lumber".

MC 135379 (Sub-7) (M1F) (Notice of filing of petition to modify certificate), filed May 8, 1978. Petitioner: EASTERN TRANSPORT, INC., 320 Stiles Street, Linden, NJ 07036. Representative: George Olsen 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 135379 (Sub-7) issued June 24, 1977, authorizing transportation over irregular routes *such merchandise* as is dealt in by wholesale, retail, chain, grocery, department stores, and food business houses (except glass containers and commodities in bulk) and in connection therewith *equipment materials and supplies* used in the conduct

of such business (except glass containers and commodities in bulk). Between points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, NC, SC, WV, GA, FL, AL, LA, MS, TN, and DC.

Restriction: Limited to a transportation service to be performed under a continuing contract or contracts with Food Fair Stores, Inc., Ideal Shoe Co., and JM Fields, Inc.

By the instant petition, petitioner seeks to add Filigree Foods, Inc., as a supporting shipper.

MC 135684 (Sub-19) M2F) (Notice of filing of petition to modify certificate), filed June 13, 1978. Petitioner: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a certificate of public convenience and necessity in MC 135684 (Sub-19) issued September 15, 1977, which, in pertinent part, authorizes the transportation of: (26) *Plastic products* (except in bulk), from Flemington, NJ, to points in NY, CT, MA, RI, ME, VT, NH, NJ, PA, DE, MD, VA, WV, NC, SC, GA, FL, OH, and DC; and (27) *materials* and *supplies* (except in bulk) used in the manufacture and distribution of plastic products, from the destination points named in (26) above to Flemington, NJ.

Restriction: The authority described above is restricted to traffic originating at or destined to the facilities of Bemis Co., Inc.

By the instant petition, petitioner seeks to modify the certificate to remove the restriction to Bemis Co., Inc., facilities from the above-specified paragraphs.

MC 138104 (Sub-27) (M1F) (Notice of filing of petition to modify certificate), filed May 15, 1978. Petitioner: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard English, 6270 Firth Road, Fort Worth, TX 76116. Petitioner holds a motor *common carrier* certificate in MC 138104 (Sub-27), issued June 15, 1976, authorizing transportation over irregular routes of *trailers* and *trailer chassis* (other than those designed to be drawn by passenger automobiles), in initial movements from the facilities of Tramco, Inc., at or near Carrollton and Houston, TX, to points in the United States (including AK but excluding HI).

By the instant petition, petitioner seeks to add Lewisville, TX, as an additional point of origin.

MC 140262 (M3F) (Notice of filing of petition to modify certificate), filed May 31, 1978. Petitioner: VIKING TRANSPORT, INC., 585 Hi Tech Way, Oakdale, CA 95361. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Petitioner presently holds a certificate of public convenience and necessity in MC 140262 as a *common carrier*, by motor vehicle, over irregular routes, authorizing the following transportation: *Crude and concentrated mine ores and minerals* (except coal or salt), volcanic cinders, volcanic rock, volcanic ash, lime, sulfur, soda ash, and potash, in bulk, in dump vehicles, between points in CA, on the one hand, and, on the other points in NV, restricted against the transportation of shipments having an immediately prior or subsequent movement by rail.

By the instant petition, petitioner seeks to modify the geographical scope of its existing interstate authority to read as follows: Between points in CA and NV, restricted against service wholly within the State of NV involving shipments having an immediately prior or subsequent movement by rail.

Republications of Grants of Operating Rights Authority Prior to Certification

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 19227 (Sub-235) (Republication), filed April 25, 1977, published in the Federal Register issue of June 9, 1977, and republished this issue. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 Northwest 20th Street, P.O. Box 520602, Miami, FL 33152. Representative: Thomas A. Leonard (same address as applicant). A decision of the Commission, by the initial decision of Administrative Law Judge John A. McMenamin, served May 10, 1978, becomes effective August 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Cooling towers, fluid coolers, and parts and components* for cooling towers and fluid coolers, between the plantsite of the Marley Co., located at Olathe, KS, on the one hand, and on the other, points in AL, AR, AZ, CA, CO, FL, GA, KY, KS, LA, MS, MO, NM, NE, NV, OK, SC, TN, TX, and UT; subject to the condition that the authority herein granted to the extent it duplicates applicant's existing authority, shall be construed as conferring only a single operating right, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 103051 (Sub-409) (Republication), filed October 19, 1977, published in the Federal Register issue of December 8, 1977, and republished this issue. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. A decision of the Commission, review board number 1, decided July 26, 1978, and served August 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Vegetable oils and vegetable oil products*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Gainesville, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX; and (2) *vegetable oils*, in bulk, in tank vehicles, from points in AL, AR, DE, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, FL, NJ, NY, and PA, to the facilities of Cargill, Inc., at or near Gainesville, GA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description; adding FL, NY, NJ, and PA, and deleting GA, as origin points in part (2) above.

MC 116254 (Sub-193) (Republication), filed October 21, 1977, published in the Federal Register issue of December 15, 1977, and republished this issue. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL

35630. Representative: Hampton M. Mills (same address as applicant). A decision of the Commission, review board number 1, decided July 26, 1978, and served August 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Vegetable oils and vegetable oil products*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Gainesville, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX; and (2) *vegetable oils*, in bulk, in tank vehicles, from points in AL, AR, DE, FL, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, and VA, to the facilities of Cargill, Inc., at or near Gainesville, GA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description; add FL, NY, NJ, and PA, and delete GA as origin points in part (2) above.

MC 118142 (Sub-167) (republication), filed January 23, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. A decision of the Commission, review board number 2, decided July 21, 1978, and served August 4, 1978, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Pipe, conduit, fittings, and couplings*, from points in Geneva County, AL, to points in the United States, (except AL, AK and HI); and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above (except in bulk), and *valves and fittings*, from points in the United States (except AL, AK and HI), to points in Geneva County, AL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 118831 (Sub-154) (republication), filed October 17, 1977, published in the FEDERAL REGISTER issue of December 8, 1977, and republished this issue. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Earlie O. Jones, (same address as applicant). A decision of the Commission, review board number 1, decided July 26, 1978, and served August 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Vegetable oils and vegetable oil products*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Gainesville, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX; and (2) *vegetable oils*, in bulk, in tank vehicles, from points in AL, AR, DE, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, FL, NJ, NY, and PA, to the facilities of Cargill, Inc., at or near Gainesville, GA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description; add FL, NY, NJ, and PA, and delete GA as origin points in part (2) above.

MC 124078 (Sub-758) (Republication), filed November 2, 1977, published in the FEDERAL REGISTER issue of January 26, 1978, and republished this issue. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard W. Prevette, P.O. Box 1601, Milwaukee, WI 53201. A decision of the Commission, review board number 1, decided August 2, 1978, and served August 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Vegetable oils and vegetable oil products*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Gainesville, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX; and (2) *vegetable oils*, in bulk, in tank vehicles, from points in AL, AR, DE, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, FL, NJ, NY, and PA, to the facilities of Cargill, Inc., at or near Gainesville, GA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description; adding FL, NJ, NY, and PA, and deleting GA, as origin points in part (2) above.

MC 129262 (Sub-3) (republication), filed October 27, 1977, published in the FEDERAL REGISTER issue of December 30, 1977, and republished this issue. Applicant: AYERS & MADDUX, INC., 510 East Olympic Boulevard, Los Angeles, CA 90005. Representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. A decision of the Commission, review board number 1, decided July 27, 1978, and served August 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Liquid foodstuffs and beverages, sorbital 70 percent solution, and sorbitan esters*, in bulk, in tank vehicles, from points of entry on the international boundary line between the United States and the Republic of Mexico, to points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 133095 (Sub-157) (republication), filed April 28, 1977, published in the FEDERAL REGISTER issue of June 3, 1977, and republished this issue. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. A decision of the Commission, by the initial decision of Administrative Law Judge Brenda Murray, served April 28, 1978, becomes effective August 8, 1978, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Such commodities as are dealt in by hardware stores;* and (2) *hoists and cranes, measuring instruments, electronic equipment, cutting wheels, welding equipment, and conveyor equipment*, between points in AZ, CA, CO, CT, NM, OK, OR, PA, TX, and WA, restricted: (1) Against the transportation of commodities in bulk and those commodities which because of size or weight require the use of special equipment; and (2) to the transportation of shipments originating at or destined to the facilities of American Chain and Cable Co. (trade name ACCO), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the

commodity and territorial description, and broaden the restriction.

MC 138308 (Sub-39) (republication), filed January 30, 1978, published in FEDERAL REGISTER issue of March 9, 1978, and republished this issue. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. A decision of the Commission, Review Board No. 3, decided July 26, 1978, and served August 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Rubber and plastic battery boxes*, (1) from the facilities of Richardson Co., at or near Philadelphia, MS, to points in AL, AR, FL, GA, LA, NC, SC, TN (except Memphis and points in its commercial zone), and TX; and (2) between the facilities of the Richardson Co., at or near Philadelphia, MS, Indianapolis, IN, and City of Industry, CA, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to add SC as a destination point in part (1), and modify the territorial description in part (2) above.

MC 138308 (Sub-41) (republication), filed February 17, 1978, published in the FEDERAL REGISTER issue of March 30, 1978, and republished this issue. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. A decision of the Commission, Review Board No. 2, decided July 20, 1978, and served August 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Lamps and bulbs*, from the facilities of General Electric Co., at or near Jackson, MS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, that applicant is fit, willing, and able properly to perform such services and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and add MT in lieu of MO as a destination point.

MC 142927 (Sub-1) (republication), filed July 1, 1977, published in the FEDERAL REGISTER issue of August 18, 1977, and republished this issue. Applicant: DAVID C. LINDSEY, d.b.a. APPOLLO TRUCKING, 11805 Arliss Way, Grand Terrace, CA 92324. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. A decision of the Commission, Review Board No. 2, decided December 8, 1977, and served December 22, 1977, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Plastic articles, paper articles, and pulpboard articles*, in ocean containers, from Riverside, CA, to Los Angeles, CA., restricted to the transportation of traffic having a subsequent movement by water, under a continuing contract or contracts, with Lily Division of Owens-Illinois, Inc., will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 143271 (Sub-1) (republication), filed October 20, 1977, published in the FEDERAL REGISTER issue of December 8, 1977, and republished this issue. Applicant: CAPITAL CITY TRUCK GARAGE & TRUCKING CO., INC., 3017 Trawick Road, Raleigh, NC 27604. Representative: Robert T. Hedrick, 2311 North Boulevard, Raleigh, NC 27604. A decision of the Commission, Review Board No. 1, decided August 1, 1978, and served August 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Bananas;* and (2) *pineapples and coconuts*, when moving in mixed loads with bananas, from New York, NY, Baltimore, MD, Charleston, SC, Tampa, FL, and Gulfport, MS, to points in NC and SC, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity description and modify the territorial description.

MC 143377 (Sub-2) (republication), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 19, 1978, and republished this issue. Applicant: BARRY J. WEST, d.b.a. B.J.'s SERVICE, P.O. Box 595, Lititz, PA 17543. Representative: John W. Frame, P.O. Box 626, Old Gettysburg Road, Camp Hill, PA 17011. A decision of the Commission, Review Board No. 4, decided August 2, 1978, and served August 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (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 Lancaster and York Counties, PA, on the one hand, and, on the other, New York, NY, restricted against the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor at one location to one consignee at one location in any 1 day, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description, and add a restriction.

MC 144281 (republication), filed January 12, 1978, published in the FEDERAL REGISTER issue of March 9, 1978, and republished this issue. Applicant: NEW ENGLAND TRANSPORT, INC. LTD., P.O. Box 441, Springfield, VT 05156. Representative: Henry U. Snavely, 410 Pine Street, Vienna, VA 22180. A decision of the Commission, Review Board No. 2, decided July 20, 1978, and served August 3, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Construction materials and supplies* (except commodities in bulk and except lumber and forest products), between points in CT, IL, ME, MD, MS, NH, NJ, NY, NC, OH, PA, RI, VT, and VA, under continuing contracts with K-Ross Building Supply Center, Inc., of Lebanon, NH, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description and indicate the addition of ME, RI, VT, and NH as destination points.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by special rule 247 of the Com-

mission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 4943 (Sub-36F), filed July 17, 1978, and previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: CENTRAL EXPRESS, INC., 5601 West Waco Drive, Waco, TX 76703. Representative: Phillip Robinson, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Hebbronville and Laredo, TX: from Hebbronville over TX Hwy 359 to Laredo, and return over the same route, serving no intermediate points; and (2) between San Antonio and Laredo, TX as an alternate route for operating convenience only, serving no intermediate points and serving the termini for purposes of joinder only: from San Antonio over Interstate Hwy 35 and U.S. Hwy 81 to Laredo, and return over the same route, restricted to the transportation of traffic in (1) and (2) above to points located within TX. Hearing: October 2, 1978 (1 week), at 9:30 a.m. local time, at the Hilton Inn, 6000 Middle Fiskville Road, Austin, TX, and continued to October 9, 1978 (2 weeks), at 9:30 a.m. local time, at the La Posada Motor Hotel, 1000 Zaragoza Street, Laredo, TX and October 23, 1978 (2 weeks), at 9:30 a.m. local time, at the Sheraton Inn-Mockingbird, 1893 West Mockingbird Lane, Dallas, TX before Joint Board No. 77.

MC 110563 (Sub-227F) (republication), filed March 30, 1978, published in the FEDERAL REGISTER issue of June 8, 1978, and republished this issue. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used, manufactured, or distributed by manufactures and distributors of sugar, from Baltimore, MD, to points in IL, IN, IA, KY, MI, MO, OH, and WI. Restriction: Restricted to the transportation of shipments originating at the facilities used by Amstar Corporation, at or near Baltimore, MD. (Hearing site: New York, NY.)

NOTE.—The purpose of this republication is to broaden the commodity description.

MC 125423 (Sub-5F), filed April 13, 1978. Applicant: J. FRED SMITH, d.b.a. J. FRED SMITH TRUCKING CO., 112 Nichols Street, Danville, KY 40422. Representative: Robert H. Kinker, P.O. Box 464, 314 West Main Street, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between railroad facilities in Cincinnati, OH and its commercial zone, on the one hand, and, on the other, points in Adair, Anderson, Bath, Bourbon, Boyle, Casey, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Knox, Laurel, Lincoln, Marion, Mercer, McCreary, Montgomery, Nicholas, Pulaski, Rockcastle, Russell, Scott, Shelby, Taylor, Washington, Wayne, Whitley, and Woodford Counties, KY; (2) between railroad facilities in Lexington, KY and Danville, KY, and their commercial zones, on the one hand, and, on the other, points in Bath, Harrison, Montgomery, Nicholas, and Wayne Counties, KY; and (3) between railroad facilities in Louisville, KY and its commercial zone, on the one hand, and, on the other, points in Adair, Bath, Bourbon, Casey, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Knox, Laurel, Lincoln, McCreary, Montgomery, Nicholas, Pulaski, Rockcastle, Russell, Scott, Shelby, Washington, Wayne, Whitley, and Woodford Counties, KY; restricted in parts (1), (2) and (3) to the transportation of shipments having a prior or subsequent movement by rail. (Hearing site: Lexington, KY).

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers of motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rule 240(c) or 240(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13688F. Authority sought for purchase by LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX, of a portion of the operating rights of Tasco Trucking, Inc., P.O. Box 2544, Fort Worth, TX, and for acquisition of control of such rights by Gerald Ragle, Route 1, Box 48, Tolar, TX, through the purchase. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Operating rights

sought to be transferred are as a *common carrier*, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Swift Fresh Meats Co. at or near Cactus (Moore County), TX, to points in GA, MS, AR, GA, FL, TN, NC, SC, IL, IN, WV, VA, MD, KY, DE, NJ, NY, MI, PA, CT, RI, VT, NH, OH, MA, ME, and DC. Restricted to traffic originating at the named facilities and destined to points in the named destination States. Lone Star is arary authority under section 210 a(b) of the Act.

MC-F-13679F. Authority sought for purchase by SUDDATH VAN LINES, INC., 525 Stevens Street, P.O. Box 6699, Jacksonville, FL 32205, of a portion of the operating rights of PLYMOUTH VAN LINES, INC., 4433-41 Howley Street, Pittsburgh, PA 15224, and for acquisition by The Richard H. Suddath and Robert F. Bartlett Trust Agreement Under Date of May 18, 1967, Richard H. Suddath and Robert F. Bartlett, Trustees, 525 Stevens Street, Jacksonville, FL 32205, of control of such rights through the transaction. Applicants' attorney: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, DC 20036. Operating rights sought to be purchased: Household goods as defined by the Commission, as a common carrier over irregular routes between points in that part of NC east of U.S. 21 on the one hand, and, on the other, points in AZ, CO, IA, NB, and WI, and between points in that part of NC east of U.S. 21 on the one hand, and, on the other, points in CA, MN, NV, and UT. Transferee is authorized to operate as a common carrier in NY, NJ, DE, MD, PA, WV, VA, NC, SC, GA, FL, AL, TN, KY, MS, LA, MO, IL, IN, MA, CT, RI, NH, VT, OH, DE, TX, IA, MN, MI, WI, ME, AR, KS, and OK. Application has been filed for temporary authority under section 210a(b).

MC-F-13672F. Authority sought for purchase by UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN, of the operating rights of C & C Cartage, Inc., 660 West Ireland Road, South Bend, IN, and the acquisition by Ronald D. Whiteford and Florence S. Whiteford, 640 West Ireland Road, South Bend, IN, of control of such rights through the purchase. Applicant's attorney: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Operating rights sought to be transferred: (1) *Vinyl skirting, vinyl siding, asphalt siding, and steel siding*, from the facilities of Mastic Corp. at South Bend, IN, to points in AL, AR, DE, FL, GA, IL (except Chicago, Joliet, and Rockford and points in their respective commercial zones), IA, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC; (2) *materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the above-described commodities, from points in the above described destination territory, to the facilities of Mastic Corp. at South Bend, IN; (3) *vinyl skirting and vinyl siding*, from the facilities of Mastic Corp. at or near Stuarts Draft, VA, to points in AL, AR, CT, DE, FL, GA, IL, IA, KY, LA, ME, MD, MA, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VT, WV, WI, and DC; and (4) *materials and supplies* used in the manufacture and distribution of the above-named commodities (except commodities in bulk), from points in the destination States named in (3) above, to the facilities of Mastic Corp. at or near Stuarts Draft, VA. Vendee is authorized to operate as a common carrier in IN, IL, KY, OH, and MI. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13689F: Authority sought for the acquisition by Sun Acquisition Corp., 2 Radnor Corporate Center, 100 Matsonford Road, Radnor, Pa, 19087, of the assets, subject to the liabilities of Milne Truck Lines, Inc., 2500 West California Avenue, Salt Lake City, UT, 84104, through merger of the latter with Sun Carriers, Inc., corporate parent of Sun acquisition Corp., and with the same Radnor address, and the contribution by Sun Carriers, Inc., of those assets, subject to assumption of those liabilities to Sun Acquisition Corp.; and for the acquisition of control of the carrier operating rights and properties of Milne, as a consequence of that transaction by Sun Carriers, Inc., and the Sun Co., Inc., 1 Radnor Corporate Center, 100 Matsonford Road, Radnor, PA 19087: Transferee's attorney, David G. Macdonald, 1000 16th Street NW., Washington, DC 20036. Transferor's attorney, E. J. Hegarty, 100 Bush Street, San Francisco, CA 94104. Operating rights sought to be acquired (docket No. 44605 and active subs): (A) *Classes A and B explosives*, as a *common carrier* over regular routes: (1) Between Phoenix, AZ, and the site of the Atomic Energy Commission plant at or near Mercury, NV, serving all intermediate points (except Henderson, NV, points between Hope and Phoenix, AZ, and points between Las Vegas, NV, and the site of the Atomic Energy Commission plant at or near Mercury, NV), and the off-route points within 10 miles of the specified route between Las Vegas, NV, and Hope, AZ (except Boulder City, NV, and the Nellis Air force Base, NV), with service at Las Vegas, NV, restricted against traffic originating at or destined to Las Vegas, NV: (a) From Phoenix, AZ, over U.S. Hwy 60 via Beardsley and Aguila, AZ, to Hope, AZ, then over AZ Hwy 72 via Bouse, AZ, to Parker, AZ, then across the Colorado River to Earp, CA, then over unnumbered hwy to junction U.S. Hwy 95 at Vidal Junction, CA, then over U.S. Hwy 95 via Needles, CA, and Las Vegas, NV, to junction unnumbered hwy, near Mercury, NV, then over unnumbered hwys to the site of the Atomic Energy Commission Plant at or near Mercury, and return over the same route. (B) *Compressed gases*, in bulk, in Government-owned tank trailers, and *general commodities*, except those of unusual value, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission, as a *common carrier*, over regular routes: (1) Between junction U.S. Hwy 93 and AZ Hwy 68, near Kingman, AZ, and the junction of NV Hwy 77 and U.S. Hwy 95, serving the Davis Dam Site, NV, as an intermediate point, and the described termini for joinder only with carrier's authorized regular routes: (a) From junction U.S. Hwy 93 and AZ Hwy 68, near Kingman, AZ, over AZ Hwy 68 to the AZ-NV State line, then over NV Hwy 77 via Davis Dam Site, NV, to junction U.S. Hwy 95 and return over the same route. Restriction: The authority granted herein above, to the extent that it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring June 18, 1981. (C) *Hardware, fencing, and roofing materials*, as a *common carrier*, over regular routes: (1) From Los Angeles, CA, to points in UT, serving all intermediate points in UT (except St. George, UT), and the off-route point of Alton, UT, restricted to delivery only, as follows: (a) From Los Angeles over U.S. Hwy 66 to Barstow, CA, then over Interstate Hwy 15 (formerly U.S. Hwy 91) via St. George, UT, to Anderson, UT, then over UT Hwy 15 to junction U.S. Hwy 89, then over U.S. Hwy 89 via Mount Carmel, UT, to junction UT, and return over the same route with no transportation for compensation except as otherwise authorized; (b) From Los Angeles to junction UT Hwy 15 and U.S. Hwy 89 as specified above, then over U.S. Hwy 89 to Kanab, UT, and return over the same route with no transportation for compensation except as otherwise authorized; (c) From Los Angeles to Mount Carmel as specified above, then over U.S. Hwy 89 to junction UT Hwy 12, then over UT Hwy 12 to Bryce Canyon, UT, and return over the same route with no transportation for compensation except as otherwise authorized: (2) From Los Angeles, CA, to points in UT, serving all intermediate

points in UT (except St. George, UT), and the off-route point of Alton, UT, restricted to delivery only, as follows: (a) From Los Angeles to Mount Carmel as specified above, then over U.S. Hwy 89 to junction UT Hwy 12, then over UT Hwy 12 to junction unnumbered hwy (formerly UT Hwy 54), then over unnumbered Hwy to Henrieville, and return over the same route with no transportation for compensation except as otherwise authorized; (b) From Los Angeles to St. George as specified above, then over Interstate Hwy 15 (formerly U.S. Hwy 91), to junction UT Hwy 15 (formerly UT Hwy 17), via Hurricane, UT, and return over the same route with no transportation for compensation except as otherwise authorized. (D) *Poultry feed and poultry supplies,* as a *common carrier,* over regular routes: (1) From Los Angeles, CA, to Rockville, UT, serving the intermediate point of Hurricane, UT, restricted to delivery only: (a) From Los Angeles over the above specified routes to rockville and return over the same route with no transportation for compensation except as otherwise authorized. (E) *Poultry and livestock feeds,* as a *common carrier,* over regular routes: Service is authorized from Ontario and Colton, CA, as intermediate points, and from Riverside, CA, as an off-route point, for pickup only at such points, of poultry and livestock feeds destined to Hurricane and La Verkin, UT, in connection with carrier's presently authorized regular-route operations. (F) *Pipe,* as a *common carrier,* over regular routes: (1) From Los Angeles, CA, to Panguitch, UT, serving the intermediate points of Orderville and Rubys Inn, UT, restricted to delivery only: (a) From Los Angeles over the above-specified routes to Panguitch, and return over the same route with no transportation for compensation except as otherwise authorized. (G) *Plumbing and heating supplies and equipment,* as a *common carrier,* over regular routes: (1) From Los Angeles, CA, to Panguitch, UT, serving no intermediate points: (a) From Los Angeles, over the above-specified routes to Panguitch, and return over the same route with no transportation for compensation except as otherwise authorized. (H) *Plumbing supplies and equipment,* as a *common carrier,* over regular routes: (1) From Los Angeles, CA, to Kanab, UT, serving no intermediate points: (a) From Los Angeles, over the above-specified routes to Kanab, and return over the same route with no transportation for compensation except as otherwise authorized. (I) *Dressed poultry,* as a *common carrier,* over regular routes: (1) From Panguitch, UT, to Los Angeles, CA, serving the intermediate points of Rockville and Hurricane, UT, restricted to pickup only: (a) From Panguitch over the above-specified routes to Los Angeles, and return over the same route with no transportation for compensation except as otherwise authorized. (J) *Livestock,* as a *common carrier,* over regular routes: (1) From specified points in UT to Los Angeles, CA, serving the off-route point of Virgin, UT, and points within 5 miles thereof, restricted to pickup only: (a) From points in UT on the above-described routes over the above-described routes to Los Angeles, and return over the same route with no transportation for compensation except as otherwise authorized. (K) *Machinery, materials, supplies, and equipment,* incidental to, or used in, the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum, as a *common carrier,* over regular routes: (1) Between Los Angeles, CA, and Hurricane, UT, serving the off-route point of Virgin, UT, and points within 5 miles thereof: (a) From Los Angeles over the above-specified routes to Hurricane, and return over the same routes. (L) *General commodities,* except petroleum in bulk, classes A and B explosives, heavy equipment requiring special rigging, baled cotton, and household goods as defined by the Commission, as a *common carrier,* over regular routes: (1) From Los Angeles, CA, to St. George, UT, serving the intermediate points of Santa Clara, UT, Littlefield, AZ, and Mesquite and Bunkerville, NV, restricted to delivery and the off-route points of Santa Monica, El Segundo, Wilmington, Long Beach, San Pedro, and Pasadena, CA, restricted to pickup: (a) From Los Angeles to Barstow, CA, as specified above (also from Los Angeles over Interstate Hwy 5 (formerly U.S. Hwy 99) to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction U.S. Hwy 395 then over U.S. Hwy 395 to San Bernardino, then over U.S. Hwy 66 to Barstow), then to St. George as specified above, and return over the same route with no transportation for compensation except as otherwise authorized. (M) *General commodities,* except those of unusual value, household goods as defined by the Commission, and those requiring special equipment for hauling liquid commodities in bulk, as a *common carrier,* over regular routes: (1) Between St. George, UT, and Mount Trumbull, AZ, serving all intermediate points, and off-route points in AZ within 10 miles of the following route, and those north of the Colorado River within 30 miles of Mount Trumbull: (a) From St. George over unnumbered hwy (formerly UT Hwy 64) to the UT-AZ State line, then over unnumbered hwys via Wolf Hole, AZ, to Mount Trumbull, and return over the same route. (N) *Household Goods and General Commodities,* except those of unusual value, as a *common carrier,* over regular routes: (1) Between Salt Lake City, UT, and St. George, UT, serving intermediate points between Levan and St. George, UT, including Levan, without restriction; those between Salt Lake City and Levan, restricted to traffic moving to or from points south of Levan; the off-route point of Santa Clara, UT, and those of UT Hwy 21 between Beaver and Minersville, UT, including Minersville, without restriction: (a) From Salt Lake City, over Interstate Hwy 15 (formerly U.S. Hwy 91), to St. George, and return over the same route. (O) *General commodities,* as a *common carrier,* over regular routes: (1) Between Minersville, UT, and Milford, UT, serving no intermediate points: (a) From Minersville over UT Hwy 21 to Milford, and return over the same route. (P) *General commodities,* except classes A and B explosives, petroleum products in bulk, heavy equipment requiring special rigging, baled cotton, and household goods as defined by the Commission, as a *common carrier,* over regular routes: (1) From St. Gorge, UT, to Los Angeles, CA, serving the intermediate point of Santa Clara, CA, restricted to pickup only, and the intermediate and off-route points of Las Vegas, NV, Santa Monica, El Segundo, and Pasadena, CA, and points in the Los Angeles Harbor, CA commercial zone, as defined by the Commission, restricted to delivery only: (a) From St. George over Interstate Hwy 15 (formerly U.S. Hwy 91) to Barstow, CA, then over U.S. Hwy 66 via San Bernardino, CA to Los Angeles, CA (also from San Bernardino over U.S. Hwy 395 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to Los Angeles; and also from San Bernardino over U.S. Hwy 395 to junction CA Hwy 60 (formerly U.S. Hwy 60), then over CA Hwy 60 to Los Angeles), and return over the same routes, with no transportation for compensation except as otherwise authorized. (Q) *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 as a *common carrier,* over regular routes: (1) Between Las Vegas, NV, and the site of the Atomic Energy Commission Plant, at or near Mercury, NV, serving no intermediate points, with service restricted to traffic originating at or destined to points in AZ, NM, TX, or OK, and further restricted against interlining at the site of the Atomic Energy Commission plant at or near Mercury, NV: (a) From Las Vegas, over U.S. Hwy 95, via Indian Springs, NV, to junction unnumbered hwy, then over unnumbered hwy to

the site of the Atomic Energy Commission plant, at or near Mercury, NV, and return over the same route. (R) *Compressed gases*, in bulk, in Government-owned tank trailers, as a *common carrier*, over regular routes: (1) Between Las Vegas, NV, and the site of the Atomic Energy Commission Plant, at or near Mercury, NV, serving no intermediate points: (a) From Las Vegas over the route described immediately above to the site of the Atomic energy Commission plant, at or near Mercury, and return over the same route. (S) *General commodities*, except explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as a *common carrier*, over regular routes: (1) Between Los Angeles, CA, and Needles, CA, serving all intermediate points east of Daggett, CA, and the off-route points in the Los Angeles, CA, and Los Angeles Harbor, CA Commercial Zones, as defined by the Commission: (a) From Los Angeles over Interstate Hwy 5 (formerly U.S. Hwy 99) to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction unnumbered hwy, near Fontana, CA, then over unnumbered hwy to junction U.S. Hwy 66, near Devore, CA, then over U.S. Hwy 66 to Needles, and return over the same route. (T) *General commodities*, except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, as a *common carrier*, over regular routes: (1) Between Las Vegas, NV, and Phoenix, AZ, serving all intermediate points (except points between Hope and Phoenix, AZ), and the off-route point of the Davis Dam site, NV: (a) From Las Vegas, over U.S. Hwy 95 to Vidal Junction, CA, then over unnumbered hwy to Earp, CA, then across the Colorado River to Parker, AZ, then over AZ Hwy 72 to Hope, AZ, then over U.S. Hwy 60 to Phoenix, and return over the same route. (U) *General commodities*, except petroleum and petroleum products, in bulk, classes A and B explosives, baled cotton, household goods as defined by the Commission, and heavy equipment requiring special rigging, as a *common carrier*, over regular routes: (1) Between St. George, UT, and Marysvale, UT, serving all intermediate points (except Washington, Leeds, and Anderson, UT), and the off-route point of Alton, UT: (a) From St. George over Interstate Hwy 15 (formerly U.S. Hwy 91), to Anderson, then over UT Hwy 15 to junction U.S. Hwy 89, then over U.S. Hwy 89 to Marysvale, and return over the same route; (2) Between junction Interstate Hwy 15 (formerly U.S. Hwy 91), and UT Hwy 15 (formerly UT Hwy 17), serving all intermediate points: (a) From junction Interstate Hwy 15 (formerly U.S. Hwy 91) and UT Hwy 15 (formerly U.S. Hwy 17) over UT Hwy 15 (formerly UT Hwy 17) to junction UT Hwy 15, and return over the same route; (3) Between junction UT Hwy 15 and U.S. Hwy 89 (near Mount Carmel, UT), and Fredonia, AZ, serving all intermediate points: (a) From junction UT Hwy 15 and U.S. Hwy 89 over U.S. Hwy 89 to Fredonia, and return over the same route; (4) Between junction U.S. Hwy 89 and UT Hwy 12 and Henrieville, UT, serving all intermediate points, and the off-route points of Ruby's Inn and Bryce Canyon, UT: (a) From junction U.S. Hwy 89 and UT Hwy 12 over UT Hwy 12 to Henrieville, and return over the same route. (V) *General commodities*, except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, as a *common carrier*, over regular routes: Serving points within 30 miles of Needles, CA (except Davis Dam site, NV), as off-route points, in connection with carrier's regular route operations between Los Angeles and Needles, CA, and between Las Vegas, NV, and Phoenix, AZ. (W) *General commodities*, except petroleum and petroleum products in bulk, class A and B explosives, baled cotton, household goods as defined by the Commission, and heavy equipment requiring special rigging, as a *common carrier*, over regular routes: (1) Serving the Glen Canyon Dam site in AZ (on the Colorado River near the AZ-UT State line) and points within 10 miles thereof, as off-route points in connection with carrier's authorized regular route operations between Salt Lake City, UT, and Los Angeles, CA; (2) Between Hurricane, UT, and Fredonia, AZ, as an alternate route for operating convenience only in connection with carrier's authorized regular route operations between Hurricane, UT, and Fredonia, AZ, serving no intermediate points: (a) From Hurricane over UT Hwy 59 to the UT-AZ State line, then over unnumbered AZ Hwy to Fredonia, and return over the same route. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (X) *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over regular routes: (1) Between Barstow, CA and Las Vegas, NV, as an alternate route for operating convenience only, in connection with carrier's regular route operations between Los Angeles, CA, and Las Vegas, NV, serving no intermediate points: (a) From Barstow over U.S. Hwy 91 to Las Vegas, and return over the same route. (Y) *General commodities*, except class A and B explosives, petroleum products in bulk, heavy equipment requiring special rigging, baled cotton, household goods as defined by the Commission, and liquid chemicals as defined in Maxwell Co., Extension—Addyston, 63 MCC 677, in bulk, in tank vehicles, as a *common carrier*, over regular routes: (1) Between Las Vegas, NV, and Hurricane, UT, serving all intermediate points in UT, and off-route points within 5 miles of Hurricane: (a) From Las Vegas over U.S. Hwy 91 to Harrisburg Junction, UT, then over UT Hwy 17 to Hurricane and return over the same route. (Z) *General commodities*, except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes: (1) Between Los Angeles, CA, and AZ points, serving the intermediate points of Beaumont, Banning, Indio, Coachella, Brawley, Holtville, El Centro, and Blythe, CA, and the intermediate and off-route points in that part of CA bounded by a line beginning at Newport Beach, CA, and extending along the Pacific Coast to Santa Monica, CA, then north to San Fernando, CA, then southeast to Highland, CA, then south to Redlands, CA, and then in a straight line to the point of beginning, including the points specified; and the intermediate points in AZ; and the off-route points of Ajo, Fort Huachuca, and Higley, AZ, Thermal and Alberhill, CA, those in AZ within 5 miles of the specified routes, those within 20 miles of Phoenix, AZ, and those within 10 miles of Yuma, AZ, as follows: (a) From Los Angeles over U.S. Hwy 99 via Indio, CA to El Centro, CA (also from Los Angeles over U.S. Hwy 66 to junction U.S. Hwy 99, then over U.S. Hwy 99 to El Centro), then over U.S. Hwy 80 to Gila Bend, AZ, and then over AZ Hwy 84 via Casa Grande, AZ, to Tucson, AZ, and return over the same routes; (b) From Los Angeles to El Centro as specified above, then over U.S. Hwy 80 to Phoenix, AZ, and return over the same route; (c) From Los Angeles to Casa Grande as specified above, then over unnumbered hwy to junction AZ Hwy 87 (near Randolph), then over AZ Hwy 87 to junction AZ Hwy 287, and then over AZ Hwy 287 to Florence, AZ, and return over the same route; (d) From Los Angeles to Indio as specified above, then over U.S. Hwy 60 to junction AZ Hwy 87, then over AZ Hwy 87 to junction AZ Hwy 84, then over AZ Hwy 84 to Tucson, AZ, and then over U.S. Hwy 80 to Douglas, AZ, and return over the same route. (AA) *General commodities*, except

those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of unusual weight, as a *common carrier*, over regular routes: Serving missile sites at points in Chochise, Pima, Pinal, and Santa Cruz Counties, AZ as off-route points in connection with carrier's authorized regular route operations to and from Tucson, AZ. Restriction: The authority granted herein, to the extent that it authorizes the transportation of classes A and B explosives, shall be limited, in point of time, to a period expiring October 27, 1982. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (BB) *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, those requiring special equipment, and used uncrated household goods as a *common carrier*, over regular routes: Serving (1) points within 25 miles of U.S. Hwy 189 between Kemmerer, WY, and Bondurant, WY, including Fontenelle Dam site; (2) points within 25 miles of U.S. Hwy 189 between Bondurant, WY, and Jackson, WY; and (3) points within 25 miles of U.S. Hwy 187 between Frason, WY; and the junction of U.S. Hwy 189 approximately 1 mile north of Daniel, WY; as off-route points in connection with carrier's authorized regular route operations. (CC) *General commodities*, except petroleum and petroleum products, classes A and B explosives, baled cotton, household goods as defined by the Commission, heavy equipment requiring special rigging, liquid and dry acids and chemicals in bulk, and sand in bulk, as a *common carrier*, over regular routes: Serving points in Garfield County, UT, as off-route points in connection with carrier's authorized regular route operations. (DD) *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, as a *common carrier*, over regular routes: Serving the site of the Pacific Northwest Pipeline Compressor Station No. 23, located approximately 12 miles southwest of Big Piney, WY, as an off-route point in connection with carrier's authorized regular route operations between Kemmerer, WY, and Pinedale, WY, as authorized herein. (EE) *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, as a *common carrier*, over regular routes: (1) Serving Elkol, WY, located approximately 8 miles southwest of Kemmerer, WY, and serving the Hams Fork Reservior, WY, located approximately 14 miles northwest of Kemmerer, WY, as off-route points in connection with carrier's regular route operations between Evanston and Big Piney, WY, over U.S. Hwy 189, as authorized herein. (2) Between Fort Bridger, WY, and Urie, WY, serving no intermediate points: From Fort Bridger over U.S. Hwy 30-S to Urie, and return over the same route. (3) Between Ogden, UT, and Mountain View, WY, serving all intermediate points in WY and intermedate points in UT east of Ogden, UT, located on U.S. Hwy 30-S, and the off-route point of Hailstone, UT: From Ogden, over U.S. Hwy 30-S via Uintah and Baskin, UT, to Lyman, WY, then over unnumbered hwy to Mountain View and return over the same route. (4) Between Salt Lake City, UT, and Mountain View, WY, serving all intermediate points in WY and intermediate points in UT east of Ogden, UT, located on U.S. Hwy 30-S, and the off-route point of Hailstone, UT as follows: (a) From Salt Lake City over U.S. Hwy 89 to Uintah, UT, then to Mountain View as specified above, and return over the same route; (b) From Salt Lake City, over U.S. Hwy 40 to Kimballs, UT, then over U.S. Hwy 189 (portion formerly UT Hwy 4) via Wanship, UT, to junction U.S. Hwy 30-S, then to Mountain View as specified above, and return over the same route. (5) Between Salt Lake City, UT, and Kemmerer, WY, serving the intermediate points of Ogden, Woodruff, Randolph, and Clearfield, UT, and Sage, Evanston, Blazon, Diamondville, Nugget, and Oakley, WY, and the off-route point of Frontier, WY, as follows: (a) From Salt Lake City, over U.S. Hwy 91 to Ogden, UT, then over U.S. Hwy 30-S to Evanston, WY, (also from Salt Lake City over U.S. Hwy 40 to Kimballs, UT, then over U.S. Hwy 189, portion formerly UT Hwy 4, via Wanship, UT, to Echo City, UT, then over U.S. Hwy 30-S to Evanston, WY), then over WY Hwy 89 to the WY-UT State line, then over UT Hwy 3 to Sage Creek Junction, UT, then over UT Hwy 51 to the UT-WY State line, then over WY Hwy 89 to Sage, WY, then over U.S. Hwy 30-N to Kemmerer, and return over the same route. (b) From Salt Lake City to Evanston, as specified above, then over U.S. Hwy 30-S to junction U.S. Hwy 189, then over U.S. Hwy 189 to junction unnumbered hwy, then over unnumbered hwy via Blazon and Oakley, WY, to junction U.S. Hwy 189 to Kemmerer, and return over the same route. (6) Between Kemmerer, WY, and Pinedale, WY, serving all intermediate points, and the off-route points of Fontenelle, Calpet, Halfway, Merna, and Cora, WY: From Kemmerer over U.S. Hwy 189 to junction U.S. Hwy 187, then over U.S. Hwy 187 to Pinedale, and return over the same route. (FF) *General commodities* except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes: (1) Between Salt Lake City, UT, and Lyman, WY, serving the intermediate points of Ogden, UT, and Evanston and Fort Bridger, WY, and the off route points of Mountain View and Robertson, WY as follows: (a) From Salt Lake City over U.S. Hwy 91 to Ogden, UT, then over U.S. Hwy 30-S to Lyman, and return over the same route. (b) From Salt Lake City over U.S. Hwy 40 to junction U.S. Hwy 189 (formerly UT Hwy 4) at Kimballs, UT then over U.S. Hwy 189 via Wanship UT, to junction U.S. Hwy 30-S, then over U.S. Hwy 30-S to Lyman, and return over the same route. (2) Between Daniel, WY, and Jackson, WY serving the intermediate point of Triangle F Ranch, WY: From Daniel over U.S. Hwy 187 to Jackson, and return over the same route. (GG) *General commodities*, except those of unusual value, and commodities in bulk, as a *common carrier*, over regular routes: (1) Between Evanston, WY, and Randolph, UT, serving all intermediate points: From Evanston over WY Hwy 89 to the WY-UT State line, then over UT Hwy 3 to Randolph, and return over the same route. (HH) *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment as a *common carrier*, over regular routes: (1) Between Jackson, WY, and Rock Springs, WY, serving all intermediate points between Jackson, and Pinedale, WY, inclusive; and the off-route points of Wilson, Turpin, Bondurant Daniel, Cora, Merna, and Jenny Lake WY: From Jackson over U.S. Hwy 187 to Rock Springs, and return over the same route. (2) Between Jackson, WY and Colter Bay, WY., serving all intermediate points and all off-route points in Teton County, WY: From Jackson over U.S. Hwy 187 to junction unnumbered hwy, then over unnumbered hwy to Colter Bay, and return over the same route. (II) *General commodities*, except liquids in tank trucks, livestock, sand, and gravel, as a *common carrier*, over regular routes: Between Pinedale, WY, and Rock Springs, WY, serving all intermediate points: From Pinedale over U.S. Hwy 187 to Rock Springs, and return over the same route. (JJ) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requir-

ing special equipment, as a *common carrier*, over regular routes: Serving the site of Cherokee Mine of the San Francisco Chemical Company, located approximately 8 miles northeast of Randolph, UT, as an off-route point in connection with carrier's authorized regular-route operations. (KK) *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, as a *common carrier*, over regular routes: Serving the site of the Lost Creek Dam, located approximately 12 miles north of Croydon, UT, as an off-route point, in connection with carrier's authorized regular-route operations to and from Evanston, WY. (LL) *General commodities*, except those of unusual value, livestock, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes: (1) Between Idaho Falls, ID, and Jackson, WY, serving no intermediate points, but serving the off-route point of Teton National Park Headquarters, WY: From Idaho Falls over U.S. Hwy 191 to junction U.S. Hwy 26 (formerly ID Hwy 29), then over U.S. Hwy 26 to the ID-WY State line, then across the ID-WY State line to Alpine, WY, then over U.S. Hwy 89 to Jackson, and return over the same route. (2) Between Alpine, WY, and Jackson, WY, serving no intermediate points, but serving the off-route point of Teton National Park Headquarters, WY: From Alpine over U.S. Hwy 89 to junction unnumbered hwy near Hoback, WY, then over unnumbered hwy via Wilson, WY, to junction U.S. Hwy 187, south of Jackson, WY, then over U.S. Hwy 187 to Jackson and return over the same route. (3) Between Idaho Falls, ID, and Moran, WY, serving the intermediate points of Wilson and Jackson, WY, and the off-route points of Moose and Jenny Lake, WY: From Idaho Falls over U.S. Hwy 191 to junction ID Hwy 33 (formerly Alternate U.S. Hwy 20), then over ID Hwy 33 to the ID-WY, State line, then over WY, Hwy 22 to junction U.S. Hwy 89, then over U.S. Hwy 89 to Moran, and return over the same route. (4) Between Idaho Falls, ID, and Moran, WY, serving the intermediate point of Jackson, WY, and the off-route points of Wilson, Moose, and Jenny Lake, WY, when the route described immediately above is impassable due to weather conditions: From Idaho Falls over U.S. Hwy 191 (formerly U.S. Hwy 91) to junction U.S. Hwy 30N, then over U.S. Hwy 30N to Kemmerer, WY, then over U.S. Hwy 189 to junction U.S. Hwy 187, then over U.S. Hwy 187 via Jackson, WY, to Moran, and return over the same route. RESTRICTION: The operations described in the two paragraphs next above are restricted to the season extending from May 15 to December 15, inclusive. (MM) *General commodities*, except contaminating commodities and articles exceeding the capacity of equipment, as a *common carrier*, over regular routes: (1) Between Idaho Falls, ID, and Moran, WY, serving no intermediate points: From Idaho Falls over U.S. Hwy 191 to Sugar City, ID, then over ID Hwy 33 (portions formerly Alternate U.S. Hwy 20 and unnumbered hwy) via Victor, ID, to the ID-WY State line, then over WY Hwy 22 to junction U.S. Hwy 187, then over U.S. Hwy 187 to Moran, and return over the same route. (2) Between Sugar City, ID, and St. Anthony, ID, serving no intermediate points: (a) From Sugar City over U.S. Hwy 191 to St. Anthony, and return over the same route. (b) From Sugar City over U.S. Hwy 191 to junction ID Hwy 33 (formerly Alternate U.S. Hwy 20), then over ID Hwy 33 to Teton, ID, then over unnumbered hwy to St. Anthony, and return over the same route. (3) Between Idaho Falls, ID, and Montpelier, ID, serving all intermediate points except those on U.S. Hwy 89 south of Alpine, WY, and north of Geneva, ID: From Idaho Falls over U.S. Hwy 191 to junction U.S. Hwy 26, then over U.S. Hwy 89 to Geneva, ID, then over unnumbered hwy to the ID-WY State line, then over WY Hwy 89 to Border, WY, then over U.S. Hwy 30N to Montpelier (also from Geneva over U.S. Hwy 89 to Montpelier), and return over the same route. (4) Between Rigby, ID, and Ririe, ID, serving all intermediate points: From Rigby over ID Hwy 48 to Ririe, and return over the same route. (5) Between Swan Valley, ID, and Victor, ID, serving all intermediate points: From Swan Valley over ID Hwy 31 to Victor, and return over the same route. (6) Between Alpine, WY,, and Jackson, WY, serving all intermediate points: From Alpine over U.S. Hwy 89 to junction unnumbered hwy, then over unnumbered hwy to junction WY Hwy 22 near Wilson, WY, then over WY Hwy 22 to Jackson, and return over the same route. (NN) *General commodities*, except contaminating commodities and articles exceeding the capacity of equipment, as a *common carrier*, over regular routes: Between Turpin, Meadows, WY, and Flagg Ranch, WY, serving all intermediate points: From Turpin Meadows over U.S. Hwy 287 to Flagg Ranch, and return over the same route. Restriction: The operations authorized immediately above are restricted to the season extending from June 15 to December 1, inclusive. (OO) *General commodities*, except gasoline and classes A and B explosives, as a *common carrier*, over regular routes: Between Victor, ID, and Jackson, WY, serving the intermediate point of Wilson, WY: From Victor over ID Hwy 33 to the ID-WY State line, then over WY Hwy 22 to Jackson, and return over the same route. (PP) *Classes A and B explosives*, as a *common carrier*, over regular routes: (1) Between Salt Lake City, UT, and Jackson, WY, serving all intermediate points between Evanston and Jackson, WY, and the off-route points in Salt Lake and Davis Counties, UT: From Salt Lake City over Interstate Hwy 15 to junction U.S. Hwy 89 then over U.S. Hwy 89 to junction Interstate Hwy 80-N, at Uintah, UT, then over Interstate Hwy 80-N to junction Interstate Hwy 80, then over Interstate Hwy 80 via Evanston, WY, to junction U.S. Hwy 189, then over U.S. Hwy 189 to junction U.S. Hwy 187 near Daniel, WY, then over U.S. Hwy 187 to Jackson, and return over the same route. (2) Between Idaho Falls, ID, and junction U.S. Hwys 89 and 187 at Hoback Junction, WY, serving no intermediate points: From Idaho Falls over U.S. Hwy 26 to junction U.S. Hwy 89, then over U.S. Hwy 89 to junction U.S. Hwy 187 at Hoback Junction, WY, and return over the same route. (3) Between junction U.S. Hwys 187 and 189 near Daniel, WY, and Pinedale, WY, serving no intermediate points: From junction U.S. Hwys 187 and 189 near Daniel, over U.S. Hwy 187 to Pinedale, and return over the same route. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. And it is further ordered, that this certificate shall be of no further force and effect after October 8, 1980. (QQ) *General commodities*, except petroleum, and petroleum products in bulk, classes A and B explosives, baled cotton, household goods as defined by the Commission, commodities which because of size and weight require special equipment or special handling, liquid and dry acids, and chemicals in bulk, and sand in bulk, as a *common carrier*, over regular routes: Serving points in Kane County, UT as off-route points in connection with applicant's otherwise authorized, regular-route authority. (RR) *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, as a *common carrier*, over regular routes: Serving Apex and Blue Diamond, NV, as off-route points in connection with carrier's authorized routes in NV. (SS) *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, as a

common carrier, over regular routes: Between Lyman, WY, and Rock Springs, WY, serving all intermediate points: From Lyman over U.S. Hwy 30 and Interstate Hwy 80 to Rock Springs, and return over the same route. (TT) *General commodities*, except petroleum and petroleum products in bulk, classes A and B explosives, baled cotton, household goods as defined by the Commission, and commodities which because of size or weight require special equipment, acids, and chemicals in bulk, and sand in bulk, as a *common carrier*, over regular routes: Serving points in Beaver County, UT, as off-route points in connection with carrier's authorized regular-route operations. (UU) *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, as a *common carrier*, over regular routes: (1) Between Salt Lake City, UT, and Levan, UT, serving all intermediate points: From Salt Lake City over U.S. Hwy 91 to Levan, and return over the same route. Restriction: The authority granted above is restricted to traffic moving to points north of Salt Lake City. (2) Between Marysville, UT, and Levan, UT, serving all intermediate points, and the off-route points of Monroe, Austin, Glenwood, Venice, and Sigurd, UT: From Marysville, over U.S. Hwy 89 to junction UT Hwy 28, then over UT Hwy 28 to Levan, and return over the same route. (3) Between Gunnison, UT, and Nephi, UT, serving all intermediate points, and the off-route point of Spring City, UT, and points on UT Hwy 117 between junction UT Hwy 116 and UT Hwy 117 and Fountain Green, UT: From Gunnison over U.S. Hwy 89 to junction UT Hwy 116 near Mt. Pleasant, UT, then over UT Hwy 116 to junction UT Hwy 11 near Mornoi, UT, then over UT Hwy 11 to junction U.S. Hwy 91 near Nephi, and return over the same route. (4) Between Cove Fort, UT, and junction UT Hwy 4 (Interstate Hwy 70) and U.S. Hwy 89 near Sevier, UT, serving all intermediate points: From Cove Fort over UT Hwy 4 (Interstate Hwy 70) to junction UT Hwy 4 (Interstate Hwy 70) and U.S. Hwy 89 near Sevier, and return over the same route. Restriction: The authorities granted above are restricted to traffic moving to or from points south of Marysville, UT. (VV) *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, as a *common carrier*, over regular routes: Serving the Jim Bridger Project located approximately 6 miles north of Point of Rocks, WY, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (WW) *General commodities*, except those of unusual value, clases A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over regular routes: (1) Between Salt Lake City, UT, and San Francisco, CA: (a) From Salt Lake City, over U.S. Hwy 40 to junction Interstate Hwy 80 (also U.S. Hwy 40) then over Interstate Hwy 80 (U.S. Hwy 40), to San Francisco, and return over the same route; and (b) From Salt Lake City over U.S. Hwy 40 to junction Interstate Hwy 80 (U.S. Hwy 40) then over Interstate Hwy 80 (U.S. Hwy 40) to junction U.S. Hwy Alternate Route 50 near Wendover, NV, then over U.S. Hwy Alternate Route 50 to junction U.S. Hwy 50 near Ely, NV, then over U.S. Hwy 50 to San Francisco, and return over the same route. (2) Between Fallon, NV, and junction U.S. Hwy Alternate Route 95 and Interstate Hwy 80 (U.S. Hwy 40) near Fernley, NV, from Fallon over U.S. Hwy Alternate Route 95 to junction Interstate Hwy 80 (U.S. Hwy 40), and return over the same route. (3) Between San Francisco and San Jose, CA: (a) Over U.S. Hwy 101, (b) Over CA Hwy 82, and (c) Over Interstate Hwy 280. (4) Between Vallejo, and San Jose, CA: From Vallejo over Interstate Hwy 680 to junction CA Hwy 21, then over CA Hwy 21 to junction CA Hwy 17, then over CA Hwy 17 to San Jose, and return over the same route. (5) Between Oakland and San Jose, CA, over CA Hwy 17. (6) Between Richmond and Stockton, CA, over CA Hwy 4. (7) Between Sacramento, CA and junction CA Hwys 4 and 160 near Antioch, CA: From Sacramento over CA Hwy 160 to junction CA Hwys 4 and 160, and return over the same route. (8) Between Lodi, CA and junction Interstate Hwy 80 and CA Hwy 12 near Suisun City, CA: From Lodi over CA Hwy 12 to junction Interstate Hwy 80, and return over the same route; and (9) Between Oakland and Walnut Creek, CA, over CA Hwy 24: Serving all intermediate points on the above routes and restricted in (1) through (9) above against the transportation of shipments either (a) originating at Carson City, NV, or at points in Washoe County, NV, and destined to points in AZ or CA, or (b) originating at points in AZ or CA and destined to Carson City, NV, or to points in Washoe County, NV. (XX) *Classes A and B explosives*, as a *common carrier*, over regular routes: Serving Luke Air Force Base, AZ, as an off-route point in connection with carrier's otherwise authorized regular route operations. This certificate shall be of no further force and effect after June 19, 1983. (YY) *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, as a *common carrier*, over regular routes: Serving the Hecla Mining Co. site (approximately 32 miles southwest of Casa Grande, AZ) as an off-route point in connection with carrier's authorized regular-route operations. (ZZ) *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, as a *common carrier*, over regular routes: (1) Between Yucca, AZ, and Kingman, AZ, serving all intermediate points: From Yucca over Interstate Hwy 40 (U.S. Hwy 66) to Kingman, and return over the same route. (2) Between Wickenburg, AZ, and Las Vegas, NV, serving all intermadiate points in AZ: From Wickenburg over U.S. Hwy 93 to Las Vegas, and return over the same route. (A) *Compressed gases*, in bulk in Government-owned tank trailers, and *general commodities*, except those of unusual value, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission, as a *common carrier*, over regular routes for operating convenience only: (1) Between Wickenburg, AZ, and Alunite, NV, serving no intermediate points, in connection with carrier's regular route operations authorized herein: (a) From Wichenburg over U.S. Hwy 89 to Congress Junction, AZ, then over AZ Hwy 71 to junction U.S. Hwy 93 (formerly shown as AZ Hwy 93), then over U.S. Hwy 93 via Wikieup, AZ, to junction U.S. Hwy 66 (approximately 1 mile east of Kingman, AZ), then over U.S. Hwy 66 to Kingman, AZ, then over U.S. Hwy 93 to Alunite, and return over the same route. (B) *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes for operating convenience only: (1) Between Desert Center, CA, and Vidal Junction, CA, in connection with carrier's presently authorized regular-route operations, serving no intermediate points, and serving Desert Center solely for the purpose of joinder only: (a) From Desert Center over unnumbered CA Hwy via Rice, CA, to Vidal Junction, and return over the same route. (C) *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as a *common carri-*

er, over regular routes for operating convenience only: (1) Between Page and Phoenix, AZ: (a) From Page over U.S. Hwy 89 to Flagstaff, AZ, and then over AZ Hwy 79 (Interstate Hwy 17) to Phoenix, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's presently authorized regular-route operations. (A) *Agricultural commodities, dairy products, and poultry,* as a *common carrier,* over irregular routes: (1) From points in UT within 10 miles of the four regular routes specified next above, to Las Vegas, NV, and points in the Los Angeles and Los Angeles Harbor, CA, commercial zones, as defined by the Commission; and (B) *empty containers* for the immediately above-specified commodities, as a *common carrier,* over irregular routes: (1) From the above-specified destination points to the above-specified origin points. (C) *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, as a *common carrier,* over irregular routes: (1) Between points in the Los Angeles, CA, commercial zone, as defined by the Commission. (D) *Household goods and general commodities,* except those of unusual value, as a *common carrier,* over irregular routes: (1) Between points in Iron and Washington Counties, UT, those in Mohave and Coconino Counties, AZ, north of the Colorado River, and those in that part of Clark County, NV, east of a line beginning at the AZ-NV State line and extending along NV Hwy 12 to Glendale, NV, then along U.S. Hwy 93 to the Clark-Lincoln County line, including points in the indicated portions of the hwy specified. (E) *General commodities,* with exceptions as specified immediately above, in truckload lots, and *household goods,* as a *common carrier,* over irregular routes: (1) Between points in Iron and Washington Counties, UT, on the one hand, and, on the other, points in that part of Kane County, UT, on and west of U.S. Hwy 89, those in Bryce Canyon National Park, UT, and those in that part of Lincoln County, NV, on and east of U.S. Hwy 93 (except Pioche, Panaca, and Caliente, NV). (F) *Livestock,* as a *common carrier,* over irregular routes: (1) From points in Iron, Washington, Kane, and Garfield Counties, UT, on and west of U.S. Hwy 89 to points in Los Angeles County, CA, with no transportation for compensation on return except as otherwise authorized. (2) Between points in that part of AZ north and west of the Colorado River, those in that part of UT bounded by a line beginning at a point on the UT-AZ State line 20 miles east of U.S. Hwy 89 and extending northward parallel to U.S. Hwy 89 to a point 20 miles east of Ephraim, UT, then in a westerly direction through Ephraim and Delta, UT, to the UT-NV State line, then along the UT-NV State line to junction of the UT-AZ State line, and then along the UT-AZ State line to the point of beginning, on the one hand, and, on the other, railheads, in the previously described UT territory, Las Vegas, NV, points in the Los Angeles and Los Angeles Harbor, CA, commercial zones, as defined by the Commission and points in that part of CA on and south of U.S. Hwy 60. (G) *Wool, mohair, lumber, and ore,* as a *common carrier,* over irregular routes: (1) From points in the AZ and UT territory described immediately above to railheads in the UT territory specified, Las Vegas, NV, points in the Los Angeles and Los Angeles Harbor, CA, commercial zones, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized. (H) *Wool and mohair,* as a *common carrier,* over irregular routes: (1) From points in that part of UT on and west of U.S. Hwy 89 and on and south of UT Hwys 21 and 153 to Los Angeles, Wilmington, Long Beach, and San Pedro, CA, with no transportation for compensation on return except as otherwise authorized. (I) *Sawmill and mining machinery, supplies, and equipment,* as a *common carrier,* over irregular routes: (1) Between Las Vegas, NV, and the Los Angeles and Los Angeles Harbor, CA, commercial zones, as defined by the Commission, on the one hand, and, on the other, points in the AZ and UT territories described in the third paragraph next above under the commodity description of "livestock". (J) *Machinery, materials, supplies, and equipment,* incidental to, or used in the construction, development, operation and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, as a *common carrier,* over irregular routes: (1) Between points in Washington County, UT, on the one hand, and, on the other, Las Vegas, NV, and points in the Los Angeles and Los Angeles Harbor, CA, commercial zones, as defined by the Commission. Any repetition in the statement of the authority granted herein shall not be construed as conferring more than one operating right. (K) *Livestock,* as a *common carrier,* over irregular routes: (1) From points in AZ to points in Imperial, San Diego, Riverside, Orange, Los Angeles, San Bernardino, and Kern Counties, CA, with no transportation for compensation on return except as otherwise authorized. Any duplication of authority granted herein or to the extent that such authority duplicates any heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (L) *Prepared animal or poultry feed, and grain,* as a *common carrier,* over irregular routes: (1) Between points in WY. (M) *Building materials,* as a *common carrier,* over irregular routes: (1) From railheads in Uintah County, WY, to points in Uintah County, other than points located on U.S. Hwy 30-S, but including Lyman, WY, with no transportation for compensation on return except as otherwise authorized. (N) *Wool, livestock, livestock feeds, oilfield equipment and supplies, and machinery,* as a *common carrier,* over irregular routes: (1) Between railheads in Uintah County, WY, on the one hand, and, on the other, points in Uintah County, WY. (O) *Livestock,* as a *common carrier,* over irregular routes, (1) Between points in Uintah County, WY, on the one hand, and, on the other, points in UT. (P) *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, as a *common carrier,* over irregular routes: (1) Between Fort Bridger, and Urie, WY, and railhead at Carter, WY, on the one hand, and, on the other, points in Uintah County, WY. (Q) *Grain, seed, livestock feed, and livestock,* as a *common carrier,* over irregular routes: (1) Between points in WY and ID within 75 miles of Jackson, WY, including Jackson. The repetition of any authority herein shall not be construed as conferring more than one operating right. Transferee holds no operation authority as a carrier. Transferee's affiliate, St. Johnsbury Trucking Co., Inc., 40 Erie Street, Cambridge, MA 02139, is authorized to operate as a *common carrier* by motor vehicle in CT, MA, ME, NY, NJ, PA, MD, DC, DE, RI, and VT. Application has not been filed for temporary authority under section 210a(b). A related application under section 214 is being filed.

No. MC-F-13690F. Authority sought for control by MAX BINSWANGER TRUCKING, 13846 East Firestone Boulevard, Santa Fe, CA 90670, of Balser Truck Co. and Bulk Freightways, 8332 Wilcox Avenue, South Gate, CA 90280, and for the acquisition by Leaseway Transportation Corp., 21111 Chagrin Boulevard, Cleveland, OH 44122, through the acquisition by Max Binswanger Trucking of control of Balser Truck Co. and Bulk Freightways. Applicants' attorneys: John Andrew Kundtz, 1100 National City Bank Building, Cleveland, OH 44114 and Roland Rice, 501 Perpetual Building, Washington, DC 20004. Operating rights sought to be controlled: Balser Truck Co.—*raw and*

manufactured chemicals, in containers, between Los Angeles, Los Angeles Harbor, South Gate and Long Beach, CA, and *liquid concrete admixtures*, in bulk, in tank vehicles, from Cucamonga, CA, to points in AZ, ID, MT, NV, NM, OR, UT, WA, WY, and CA, and El Paso County, TX; Bulk Freightways—*lime*, in bulk, from named points in NV to a portion of CA; *sodium phosphate*, in bulk, from Long Beach, CA to St. Louis, MO; *silica gel catalyst and processed clay*, in bulk, from Vernon and South Gate, CA to El Paso, TX; and *dry chemicals*, in bulk, between points in CA. Max Binswanger Trucking is authorized to operate as a *common carrier* in the States of CA, NV, AZ, CO, and UT. Application has not been filed for temporary authority under section 210a(b).

MC-F-13691F. Authority sought for purchase by JERRY SIMPSON d.b.a. THORNTON TRANSFER, Griswold, IA 51535, of a portion of the operating rights of the Rock Island Motor Transit Co., 2744 Southeast Market Street, Des Moines, IA 50317. Transferee's attorney: Homer E. Bradshaw, 11th Floor Des Moines Building, Des Moines, IA 50309; transferor's attorneys: Raymond Goldfarb, 72 West Adams Street, Chicago, IL 60603 and Donald F. Neiman, 1119 High Street, Des Moines, IA 50309. Operating rights sought to be transferred: Regular routes, *general commodities*, except those of unusual value, nitroglycerine, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Griswold, IA and junction IA Hwy 48 and U.S. Hwy 6, serving no intermediate points but serving the off-route point of Lewis, IA, to be served from U.S. Hwy 6; from Griswold over IA Hwy 48 to junction U.S. Hwy 6, and return over the same route: between junction U.S. Hwy 59 and IA Hwy 92, and junction U.S. Hwys 59 and 6 serving no intermediate points; from junction U.S. Hwy 59 and IA Hwy 92 over U.S. Hwy 59 to junction U.S. Hwy 6, and return over the same route; between Atlantic, IA, and Audubon, IA, serving all intermediate points; from Atlantic over U.S. Hwy 6 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Audubon, and return over the same route; between Omaha, NE, and Griswold, IA, serving the intermediate points of Council Bluffs, Treynor, and Carson, IA; from Omaha across the Missouri River to Council Bluffs, IA, then over IA Hwy 92 to Griswold and return over the same route; Route 40 between Harlan, IA, and Omaha, NE, serving the intermediate points of Corley, Minden, Neola, Underwood, and Weston, IA, and the off-route point of Shelby, IA; from Harlan over U.S. Hwy 59 to Avoca, IA, then over IA Hwy 83 to junction IA Hwy 64, southeast of Neola then over IA Hwy 64 to Council Bluffs, IA, and then across the Missouri River to Omaha, and return over the same route; Route 41 between Avoca, IA and Atlantic, IA, serving the intermediate points of Hancock, Walnut, and Marne, IA; form Avoca over U.S. Hwy 59 to Oakland, IA, then over U.S. Hwy 6 to Atlantic, and return over the same route; from Avoca over IA Hwy 83 to Atlantic, and return over the same route; Route Nos. 40 and 41 are subject to the following conditions and restrictions: There may be attached from time to time to the privileges granted in Route Nos. 40 and 41 such reasonable terms, conditions and limitations as the public convenience and necessity may require. Commodities in bulk may also be transported over Route Nos. 40 and 41; and the intermediate points of Avoca and Council Bluffs, IA, may be served in conjunction with Route No. 40, in the movement of commodities in bulk and the commodities specified for that route (except livestock), subject to the following conditions: The service to be performed by said carrier shall be limited to service which is the auxiliary to, or supplemental or, rail service of the C.R.I. & P. Railroad. Said carrier shall not render any service to or from any point not a station on a rail line of the C.R.I. & P. Railroad. No shipments shall be transported by said carrier as a *common carrier* by motor vehicle between any of the following points, or through, or to, or from, more than one of said points: Omaha, NE, and Des Moines, IA, and collectively, Davenport and Bettendorf, IA, and Rock Island, Moline, and East Moline, IL. All contractual arrangements between said carrier and the C.R.I. & P. Railroad shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary, in order that such arrangements shall be fair and equitable to the parties, and such further specific conditions as the Commission in the future may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, rail service. *General commodities*, except those of unusual value, nitroglycerine, livestock, commodities requiring special equipment, and those injurious to other lading, Route 42 between Avoca, IA, and Atlantic, IA, serving the intermediate and off-route points of Hancock, Oakland, Marne, and Walnut, IA; from Avoca over U.S. Hwy 59 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Atlantic, and return over IA Hwy 83 to Avoca. Route No. 42 is subject to the following conditions and restrictions: The service is to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of the C.R.I. & P. Railroad. Said carrier shall not render any service to or from any point not a station on a rail line of the C.R.I. & P. Railroad. No shipments shall be transported by said carrier as a common carrier by motor vehicle between any of the following points, or through, or to, or from more than one of said points: Omaha, NE, and Des Moines, IA, and collectively, Davenport and Bettendorf, IA, and Rock Island, Moline and East Moline, IL. All contractual arrangements between said carrier and the C.R.I. & P. Railroad shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary, in order that such arrangements shall be fair and equitable to the parties; and such further specific conditions as the Commission in the future may find it necessary to impose in order to insure that the service shall be auxiliary to or supplemental of, rail service. *General commodities*, except those of unusual value, and except livestock, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, and those requiring special equipment. Service is authorized to and from Corley, IA, as an off-route point in connection with said carrier's authorized regular route between Omaha, NE, and Harlan, IA. Transferee is authorized to operate as an irregular route common carrier between Omaha, NE and specified points in IA. Application has been filed for temporary authority under section 210a(b).

MC-F-13692F. Authority sought for continuance in control by RFK TRANSPORTATION, INC., 1200 Norwood Drive SE., P.O. Box 2207, Cedar Rapids, IA 52406, of Curly's Delivery Service, Inc., P.O. Box 238, Swisher, IA 52338, through purchase of stock and for acquisition by Robert F. Kazimour (same address as applicant), of control of such carrier through the transaction. Attorney: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. Operating rights to be controlled (pending): *Such merchandise as is dealt in or used by retail stores* (except foodstuffs, alcoholic beverages, plumbing fixtures, and commodities in bulk), as a *common carrier*, over irregular routes, between the distribution facilities of Ardan Wholesale, Inc., located at or near Des Moines, IA, on the one hand, and, on the other, points in IA and IL. RFK TRANSPORTATION, INC., holds no authority from this Commission. However, it is controlled by ROBERT F. KAZIMOUR, who under docket No. MC-13003 and subs thereunder is authorized to operate as a contract carrier in IA, KY, TN, NC, SC, AL, AZ, UT, CA, FL, GA, LA, MS,

NV, OR, WA, IL, WI, ID, and MT, and as a common carrier in NB, AZ, CA, ID, UT, NV, OR, WA, AR, GA, IA, MN, IL, IN, OH, KY, KS, MO, OK, and TN. Application has not been filed for temporary authority under section 210a(b). (Hearing site: Cedar Rapids, IA or Lincoln, NE.)

NOTE.—Carrier to be controlled has application pending for authority to operate as a *common carrier*, over irregular routes, transporting: *Such merchandise as is dealt in or used by retail stores* except foodstuffs and commodities in bulk), from points in MN, WI, IN, OH, KY, and TN, to the facilities utilized by Ardan Wholesale, Inc., located at or near Des Moinies, IA.

MC-F-13699F. Authority sought for purchase by CHURCHILL TRUCK LINES, INC., U.S. Hwy 36 West, P.O. Box 250, Chillicothe, MO 64601, of a portion of the operating rights of Ringsby Truck Lines, Inc., P.O. Box 7240, Denver, CO 80207, of control of such rights through the purchase. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Operating rights sought to be purchased: A portion of Certificate MC 52709 authorizing the transportation of: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over regular routes, between Milwaukee, WI, and Rockford, IL: From Milwaukee, WI, over WI Hwy 15 to WI-IL State Line near Beloit, WI, then over IL Hwy 2 to Rockford, IL, and return over the same route. Application has been filed for temporary authority under section 210a(b). Vendee is authorized to operate as a common carrier in MO, IL, IA, KS, and IN.

MC-F-13700F. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: Pacific Motor Trucking Co., 1766 El Camino Real, Burlingame, CA 94010, and Griley Freightlines, 2350 Dominguez Street, Long Beach, CA 90810, seek to enter into an agreement for the pooling of traffic consisting of *general commodities* moving in interstate commerce between San Bernardino, CA and Cathedral City, Coachella, Desert Hot Springs, Edom, Garnet, Indian Wells, Indio, La Quinta, Mecca, Myoma, Oasis, Palm Desert, Palm Springs, Rancho Mirage, North Shore, Salton City, Thermal, Thousand Palms, and White Water, CA, excluding service at San Bernardino. Pacific Motor Trucking Co. is authorized to operate as a *common carrier* in the States of OR, CA, NV, AZ, NM, and TX. Applicants' representative: John MacDonald Smith, Room 813, One Market Plaza, San Francisco, CA 94105.

MOTOR CARRIER OF PASSENGERS

MC-F-13701F. Authority sought for purchase by CROWN TRANSPORTATION, INC., 549 East Cucharras; P.O. Box 1056, Colorado Springs, CO 80901, of a portion of the operating rights of GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85011, and for acquisition by Gaylord W. Weaver, 120 East Calhoun, Macomb, IL 61455, and Robert N. Byrne, 902 Bayfield Way, Unit No. 202, Colorado Springs, CO 80906, of control of such rights through the transaction. Applicants' representatives: J. Albert Sebald, 1700 Western Federal Building, Denver, CO 80202, and R. D. Rierson, Greyhound Tower, Phoenix, AZ 85077. Operating rights sought to be transferred: Passengers and their baggage and express and newspapers, in the same vehicle with passengers, as a common carrier, over regular routes between Limon, CO and Oakley, KS as follows: From Limon over U.S. Hwy 41 to Oakley. Service is authorized to and from all intermediate points on the above-described route. Vendee is authorized to operate as a common carrier in CO. Application has not been filed for temporary authority under section 210a(b) of the act.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the deviation rules—Motor Carrier of Property (49 CFR 1042.4 (c)(11)). Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

MC 2900 (Deviation No. 36), RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, filed August 11, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Baltimore, MD over MD Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction MD Hwy 300, then over MD Hwy 300 to junction DE Hwy 44, then over DE Hwy 44 to junction U.S. Hwy 13 near Dover, DE, and (2) from Baltimore, MD over MD Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 13 near Salisbury, MD and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Baltimore, MD over U.S. Hwy 40 to junction U.S. Hwy 13, then over U.S. Hwy 13 to junction U.S. Hwy 50 near Salisbury, MD and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by special rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California docket No. A 57785, filed December 30, 1977. Applicant: ATLAS FREIGHT LINES, INC., 12133 Greenstone Avenue, Santa Fe Springs, CA 90670. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of *general commodities* as follows: (1) Between all points within the Los Angeles Basin Territory as described in note A; (2) between all points within the Los Angeles Basin Territory on the one hand, and, on the other hand, San Diego. Service is authorized to, from, and between all intermediate points on and within 20 miles laterally of Interstate Hwy 5 and to, from, and between all intermediate points on and within 20 miles laterally of Interstate Hwy 15 between San Diego and its junction with U.S. Hwy 395 and to, from, and between all intermediate points on and within 20 miles laterally of U.S. Hwy 395 between its junction with Interstate Hwy 15 and the Los Angeles Basin Territory; (3) between all points and places specified in para-

graph (2) above, on the one hand, and, on the other, all points and places on and within 20 miles laterally of the following highways: (a) Interstate Hwy 10 between the Los Angeles Basin Territory and Indio, inclusive; (b) State Hwy 111 between the junction of said Hwy with Interstate Hwy 10 at or near Whitewater and Calexico, inclusive; (c) U.S. Hwy 101 between Los Angeles Basin Territory and Santa Rosa, inclusive; (d) State Hwy 1 between Los Angeles Basin Territory and Pismo Beach; (e) State Hwy 118 between Los Angeles Basin Territory and the junction of said Hwy with the U.S. Hwy 101, inclusive; (f) State Hwy 126 between its junctions with Interstate Hwy 5 and U.S. Hwy 101, inclusion; (g) Interstate Hwy 5 between San Ysidro and Woodland, inclusive; (h) State Hwy 99 between the junction of said Hwy with Interstate Hwy 5 and Sacramento, inclusive; (i) State Hwy 14 between the junction of said Hwy with Interstate Hwy 5 and U.S. Hwy 395 near Inyokern, inclusive; (j) State Hwy 58 between the junction of said Hwy with State Hwy 99 and Interstate Hwy 15, inclusive; (k) Interstate Hwy 8 between the intersection of said Hwy with Interstate Hwy 5 and Winterhaven, inclusive; (l) State Hwy 86 between the intersections of said Hwy with Interstate Hwys 10 and 8, inclusive; (m) State Hwy 62 between the intersection of said Hwy with Interstate Hwy 10 and Twenty-Nine Palms, inclusive; (n) Interstate Hwy 15 between Los Angeles Basin Territory and Baker, inclusive; (o) U.S. Hwy 395 between the intersections of said Hwy with Interstate Hwy 15 near Hesperia and State Hwy 14, inclusive; (p) Interstate Hwy 80 between the intersection of said Hwy with U.S. Hwy 101 and Auburn, inclusive; (q) Interstate Hwy 580 between the intersections of said Hwy with Interstate Hwys 80 and 5, inclusive; (r) State Hwy 152 between the intersections of said Hwy with U.S. Hwy 101 and State Hwy 99, inclusive; (s) Interstate Hwy 40 between the intersection of said Hwy with Interstate Hwy 15 and the California-Arizona border; (t) State Hwy 1 between the intersections of said Hwy with U.S. Hwy 101 near San Rafael on the north and Santa Cruz on the south; (u) Interstate Hwy 580 between the intersection of said Hwy with Interstate Hwy 5 and State Hwy 17; (4) carrier may use the Hwys named in this order in either direction and any other public roadways necessary or convenient to perform the service authorized in paragraphs (1), (2), and (3); (5) through routes and rates may be established between any and all points specified in paragraphs (1) through (3) hereof (except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in item 5 minimum rate tariff No. 4-B; (2) automobiles, trucks and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine; (4) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment; (5) liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (6) commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) commodities when transported in motor vehicles equipped for mechanical mixing in transit). Note A. Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point of Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; then northeasterly along said county line to the point it intersects State Hwy 118, approximately 2 miles west of Chatsworth; easterly along State Hwy 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary of the city of San Fernando to Maclay Avenue; northeasterly along Maclay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino national boundary to Mill Creek Road (State Hwy 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Hwy 10; northwesterly along Interstate Hwy 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadenia Drive to Iowa Avenue; southerly along Iowa Avenue to State Hwy 60; southeasterly along State Hwy 60 and U.S. Hwy 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Hwy 79; southerly along State Hwy 79 to State Hwy 74; then westerly to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Hwy 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Hwy 395; southerly along U.S. Hwy 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base. Note: Applicant presently operates as a motor common carrier under certificate of public convenience and necessity granted by the CA Public Utilities Commission in Decision No. 84148, authorizing applicant to operate generally between all points in the Los Angeles Basin Territory and between all points on State Hwy 1 and U.S. Hwy 101 extending northerly from said territory to Paso Robles, between all points on Interstate Hwy 5 and State Hwy 99 extending northerly from said territory to Fresno, between all points on Interstate Hwy 10 and State Hwy 11 extending easterly from said territory to Indio, and between all points on Interstate Hwys 5 and 15 and U.S. Hwy 395 extending southerly from said territory to San Diego. Applicant additionally operates as a common carrier by motor vehicle in interstate and foreign commerce by virtue of a certificate of registration of its State certificate issued to applicant by the Interstate Commerce Commission in docket No. MC 129711 (Sub-1). Applicant proposes to seek by this application an in lieu certificate of public convenience and necessity extending its present operating authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Present hearing date of September 19, 1978, to be continued to a date, time, and place not yet fixed. Requests for procedural information should be addressed to CA Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 7, 384M, Route 71, filed July 18, 1978. Applicant: FRANCIS J. GORRELL, d.b.a., TOPLIFF TRUCK LINE, 746 North Santa Fe, Salina, KS 67401. Certificate of public convenience and necessity sought to operate a freight service, as follows: *General commodities* (except those of unusual value, Classes A and

B explosives, household goods as defined by the Commission, commodities in bulk, and commodities injurious or contaminating to other lading), to and from and between all of the following points: Salina, Bennington, Lindsey, Minneapolis, Glasco, Simpson, Asherville, Beloit, Glen Elder, Cawker City, Downs, Osborne, Ada, Delphos, Dispatch, Barnard, Stockton, Jewell, Woodston, Alton, Bloomington, Lenora, Speed, Logan, Densmore, Edmond, Glade, Kerwin, Claudell, Gaylord, Cedar, Harlan, Portis, Jamestown, Scottsville, Randall, Natoma, Lucas, Luray, Waldo, Paradise, Tipton, Plainville, Hunter, Prairie View, Stuttgart, Phillipsburg, Gretna, Agra, Kensington, Athol, Smith Center, Bellaire, Lebanon, Esbon, Burr Oak, Mankato, Montrose, Formoso, Courtland, Rydal, Scandia, Kackley, Norway, Solomon Rapids, Ionia, Codell, and Wichita; Restricted, however, to provide no service between Wichita, KS and Salina KS and Wichita, KS and Plainville, KS; form Wichita North on Interstate 35W to Salina, then North on U.S. 81 to U.S. 24, then west on U.S. 24 to Stockton, then north on U.S. 183 to Kansas Hwy 9, then west on Kansas 9 to Lenora, then east on Kansas Hwy 9 to U.S. 281, then south on U.S. 281 to U.S. 24; and return over the same route. Also, from Wichita north in Interstate 35W to Salina, then north on U.S. 81 to U.S. 36, then west on U.S. 36 to Prairie View and return over the same route. Also, from Wichita north on Interstate 35W to Salina, then north on U.S. 81 to Kansas Hwy 18 to Plainville and return over the same route. Also, from U.S. 36 south over U.S. 183, U.S. 281 and Kansas 181, and Kansas 14 to U.S. 24, and Kansas Hwy 18 and return over the same route or any other routes authorized herein serving all on-route and off-route points authorized herein. Intrastate, interstate and foreign commerce south. Hearing: September 12, 13, and 14, 1978, at 9:30 a.m., at the Holiday Inn, 453 South Broadway, Salina, KS. Requests for procedural information should be addressed to Kansas State Corporation Commission, State Office Building, Topeka, KS 66612, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23647 Filed 8-23-78; 8:45 am]

[7035-01]

[Notice No. 705]

ASSIGNMENT OF HEARINGS

AUGUST 21, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Comnmnission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136964 (Sub-2), Thomas Milton, d.b.a. Milton Bus Service is assigned for hearing September 11, 1978 at Fredericksburg, VA, and will be held at City Council Chamber, City Hall, Prince's Ann and William Street.

MC 111545 (Sub-241), Home Transportation Co., Inc., and MC 112304 (Sub-135F), Ace Doran Hauling & Rigging Co., is assigned for hearing September 12, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 134922 (Sub-243), B. J. McAdams, Inc., is assigned for hearing September 13, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 143790 (Sub-3), Federal Feight System, Inc. is assigned for hearing September 14, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC-F 13395, Bender & Loudon Motor Freight, Inc.—control and merger—Lima Trucking Co. and MC 3151 (Sub-20), Bender & Loudon Motor Freight, Inc., is assigned for hearing September 18, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 144151, Westrux Timber Transit, Inc., is assigned for hearing September 13, 1978 at Olympia, WA and will be held at Conference Room No. 733, Highways and Licenses Building, 12th Capitol Way.

AB 1 (Sub-59), Chicago & North Western Transportation Co. abandonment near Heron Lake and Lake Wilson, in Jackson, Nobles and Murray Counties, MN is assigned for hearing September 12, 1978 at Slayton, MN and will be held at meeting room, the New Murray County Building, Broadway Avenue.

AB 7 (Sub-43), Chicago, Milwaukee, St. Paul & Pacific Railroad Co. abandonment near Paralta and Hopkinton, in Linn, Jones, and Delware Counties, IA, is assigned for hearing September 11, 1978 at Anamosa, IA and will be held at Court House Community Room on High Street.

MC-F 13182, Newman Bros., Trudking Co.—purchase—E. M. Keller & Co., Inc., and MC 120761 (Sub-21), Newman Bros., Trucking Co., is assigned for hearing September 11, 1978 at Dallas, TX and will be held at Baker Hotel, 1400 Commerce Street.

MC 48958 (Sub-148), Illinois-California Express, Inc., is assigned for hearing September 11, 1978 at Fort Collins, CO and will be held at Ramada Inn, Room 102, I-25 and Highway 14.

MC 143998, Clifford T. Glenn, d.b.a. Tally-Ho Charter Service, is assigned for hearing September 6, 1978 at El Paso, TX and will be held at City Court Room 500, City Building, San Antonio Street.

AB 10 (Sub-11), Norfolk & Western Railway Co. abandonment between New Castle and Rushville, in Henry and Rush Counties, IN, and AB 10 (Sub-12), Norfolk & Western Railway Co. abandonment between Connersville and New Castle, in Henry, Wayne and Fayette Counties IN, is assigned for hearing September 11, 1978 at New Castle, IN and will be held at W. F. Byrket Center, State Road No. 3 Memorial Drive.

MC 143516, Rail Highway Transportation, Inc., is assigned for hearing September 7, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 115826 (Sub-267), W. J. Digby, Inc., is assigned for hearing September 18, 1978 at San Francisco, CA and will be held at Court Room 2, 6th Floor, 211 Main Street.

MC 128273 (Sub-256), Midwestern Distribution, Inc., is assigned for hearing September 18, 1978 at San Francisco, CA and will be held at Court Room 2, 2111 Main Street, 6th Floor.

MC 112520 (Sub-347), McKenzie Tank Lines, Inc., is assigned for hearing September 25, 1978 at Atlanta, GA, and will be held at Room 226, U.S. Court House, 56 Forsyth Street, NW.

MC 139495 (Sub-320F), National Carriers, Inc., is assigned for hearing September 6, 1978 at Columbus, OH and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 144011, Hall Systems, Inc., is assigned for hearing September 25, 1978 at Birmingham, AL and will be held at GSA Conference Room 430, Federal Building, 85 Marconi Boulevard.

MC 29120 (Sub-207), All-American, Inc., is assigned for hearing September 25, 1978 at Denver, CO and will be held at Room C-503 U.S. Court House, 1961 Stout Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 8-23798 Filed 8-23-78; 8:45 am]

[7035-01]

[Notice No. 151]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in

the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 13569 (Sub-38TA) filed June 19, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, 167 Fairfield, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags, paper, NOI*, from the plantsite of the International Paper Co. at Wilmington, OH to points in Glens Falls, NY, Saylor, PA and Northampton, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Co., 220 East 42 Street, New York, NY 10017. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 26396 (Sub-187TA) filed June 26, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud* and additives from Big Horn County, WY to ports of entry on the international boundary line between the United States and Canada in the State of MT, for 180 days. Supporting shipper(s): Harry R. Funk, Wyo Ben Products, P.O. Box 529, Greybull, WY 82425. Send protests to: Paul J. Labane, District Supervisor, I.C.C., 2602 First Avenue North, Billings MT 59101.

MC 43963 (Sub-14TA), filed June 26, 1978. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, Lake Station, IN 46405. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipes, fittings, valves, hydrants and accessories* thereto, from the facilities of U.S. Pipe & Foundry Co., at Birmingham and Bessemer, AL to points in IL, IN, and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. J. Travis, Traffic Manager, U.S. Pipe & Foundry Co., P.O. Box 10406, Birmingham, AL 35202. Send protest to: Lois M. Stahl, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 115496 (Sub-94TA), filed June 27, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochaan, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, valves, hydrants, and accessories thereto*, from the facilities of U.S. Pipe & Foundry Co., at North Birmingham, AL, and Bessemer, AL, to Mobile, AL, restricted to traffic having a subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Pipe & Foundry Co., P.O. Box 10406, Birmingham, AL 35202. Send protest to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115826 (Sub-328TA), filed June 27, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Nozales, AZ, to Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Western Grocers Co., 4120 Brighton Boulevard, Denver, CO; (2) Western Commodities, Ltd., P.O. Box 3042, Vancouver, BC, Canada. Send protest to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 117758 (Sub-8TA), filed June 26, 1978. Applicant: GRINGERI BROS. TRANSPORTATION CO., INC., Ayer Road, Route 110 and 111, Harvard, MA 01451. Representative: James F. Martin, Inc., 8 West Morse Road, Bellingham, MA 02019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, from the facilities of General Foods Corp. at Dedham, MA, to South Portland, ME, Manchester and Keene, NH, and Hartford, VT. Restricted to shipments originating at the facilities of General Foods Corp., and destined to the named points, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY 10625. Send protest to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 118142 (Sub-180), filed June 27, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from the facilities of Southland Frozen Foods, Inc., Plant City, FL to points in GA, KY, MI, MO, NJ, PA, TN, and WI, for 180 days. Supporting shipper: Southland Frozen Foods, Inc., 1 Linden Place, Great Neck, NY 11021. Send protest to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 119654 (Sub-46TA), filed June 26, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers* from Burlington, WI, to points in IL, IN, KY, MI, MO, and OH for 180 days. Supporting shipper: Continental Group, Inc., Thomas D. Corbett, Division Manager of Traffic, One Landmark Square, Suite 525, Stamford, CT 06901. Send protest to: Jack H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 120924 (Sub-2TA), filed June 26, 1978. Applicant: B. & W. CARTAGE CO., INC., 2932 West 79th Street, Chicago, IL 60652. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts*, from Grand Rapids, MI to Chicago, IL. Restricted to traffic having a subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chrysler Corp., P.O. Box 1976, Detroit, MI 48288. Send protest to: Lois Stahl, District Supervisor, Interstate Commerce Commission, 219 South Dearborn Street, Chicago, IL 60604.

MC 123061 (Sub-96TA), filed June 27, 1978. Applicant: LEATHAM BROS., INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes and sheets, corrugated or not corrugated*, KDF, from facilities of Boise Cascade Corp., at or near Nampa, ID, to points in NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corp., P.O. Box 7747, Boise, ID 83707 (Edwin C. Tauge, Traffic Manager—Packaging). Send protest to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123157 (Sub-43TA), filed June 27, 1978. Applicant: CTI, P.O. Box 397, 11115 North Casa Grande Highway, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Rillito, AZ, to Blythe, CA, and Cibola, AZ (via Blythe, Ripley, and Palo Verde, CA), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arizona Portland Cement, 222 West Osborn, Phoenix, AZ 85012. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 126715 (Sub-12TA), filed June 27, 1978. Applicant: TRANSPORT SERVICE, 8101 Northeast 11th Avenue, Portland, OR 97211. Representative: John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products* (in bulk, in tank vehicles), from Tacoma, WA, to points in Missoula, Silver Bow, and Flathead Counties, MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cascade Asphalt Sealing Co., P.O. Box 9717, Tacoma, WA 94809. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 133655 (Sub-114TA), filed June 26, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber*, from Borger, TX, to Denver, CO, and Petosi, MO, for 180 days. Supporting shipper(s): Howard Hugus, Inc., 211 Avenida Santa Elena, La Habra, CA 90631. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 133655 (Sub-115TA), filed June 26, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feed* (except in bulk), from the facilities of Sunshine Feed Mills, Inc., at Red Bay, AL, and Tupelo, MS, to points in IL, KY, IN, NY, OH, OK, PA, TX, WV, and MD, for 180 days. Supporting shipper(s): Sunshine Feed Mills, Inc., P.O. Drawer S, Red Bay, AL 35582. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 138946 (Sub-10TA), filed June 27, 1978. Applicant: MARKET TRANSPORT, LTD., 33 Northeast Middlefield, Portland, OR 97211. Representative: Nick I. Goyak and Dennis H. Elliott, 555 Benjamin Franklin Plaza, 1 Southwest Columbia, Portland, OR 97258. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers*, from Portland and Beaverton, OR, to Winters, CA, under a continuing contract, or contracts, with Portland Distributing Co., Columbia Distributing Co., and Maletis, Inc., for 180 days. Supporting shipper(s): (1) Portland Distributing Co., 2026 Columbia Boulvard, Portland, OR 97211 (2) Columbia Distributing Co., 2448 Northwest 28th Avenue, Portland, OR 97210, and (3) Maletis, Inc., 2448 Northwest 28th Avenue, Portland, OR 97210. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 142368 (Sub-12TA), filed June 19, 1978. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, P.O. Box 3048, City of Industry, CA 91744. Representative: William H. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafoods*, from points in the Los Angeles Harbor, CA, commercial zone, the port facilities at Newport News and Hampton, VA, and the ports of entry between the United States and the Republic of Mexico at or near Brownsville, TX, Laredo, TX, Nogales, AZ, and San Ysidro, CA, to Houston, TX; Jacksonville, FL, Norfolk, VA, and Pico Rivera, CA, to points in CA, AZ, NM, TX, OK, AR, LA, MS, AL, GA, FL, SC, NC, VA, MD, DE, PA, NJ, NY, and DC, for 180 days. Supporting shipper(s): Norwegian Fish Importers, Inc., 4821 Gregg Road, Pico Rivera, CA 90660. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143691 (Sub-12TA), filed June 27, 1978. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy, P.O. Box 4313, Atlanta, GA 30302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Microfilm, microfiche, microforms, and related items* as used in the business of banks or financial institutions, (a) between Flora, MS, on the one hand, and, on the other, Jackson, MS, and (b) between Orlando and Miami, FL, on the one hand, and, on the other, all points in FL, restricted to the transportation of shipments having an immediately prior or subsequent movement by air, under a continuing contract, or contracts, with Southern Vital Record Center, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southern Vital Record Center, Box 236, Flora, MS 39071. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 144004 (Sub-1TA), filed June 23, 1978. Applicant: JOHN TREFF, JR., d.b.a. TREFF TRUCKING, 2625 North 139th Street, Basehor, KS 66007. Representative: Eugene W. Hiatt of Hiatt, Crockett, Hiatt & Carpenter, 207 Casson Building, Topeka,

KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of Inland Storage Distribution Center, located at Kansas City, KS, to States of TX and OK, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Inland Storage Distribution Center, P.O. Box 2249, Kansas City, KS 66110. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 144117 (Sub-13TA), filed June 16, 1978. Applicant: TLC LINES, INC., P. O. Box 1090, 1666 Fabick Drive, Fenton, MO 63026. Representative: Daniel C. Sullivan, 10 South LaSalle, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel shelving and bins, unassembled pallet racks, storage racks, screw cases, and storage cabinets;* and (2) *Accessories* for the commodities described in (1) above: From the facilities of the Frick-Gallagher Manufacturing Co., at Wellston, OH, to points in AZ, CA, CO, FL, ID, MN, NV, NM, OR, TX, UT, WA, and WY. Restriction: Restricted to traffic originating at the facility of the Frick-Gallagher Manufacturing Co., at Wellston, OH, and destined to points in the above named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Frick-Gallagher Manufacturing Co., Wellston, OH 45692. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 144415 (Sub-2TA), filed June 27, 1978. Applicant: KACHINA STONE CO., 8900 North Central Avenue, Suite 212, Phoenix, AZ 85020. Representative: Zelba Butler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* (in bulk, in dump trucks), between points in Maricopa County, AZ, on the one hand, and on the other, El Paso County, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): V.S.S. Co., Inc., P.O. Box 27176, Tempe, AZ 85282. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 144561 (Sub-1TA) filed June 27, 1978. Applicant: EDWARD B. GIBSON, 4116 Oakhill Lane, Jonesboro, AR 72401. Representative: John R. Henry, 405 Market, Harrisburg, AR 72432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Jonesboro, AR, to the following points in MO, Thayer, Alton, West Plains, Willow Springs, Mt. View, Doniphan, Poplar Bluff, Sikeston, Parma, Malden, Kennett, Charleston, East Prairie, Caruthersville, Portageville, Dexter, Steele and New Madrid, under a continuing contract, or contracts, with Builders Material Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Builders Material Co., 102 North Gee Street, Jonesboro, AR 72401. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144672 (Sub-3TA) filed June 23, 1978. Applicant: VICTORY EXPRESS, INC., Box 26189, Trotwood, OH 45426. Representative: Paul F. Beery, Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, (except in bulk), from the plantsite of Peavy Corp. at Alton, IL, to points in GA, IN, KY, MI, OH, TN, MN, WI, LA, VA, NY, NJ, IA, PA, FL, and AL, for 180 days. Supporting shipper(s): Peavy Co., John Barker, Traffic Manager, Alton, IL 62002. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 144858 (Sub-2TA) filed June 16, 1978. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, (except in bulk), (1) From the facilities of Sterling Vineyards at Calistoga, CA, and Gonzales & Co., Inc., at Gonzales, CA, to Boston, MA; New York City and Hammondsport, NY; Baltimore, MD; Washington, DC; Miami and Tampa, FL; Atlanta, GA; New Orleans, LA; Chicago, IL; Houston and Dallas, TX; and Denver, CO; and (2) from the facilities utilized by Gonzales & Co., Inc., at Ripon, CA, to points in DC, CT, FL, GA, MA, MD, ME, NC, NH, NY, RI, SC, VA and VT, and NJ. Restriction: Restricted to traffic originating at the above-named facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Sterling Vineyards, P.O. Box 365, Calistoga, CA 94515. (2) Gonzales & Co., Inc., P.O. Box 780, Gonzales, CA 93926. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144883 (Sub-1TA), filed June 27, 1978. Applicant: EARL MOORE, d.b.a. S & M Marketing, 825 Willow Street, P.O. Box 5422, Redwood City, CA 94063. Representative: James T. Proctor, Graham & James, 1 Maritime Plaza, Suite 300, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in refrigerated trailers, from Wilmington and Long Beach, CA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Chiquita Brands, Inc., Berth 147, Neptune Avenue, Wilmington, CA 90744. (2) Del Monte Banana Co., Pier D, Berth 34, Long Beach, CA 90802. Send protest to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144954TA, filed June 22, 1978. Applicant: ROADRUNNER WRECKERS, INC., Route 1, Box 420, Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trucks, tractors, semi-trailers, trailers, wrecked or disabled;* (2) *replacement power units* for tractors described in (1) above; (3) *automobiles and pickup trucks*. Restriction: Restricted in (1), (2), (3) above to the transportation of shipments in wrecker equipment. (1) From points in OR, WY, MT, ID, NV, CA, WA, and UT to points in Ada, Canyon, and Payette Counties, ID, and Malheur County, OR; (2) from Payette, Ada, or Canyon Counties, ID, and Malheur County, OR, to points in OR, WY, MT, ID, NV, CA, WA, and UT; and (3) from points in CA to points in Malheur County, OR, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 15 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named

below. Send protest to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23794 Filed 8-23-78; 8:45 am]

[7035-01]

[Notice No. 152]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 28, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicted, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 54203 (Sub-1TA), filed June 26, 1978. Applicant: V. SENG TEAMING CO., 2155 North Rose Street, Franklin Park, IL 60106. Representative: V. J. Seng, Jr., 600 North Thomas Drive, Bensenville, IL 60106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and paper or pulp mill supplies*, between the commercial zones of Marinette and Oconto Falls, WI, on the one hand, and the commercial zones of Chicago, IL, on the other hand, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James E. Duffy, Staff Transportation Manager, Scott Paper Co., Scott Plaza I, Philadelphia, PA 19113. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 108119 (Sub-89TA), filed June 28, 1978. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing, fencing materials, wire and wire products*, from the facilities of Bekaert Steel Wire Corp. at Van Buren, AR, to Long Island City, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bekaert Steel Wire Corp., I-40 and Lee Creek Road, Van Buren, AR 72956. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 109649 (Sub-24TA), filed June 28, 1978. Applicant: L. P. TRANSPORTATION, INC., Gross and Main Streets, Chester, NY 10918. Representative: John L. Alfano, Alfano & Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, agricultural grade*, in bulk, from Olean, NY, to points in Erie, Warren, McKean, Crawford, Mercer, Venango, Elk, Forest, Potter, and Cameron Counties, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agrico-Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

MC 109692 (Sub-60TA), filed June 28, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and equipment and supplies* used or useful in the installation and distribution thereof, from the facilities of the Roofing Division of Masonite Corp., located at or near Little Rock, AR, to points in IL, KS, MO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corp., Roofing Division, P.O. Box 5777, Meridian, MS 39301. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 110525 (Sub-1247TA), filed June 26, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC. 520 East Lancaster Avenue, P.O. Box 200, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Ashland, OH, to Brazil and North Vernon, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Latex & Chemical Corp., P.O. Box 498, Ashland OH, 44805. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 112617 (Sub-396TA), filed June 28, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation gas* (in bulk, in tank vehicles), from Miami, FL, to Columbus, IN, for 120 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. W. L. Paris, President, Central American International, Inc., P.O. Box 5637, Louisville, KY 40205. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 113760 (Sub-14TA), filed June 28, 1978. Applicant: PETCO INC., INTERSTATE, 7627 Dahlia Street, P.O. Box 447, Commerce City, CO 80037. Representative: Richard J. Bara, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel*, in bulk, in insulated tank vehicles, from Denver, CO, to the facilities of Nebraska Public Power District, Bluff Station, located at or near Scottsbluff, NE, for 180 days. No tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operat-

ing authority. Supporting shipper: Shelley Petroleum Inc., 7030 South Yale, Suite 309, Tulsa, OK 74136. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 114457 (Sub-404TA), filed June 28, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing goods*, from Ottumwa, IA, to Bismarck, Fargo, Grand Forks, Minot, and Dickinson, ND, for 180 days. Supporting shipper: Universal-Rundle Corp., 217 North Mill Street, New Castle, PA 16103. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 117975 (Sub-8TA), filed June 26, 1978. Applicant: MOTOR EXPRESS, INC., P.O. Box 604, Edinburg, TX 78539. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* from Galveston, TX, to points in LA; and (2) *Empty containers, cooperage, and dunnage*, from points in LA to Galveston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Falstaff Brewing Corp., 3301 Church Street, Galveston, TX 77550. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 East Durango Street, San Antonio, TX 78206.

MC 118696 (Sub-15TA), filed June 26, 1978. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets and vanities, and accessories used in connection with kitchen cabinets and vanities*, from Union City, IN, to points in ND, SD, NE, KS, MN, WV, DE, VT, NH, and ME, for 180 days. Supporting shipper: Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX. Send protests to: Lois Stahl, District Supervisor, Interstate Commerce Commission, 219 South Dearborn Street, Chicago, IL 60604.

MC 119493 (Sub-214TA), filed June 28, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, furniture dimensions, squares, molding, crating*, from St. Louis, MO, Nashville, IL, AR, LA, AL, GA, TN, to IA, WI, MN, ND, SD, NE, KS, CO and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Floyd M. Rice Lumber Co., Inc., Olympia Fields, IL, and Thomas & Proetz Lumber Co., St. Louis, MO. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119493 (Sub-215TA), filed June 28, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel, P.O. Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel articles and tin mill products*, from the facilities of Midwest Steel Division, National Steel Corp., at or near Portage, IN, to NE, KS, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midwest Steel Division, National Steel Corp., Portage, IN 46368. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119670 (Sub-37TA), filed June 26, 1978. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Avenue, P.O. Box 32115, Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose insulation and materials*, equipment and supplies used in the manufacture, sale, distribution, and application of cellulose insulation, between Lebanon, OH, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NY, NC, PA, SC, TN, VA, WV, WI, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Air Maintenance, Inc., Peter M. Block, president, 240 Harmon Avenue, Lebanon, OH 45036. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, ICC, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

MC 123048 (Sub-407TA), filed June 28, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast modular crypt systems*, from Oshkosh, WI, to ports of entry between the United States and Canada at Detroit and Port Huron, MI, for furtherance to points in Ontario and Quebec, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Duwe Precast Concrete Products, Inc., P.O. Box 2068, Oshkosh, WI 54903 (W. Robert Bruce). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 123392 (Sub-77TA), filed June 28, 1978. Applicant: JACK B. KELLEY, INC., Rt. 1, Box 400, Amarillo, TX 79106. Representative: Austin L. Hatchell, Suite 1022, Perry Brooks Bldg., Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, and liquid oxygen*, in bulk, in cryogenic tank trailers, from Waukesha, WI, to points in ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Airco Industrial Gases, 2001 West 16th Street, Broadview, IL 60153. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 123407 (Sub-479TA), filed June 26, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by home improvement centers* from the facilities of Color Tile Supermart, Inc., at Jessup, MD, to points in the United States in and east of ND, SD, NE, CO, OK, and TX: and from points in the United States in and east of ND, SE, NE, CO, OK, and TX to the facilities of Color Tile Supermart, Inc., located in the United States in and east of ND, SD, NE, CO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Color Tile Supermart, Inc., 3 Tendy Center, P.O. Box 2475, Fort Worth, TX 76101. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Build-

ing, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 124078 (Sub-829TA), filed June 28, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Vassar, MI, to Peoria, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brass Foundry Co., 713 SW., Adams, Peoria, IL 61602. (C. F. Lloyd). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124251 (Sub-52TA), filed June 27, 1978. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Whitfield County, GA, to points in MD, OH, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Chemical U.S.A., Eastern Division, 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44136. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 134477 (Sub-252TA), filed June 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulfate*, (except in bulk), from Brownfield, TX, to Eagan, MN, for 180 days. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 138082 (Sub-1TA), filed June 28, 1978. Applicant: WARREN WILSON TRUCK LINE, R.R. No. 2, Stover MO 65078. Representative: Warren Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron pipe fittings*, from Laurie, MO, to Lawrence KS, by way of Hwy No. 5 to No. 50 to No. 291 to Interstate 70, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bravois Manufacturing Co., Laurie, MO. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut Street, Interstate Commerce Commission, Kansas City, MO 64106.

MC 138328 (Sub-71TA), filed June 28, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, Interstate-80 and Hwy 50, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sterno fireplace logs*, from Travis County, TX, to points in the United States (except points in AZ, CA, MT, NV, OR, TX, UT, WA, WY, AK, and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralph Stingo, Traffic Manager, Colgate-Palmolive Co., 1806 Kansas Avenue, Kansas City, KS 66105. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 138841 (Sub-11TA), filed June 26, 1978. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat* from Rapid City, SD to points in MT, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Black Hills Packing Co., P.O. Box 2130, Rapid City, SD 57709, Richard Sletten, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 144692TA, filed June 26, 1978. Applicant: CTX, INC., c/o S. J. Miller, Weinberg, & Green, 10 Light Street, Baltimore, MD 21202. Representative: Steven L. Weiman, Esq., Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, classes A and B explosives, household goods as defined by the commission, and commodities requiring the use of special equipment), in containers or in trailers, and *empty used containers, empty used trailers, and used trailer chassis*, between New York, NY; Philadelphia, PA; Baltimore, MD; and Norfolk, VA, and their respective commercial zones; restricted to the transportation of traffic having either (1) a prior or subsequent movement by water or (2) moving to or from a container repair facility, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 19 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B, Federal Building, Baltimore, MD 21201.

MC 144927(TA), filed June 26, 1978. Applicant: Remington Freight Lines, Inc., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, HARRISON, MOBERLY & GASTON, 777 Chamber of Commerce Building, Indianapolis, IN 46204, 317-639-4511. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (corrected as follows) *Dry milk products*, from Louisville, KY, to points and places in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, IA, MD, KS, LA, MA, MI, MS, MO, NE, NH, RI, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WV, WI, and ME; and *soya flour, corn flour, and milk powder*, when transported with nonexempt commodities, from points and places in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, IA, MD, KS, LA, MA, MI, MS, MO, NE, NH, RI, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WV, ME, and WI, to Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Milk, Inc., 4820 Almond Avenue, Louisville, KY 40214, Ronald Schuckmann, Traffic Manager. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 144966TA, filed June 26, 1978. Applicant: T.C.E. CORP., 3370 Highway 35, P.O. Box 128, Hazlet, NJ 07730. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical goods*, and parts and accessories used in the manufacture and distribution of electrical goods, except in bulk, from South Plainfield, NJ, to AL, CA, CO, FL, GA, IL, MD, MA, MN, MO, NV,

NC, PA, TN, TX, UT, and WV, and materials, equipment, and supplies, used in the manufacture and distribution of electrical goods, and parts and accessories, except in bulk, from AL, AR, CA, CO, FL, GA, IL, IN, MD, MA, MI, MN, MO, NV, NC, OH, PA, TN, TX, UT, WV, and WI to South Plainfield, NJ, under a continuing contract, or contracts, with Brownell Electro, Inc., for 180 days. Supporting shipper: Brownell Electro, Inc., 500 Hadley Road, South Plainfield, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23795 Filed 8-23-78; 8:45 am]

[7035-01]

[Notice No. 154]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 52704 (Sub-175TA) filed June 30, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Box "H," LaFayette, AL 36862. Representative: Archie B. Culbreth, attorney at law, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends, shrouds, pallets, chipboard and dunnage*, between Winston-Salem, NC, on the one hand, and on the other, Memphis, TN, and Tampa, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jos. Schlitz Brewing Co., 235 West Galena, Milwaukee, WI 53212. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 58959 (Sub-3TA), filed June 30, 1978. Applicant: A.L.A. DELIVERY CORP., 100 Caven Point Road, Jersey City, NJ 07305. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toys, games, dolls, plastic articles, plumbing and heating materials and supplies, and paper and paper products*, from points in the New York, NY, commercial zone to Hauppauge, NY; (2) *Empty containers on chassis which carrier moved loaded in the opposite direction*, from Hauppauge, NY, to points in the New York, NY, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stafford Enterprises, Inc., 111 West Industry Court, Deer Park, NY 11729. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 59640 (Sub-65TA), filed June 30, 1978. Applicant: PAULS TRUCKING CORP., 3 Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys, sporting goods, hobby articles, and commodities* sold in retail and wholesale toy and variety stores, for the account of Lash-Tamaron Distributors, division of Toys "R" Us, Inc., between Mansfield, MA, on the one hand, and, on the other, points in CT, DE, ME, MD, NH, NJ, NC, OH, PA, RI, VA, and DC, under a continuing contract or contracts with Lash-Tamaron, for 180 days. Applicant has also filed an underlying ETA for 90 days of operating authority. Supporting shipper: Lash-Tamaron, Division of Toys "R" Us, Inc., 299 Market Street, Saddlebrook, NJ 07662. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 60186 (Sub-53TA), filed June 30, 1978. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, P.O. Box 356, Rockville, CT 06066. Representative: Clifford J. O. Nelson, 47 East Street, Rockville, CT 06066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Plattsburgh, NY to points in PA, DE, MD, and DC, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Pacific Corp., 800 Summer Street, Stamford, CT 06901. Send protest to: J. D. Perry, Jr., Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

MC 69397 (Sub-47TA), filed June 30, 1978. Applicant: JAMES H. HARTMAN & SONS, INC., P.O. Box 85 U.S. Route 13, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Charles County, MD, to points in PA, NJ, and NY, for 180 days. Supporting shipper: Bailey Lumber Co., P.O. Box 127, White Plains, MD 20695. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

MC 69492 (Sub-64TA), filed June 30, 1978. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO. P.O. Box 97, Clinton, KY 42031. Representative: Mr. Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from St. Louis, MO, to Memphis, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. Canale & Co., 623 Tennessee, Memphis, TN 38103. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building,

Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 114457 (Sub-407TA), filed June 30, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Philadelphia, PA, to Columbus, OH; Indianapolis, IN, and Chicago, IL, for 180 days. Supporting shipper: Scott Paper Co., Scott Plaza, Philadelphia, PA 19113. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 115651 (Sub-42TA), filed June 30, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins, 7222 Cunningham Road, Rockford, IL 61102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions*, in bulk, in tank trucks, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. W. Olson, Distribution Coordinator, Smith-Douglass Division of Borden Chemicals, Borden, Inc., 5100 Virginia Beach Boulevard, P.O. Box 419, Norfolk, VA 23501. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123675 (Sub-5TA), filed June 30, 1978. Applicant: SOLDIER BROS. ABT LINE, INC., 614 Paine Avenue, Toledo, OH 43605. Representative: Arthur R. Cline, Attorney-at-Law, 420 Security Building, Toledo, OH 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and stampings*, from Fort Wayne, IN, to points in Wayne, Macomb, and Oakland Counties, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The City Auto Stamping Co., Division of Sheller-Globe Co., Lint and Dura Avenues, Toledo, OH 43612. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 123778 (Sub-38TA), filed June 30, 1978. Applicant: JALT CORP., d.b.a. United Newspaper Delivery Service, 75 Cutlers Dock Road, P.O. Box 398, Woodbridge, NJ 07095. Representative: Morton E. Kiel, 5 World Trade Center—Suite 6193, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and magazine parts*, from Strasburg, VA and Washington DC, to points in the New York, NY commercial zone, under a continuing contract or contracts with McGraw-Hill Publications Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McGraw-Hill Publications Co., 1221 Avenue of the Americas, New York, NY 10020. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 124328 (Sub-119TA), filed June 31, 1978. Applicant: BRINK'S INC., One Crossroads of Commerce Corner, Suite 710, Algonquin Road, Route 53, Rolling Meadows, IL 60008. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, between Atlanta, GA, on the one hand, and, on the other, Hamilton and Polk Counties, TN, and Russell and Chambers Counties, AL, under a continuing contract or contracts with Pierre M. Viguerie, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pierre M. Viguerie, Vice President, Federal Reserve Bank of Atlanta, Federal Reserve Station, Atlanta, GA 30303. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128633 (Sub-18TA), filed June 30, 1978. Applicant: LAUREL HILL TRUCKING CO., 614 New County Road, Secaucus, NJ 07094. Representative: George Carl Pezold, Esq., 120 Main Street, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines and related products*, between Malvern, PA, on the one hand, and, on the other, Buena Park, CA; Kent, WA; Cleveland, OH; Chicago, IL; and Secaucus, NJ, under a continuing contract or contracts with Wyeth Laboraties, for 180 days. Supporting shipper: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 138882 (Sub-105TA), filed June 30, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, Traffic Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the facilities of Louisiana Pacific Corp., at or near Clayton, AL, to points in and east of MN, LA, MO, AR, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana Pacific Corp., P.O. Box AB, New Waverly, TX 77358. Send protests to: Mabel E. Houlston, Transportation Assistant, Bureau of Operations, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138890 (Sub-10TA), filed June 30, 1978. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products* from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper: (1) International Co-op, P.O. Box 1378, Grand Forks, ND 58201; (2) American Potato Co., Bank of America Center, 555 California Street, San Francisco, CA 94104; (3) Wiscold, Inc., 11400 West Burleigh Street, P.O. Box 26336, Milwaukee, WI 53226. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 140024 (Sub-120TA), filed June 30, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Representative: John F. DeCock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, frozen*, (except bulk), from Philadelphia, PA and Fort Wayne, IN to Chicago, IL, Denver, CO, Los Angeles, CA, and Little Rock, AR, for 180 days. No tack or interline. Supporting shipper(s): Tastykake, Inc., and subsidiary Ole South foods, 2801 Hunting Park Avenue, Philadelphia, PA 19129. Send protests to: D/A Roger Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 140101 (Sub-4TA), filed June 30, 1978. Applicant: I.T.A. TRUCKING, INC., P.O. Box 62, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Frozen vegetables and frozen potato products,* from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) International Co-op, P.O. Box 1378, Grand Forks, ND 58201; (2) Wiscold, Inc., 11400 West Burleigh Street, P.O. Box 26226, Milwaukee, WI 53226; (3) American Potato Co., Bank of America Center, 555 California Street, San Francisco, CA 94104. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison WI 53703.

MC 140820 (Sub-5TA), filed June 30, 1978. Applicant: A. & R. TRANSPORT, INC., 2996 North Illinois 71, Route 3, Ottawa, IL 61350. Representative: James R. Madler, 120 West Madison Street, Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sand,* in bulk, from La Salle County, IL, to Lawrenceburg, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thatcher Glass Manufacturing Co., Donald W. Pixley, General Traffic Manager, 1430 Colonial Drive, Horseheads, NY 14845. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144041 (Sub-16TA), filed June 30, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2750 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, 235 Peachtree Street NE., Suite 1200, Atlanta Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk), with facing on one or more sides from Hamilton, OH, to points in the United States on and east of U.S. Hwy 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical U.S.A., Eastern Division, 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44136. Send protests to: T/A Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 144473 (Sub-3TA), filed June 30, 1978. Applicant: DORVAL CORP., 1201 Corbin Street, Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts,* from Tampa, and Miami, FL, to Los Angeles, Sacramento, San Diego, San Francisco, CA; Albany, Atlanta, Augusta, GA; Chicago, Granite City, Springfield, IL; Evansville, Fort Wayne, Goshen, IN; Newark, Paterson, Perth Amboy, Trenton, NJ; Canajoharie, Oneida, Oneonta, NY; Charlotte, Raleigh, Rocky Mountain, NC; Dennison, OH; Lebanon, Philadelphia, Pittsburgh, PA; Charleston, Columbia, Dillon, Spartenburg, SC; Chattanooga, Knoxville, Memphis, TN; Dallas, El Paso, TX; Alexandria, Bedford, Norfolk, Richmond, VA; under a continuing contract or contracts with United Beef Packers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Beef Packers, 1630 Northwest 70th Avenue, Miami, FL. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144830 (Sub-1TA), filed June 30, 1978. Applicant: LOWELL P. FORD, d.b.a. FORD TRUCKING CO., Allison Street, Piedmont, AL 36272. Representative: Archie B. Culbreth, Attorney, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber,* from Piedmont, AL, to points in IL, OH, and WI, under a continuing contract or contracts with Willis Lumber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Willis Lumber Co., Piedmont, AL 36272. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616—2121 Building, Birmingham, AL 35203.

MC 144919 (Sub-1TA), filed June 30, 1978. Applicant: TERRY LEE PIERCE, 521 Fifth Avenue, Haleyville, AL 35565. Representative: Same as above. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and lumber products,* from Haleyville, AL, to points in TN, MO, IA, MN, MI, WI, IL, IN, OH, PA, NY, WV, and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fullco Lumber Co., P.O. Box 617, Haleyville, AL 35565. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616—2121 Building, Birmingham, AL 35203.

MC 144922 (Sub-1TA), filed June 30, 1978. Applicant: ATF, INC., Route 11, Box 507-B, Birmingham, AL 35201. Representative: John W. Cooper, Attorney-at-Law, 200 Woodward Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (*1*) *Jute, polypropylene, wire, and flat ties,* from points in LA, MS, GA, NC, and SC, to Clarksdale, MS; (*2*) *Bags, wire, and flat ties,* from Clarksdale, MS, to points in CA, AZ, NM, and TX; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Limbaugh-McRae Co., Inc., 5575 Poplar Suite 822, Memphis, TN 38117. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616—2121 Building, Birmingham, AL 35203.

MC 144976 (Sub-1TA), filed June 29, 1978. Applicant: CARDINAL CARRIER CORP., 300 Third Avenue, New York, NY 10017. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Record album covers or jackets and sleeves and labels,* and materials, equipment and supplies used in the manufacture and sale of record album covers, jackets or sleeves and labels (except commodities in bulk), between (1) Great Neck, NY, on the one hand, and, on the other, Richmond, Indianapolis, Lawrence, Terre Haute, IN, Nashville, TN, Jacksonville, Pinckneysville, Morton Grove, IL, Paterson, Ancora, Cranford, Mountainside, Somerdale, Lakewood, NJ, Dayton, OH, Philadelphia, Olyphant, PA, Winchester, VA, Elizabeth, KY, Concord, NH, (2) between Terre Haute, IN, on the one hand, and, on the other, Nashville, TN, Jacksonville, Pinckneysville, Morton Grove, IL, Philadelphia, Olyphant, PA, Winchester, VA, points in Nassau and Suffolk Counties, NY, points in New Jersey, Gloversville, NY, Brookfield, WI, under a continuing contract or contracts with Ivy Hill Communications, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ivy Hill Communications, Inc., Community Drive, Great Neck, NY 11022. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 144993TA, filed June 30, 1978. Applicant: D.K. EXPRESS, INC., 3730 Kitley Avenue, Indianapolis, IN 46226. Representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese substitutes*, from the facilities of Cheese-Tek Corp. located at or near Chebanse, IL, to Cumming, Doraville, and Lithonia, GA, Duluth, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cheese-Tek Corp., U.S. Hwy 45-52, Route 1, Chebanse, IL 60922. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 144994TA, filed June 30, 1978. Applicant: EDWARD M. NEAL, JR., d.b.a. ED NEAL TRUCKING, 17756 Orchid, Fontana, CA 92335. Representative: Edward M. Neal, Jr., P.O. Box 786, Fontana, CA 92335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, roofing and siding*, between CA, AZ and NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Forest Products Corp., 2740 Hyde Street, San Francisco, CA 94119. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-23797 Filed 8-23-78; 8:45 am]

[7035-01]

[Notice No. 153]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 29, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 38320 (Sub-20TA), filed June 28, 1978. Applicant: CENTRAL MOTOR EXPRESS, INC., P.O. Drawer C, Campbellsville, KY 42718. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages in containers and empty malt beverage containers*, from the facilities of Pabst Brewery, Perry, Houston County, GA, to points in KY, OH, IN, and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Warner Paris, Traffic Manager, Pabst Brewing Company, GA Hwy 247 Spur, Pabst (Perry), GA 31069. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 51146 (Sub-604TA), filed June 22, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Kentwood and Grand Rapids, MI, to Lenexa, KS, and Madisonville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., 633 Third Avenue, New York, NY 10017. (LaVerne W. Myers). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 65660 (Sub-11TA), filed June 29, 1978. Applicant: WARNER & SMITH MOTOR FREIGHT, INC., 66 Third Street, Masury, OH 44438. Representative: C. R. Johnson, 66 Third Street, Masury, OH 44438. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts*, between Linesville, PA, and Sandusky, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., 3020 Tiffin Avenue, Sandusky, OH 44870; Molded Fiberglass Tray Co., East Erie Street, Linesville, PA 16424. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 114273 (Sub-398TA), filed June 28, 1978. Applicant: CRST, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Staples, nails, wire, stapling and stitching machines, and machine parts*, when moving in mixed loads with staples, nails, and wire, from East Greenwich, RI, to Minneapolis, MN, for 180 days. The purpose of this filing is to substitute single-line service for existing joint-line service. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bostitch Division of Textron, Inc., East Greenwich, RI 02818. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114273 (Sub-399TA), filed June 28, 1978. Applicant: CRST, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hand tools, hardware, door operating equipment, and steel strapping*, from Farmington, New Britain, and Wallingford, CT, to points in CO, IL, IA, KS, MN, MO, and NE, for 180 days. The purpose of this filing is to substitute single-line service for existing joint-line service. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Stanley Works, 195 Lake Street, New Britain, CT 06106. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 115215 (Sub-31TA), filed June 29, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Jacksonville, FL, to points in GA and SC on and west of U.S. Hwy 21, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MacMillan-Blodel Building Materials, 2701 Talleyrand Avenue, Jacksonville, FL 32206. Send protests to: G. H. Fauss, Jr., District Supervisor, ICC, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125533 (Sub-24TA), filed June 27, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay roofing tile and parts, materials, and supplies* used in the installation of clay roofing tile, from New Kensington, OH, to points in MA, RI, CT, NY, NJ, PA, MD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ludocici-Celadon, Division of C.S.C., Inc., 4757 Tile Plant Road, New Lexington, OH 43764. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 134477 (Sub-253TA), filed June 29, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of batteries* (except commodities in bulk), from Appleton, WI, to the facilities of Polaroid at or near Waltham and Needham, MA, for 180 days. Supporting shipper: Polaroid Corp., 140 Kendrick Street, Needham Heights, MA 02194. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 135082 (Sub-72TA), filed June 29, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, iron or steel*, knocked down or in sections, including all *component materials and fixtures*, and when shipped with such buildings, *accessories* used in the erection, construction, completion, thereof. Restricted against articles requiring special equipment, from Albuquerque, NM, to points in AZ, CA, ID, OR, MT, OK, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ABC Metal Building Systems & Components, 100 Trumbull Avenue SE., Albuquerque, NM 87102. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135283 (Sub-41TA), filed June 27, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Representative: Gailyn L. Larsen, P.O. Box 81849, 521 South 14th Street, Peterson, Bowman, Larsen & Swanson, Lincoln NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, between Grand Island, NE, and Big Spring, TX, and points in their respective commercial zones, restricted to the transportation of shipments originating at or destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Steven S. Stauffer, Plant Manager, GIA, Inc., Subsidiary of Burwood Industries, P.O. Box 2095, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 135516 (Sub-1TA), filed June 29, 1978. Applicant: HORACE CHAVIS, d.b.a. CHAVIS TRANSFER, 2019 Decatur Street, Richmond, VA 23224. Representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, VA 23220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty semitrailers*, between points in VA, GA, NC, SC, WV, MD, NY, NJ, PA, DE, TN, KY, under a continuing contract or contracts with Atco Trailer Rentals, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Atco Trailer Rentals, Route 73 and Jackson Road, Berlin, NJ 08009; Mobile Field Office Co., Route 73 and Jackson Road, Berlin, NJ 08009. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 136315 (Sub-31TA), filed June 29, 1978. Applicant: GLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Georgia-Pacific Corp. at or near Belk, AL, to points in IL, IN, IA, MO, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., P.O. Box 520, Crossett, AR 71635. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 140755 (Sub-52TA), filed June 29, 1978. Applicant: BRAY TRANSPORTS, INC., P.O. Box 270, Cushing, OK 74023. Representative: Charles D. Midkiff, 1401 North Little Street, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste materials*, in bulk, from Helena, AR, to Tulsa, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. J. Lamberton Disposal Well, 2904 4th National Bank Building, Tulsa, OK 74119. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

MC 140827 (Sub-9TA), filed June 28, 1978. Applicant: MARKET TRANSPORT, LTD., 33 Northeast Middlefield, Portland, OR 97211. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and chilled fruit juices and frozen concentrates*, from Castroville, Gilroy, Los Angeles, Modesto, Turlock, Santa Fe Springs, Santa Maria, Salinas, Sanger, Ventura, Anaheim, and Watsonville, CA, to Portland, Salem, Milwaukie, Clackamas, Medford, and Eugene, OR, and Kennewick, Seattle, Tacoma, Kent, Auburn, Bellevue, and Spokane, WA, for 180 days. Supporting shippers: (1) North Pacific Canners & Packers, Inc., 5200 Southeast McLoughlin Boulevard, Portland, OR 97202, (2) Minute Maid Distributors of Oregon, Inc., 5200 Southeast

McLoughlin Boulevard, Portland, OR 97202. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 141599 (Sub-6TA), filed June 29, 1978. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON), LTD., d.b.a. SHADOW LINES, a Canadian corporation, 241 Schoolhouse Street, Coquithlam, BC, Canada V3K 4X9. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common brick*, from ports of entry on the U.S./Canada boundary at or near Eastport and Porthill, ID, or Sweetgrass, MT, on the one hand, to points in UT, on the other hand, restricted to traffic moving in foreign countries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: IXL Industries, Ltd., Box 70, Medicine Hat, AB, Canada. Send Protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 142508 (Sub-22TA), filed June 29, 1978. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products and meats, and ice cream*, from Philadelphia, PA, to the facilities of Philly's Inc., at Omaha, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michael Baldino, Jr., Philly's Inc., 2912 Farnam, Omaha, NE 68131. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 144076 (Sub-4TA), filed June 29, 1978. Applicant: SCHWINNEN GRAIN & TRUCKING, INC., R.F.D. No. 1, Venedocia, OH 45984. Representative: John L. Alde—Stiverson & Alden, 1396 West 5th Avenue, Columbus, OH 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean meal*, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to the States of IN, IL, KY, NY, MI, OH, TN, PA, and WV, (2) *bulk corn products and bulk feed products*, from the facilities of Cargill, Inc., at or near Dayton, OH, to the states of IN, IL, and OH (except the facilities of Archer Daniel Midland at Decatur, IL), under a continuing contract or contracts with Cargill, Inc., for 180 days. Supporting shipper: Cargill, Inc., 2400 Industrial Drive, Sidney, OH 45365. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, 313 Federal Office Building, 234 Summitt Street, Toledo, OH 43604.

MC 144140 (Sub-18TA), filed June 27, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., Highway 44 West, P.O. Box 374, Eustis, FL 32726. Representative: Gene Baugh, Highway 44 West, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage and beverage preparations, citrus and citrus products, and foodstuffs* in mixed shipments with beverages and beverage preparations, citrus and citrus products (except commodities in bulk), from the facilities of Coca Cola Co., Foods Division, at Auburndale and Forest City, FL, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coca Cola Co., Foods Division, P.O. Box 247, Auburndale, FL 33823. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144244 (Sub-3TA), filed June 29, 1978. Applicant: CRESTON TRANSPORTATION, INC., East Hwy 34, Creston, IA 50801. Representative: Frank W. Davis, Jr., 2600 Ruan Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients;* from points in AK, MN, SD, ND, NE, KS, MO, and IL to Creston and Benton, IA; (2) *Seed;* from points in MN, ND, SD, NE, and MO to Creston, IA; (3) *fertilizer dry and fertilizer liquid;* from points in AK, MO, NE, KS, MO, and IL, to Creston and Benton, IA; (4) *liquified petroleum gas;* from points in NE, KS, and MO to Creston, IA; (5) *steel products;* from points in MN, KS, and IL, to Creston and Benton, IA, under a continuing contract or contracts with Farmers Cooperative Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farmers Cooperative Co., 1101 Westview Drive, Creston, IA 50801. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 144400 (Sub-1TA), filed June 29, 1978. Applicant: BI-RITE AUTO TRANSPORT, INC., 1902 West North Grand Avenue, Porterville, CA 93257. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* in secondary movements, in truckaway service, between points in AZ, CA, CO, ID, NV, and UT. Restricted to traffic originating at or destined to automobile auctions, for 180 days. Supporting shipper(s): There are approximately 22 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144505 (Sub-1TA), filed June 29, 1978. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Mavank, TX 75147. Representative: Thomas L. Cook, Hightower, Alexander & Cook, P.C., 136 Wynewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles*, from Baton Rouge, LA, to points in TX, on north and east of U.S. Hwy 190 beginning at the LA-TX State line, to its intersection with U.S. Hwy 281, then north on U.S. Hwy 281 to the OK-TX State line for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 144942 (Sub-1TA), filed June 27, 1978. Applicant: RWC TRUCKING, INC., 59 Lamoille Avenue, Haverhill, MA 01830. Representative: John Richard Barker, Connole & O'Connell, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities, food stamps, negotiable and non-negotiable instruments, commercial papers, and business records*, between points in Stratford, Belknap, Merrimack, Hillsborough, and Rockingham Counties, NH, and Kittery, ME, on the one

hand, and, on the other, points in Essex, Middlesex, and Suffolk Counties, MA, and that portion of Norfolk County surrounded by Suffolk and Middlesex Counties, MA, restricted to operations conducted under a continuing contract or contracts, with banks, financial institutions, and other businesses, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 501, 150 Causeway Street, Boston, MA 02114.

MC 144957 (Sub-2TA), filed June 23, 1978. Applicant: PETERCLIFFE, LTD., 11933 71st Avenue, Palos Heights, IL 60463. Representative: Leslie Peters, 11933 71st Avenue Palos Heights, IL 60463. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to traffic moving on bills of lading of freight forwarders, between points in AZ, CA, NV, UT, on the one hand and points in FL, GA, NC, and SC, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (3) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144978 (Sub-1TA), filed June 29, 1978. Applicant: MIDWESTERN PLASTICS & CHEMICALS, INC., 1025 Avenue M, Grand Prairie, TX 75050. Representative: William P. Jackson, 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic resins* (except in bulk), (1) from Big Springs, Bayport, and Houston, TX, and Lake Charles, LA, to points in KS, OK, MO, MS, IL, NM, IN, AR, FL, GA, AL, and CA; (2) from Calumet City, IL, and Hammond, IN, to points in TX, NM, OH, and WI; and (3) from Wichita, KS to points in TX, under a continuing contract or contracts with Lone Star Chemical Co., for 180 days. Supporting shippers: Lone Star Chemical Co., 558 South Central Expressway, Suite 334, Richardson, TX 75080. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 144986TA, filed June 26, 1978. Applicant: STAHLER TRUCKING & LEASING, INC., 208 East Harrison Street, Wapakoneta, OH 45895. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products, materials, and supplies* used in the manufacture, handling and distribution of plastic products, (except commodities in bulk), between the facilities of Plastipak Packaging, Division of Beatrice Foods Co., at or near Jackson Township, Shelby County, OH, on the one hand, and on the other, points in IL, IN, KY, MD, MI, NJ, NY, PA, WI, and WV, under a continuing contract, or contracts with Plastipak Packaging, Division of Beatrice Foods Co., for 180 days. Supporting shipper(s): Division of Beatrice Corp., 2411—14th Street, Detroit, MI 48208. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 145011, filed June 29, 1978. Applicant: R. F. WESTBURY, 1617 Willis Road, Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet and drug preparations, medicines, prescriptions*, and ingredients thereof; chemicals, animal, fish and poultry feed, animal, fish and poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper and paper articles, pet products, pharmaceutical products, pesticides, plastic or rubber articles, shampoo, soap, and toys, and (2) *materials, supplies and equipment* used in the manufacture, sale or distribution of articles in (1) above, under a continuing contract or contracts with A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co.; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co.; Alfred W. Kenney, Director of Transportation, 700 Darbytown Road, Richmond, VA 23231. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

By the Commission.

H. G. Homme, Jr.,

Acting Secretary.

[FR Doc. 78-23796 Filed 8-23-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6720-01]

1

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: Wednesday, August 30, 1978, 9:30 a.m.

PLACE: 1700 C Street NW., 6th Floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Service Corp. Proposal (Affiliated Mortgages & Development Co.)—Albuquerque Federal Savings & Loan Association, Albuquerque, N. Mex.
Proposed Acquisition of Loveland Savings & Loan Association, Loveland, Colo., by Sunwood Corporation, Parker, Colo.
Designation of Frank B. Summers as Supervisory Agent, Federal Home Loan Bank of Topeka.
Limited Facility Application—Guaranty Federal Savings & Loan Association, Adel, Ga.
Mobile Facility Application—Westland Federal Savings & Loan Association, Rawlins, Wyo.
Branch Office Application—Pacific Federal Savings & Loan Association, Hollywood, Calif.
Limited Facility Application—Home Federal Savings & Loan Association of Lexington, Lexington, Nebr.
Limited Facility Application—First Federal Savings & Loan Association of Lincoln, Lincoln, Nebr.
Application for Increase of Accounts of an Insurable Type—Electra Federal Savings & Loan Association, Electra, Tex. into Olney Savings Association, Olney, Tex.
Branch Office Application—Security Federal Savings & Loan Association of Billings, Billings, Mont.
Agency Office Application—Great Northwest Federal Savings & Loan Association, Bremerton, Wash.
Loan Agency Office Application—Culver Federal Savings & Loan Association, Culver City, Calif.
Branch Office Application—First Federal Savings & Loan Association of Berwyn, Berwyn, Ill.
Agency Office Application—First Federal Savings & Loan Association of Broward County, Fort Lauderdale, Fla.
Drive-In Facility Application—First Federal Savings & Loan Association of Berwyn, Berwyn, Ill.
Loan Agency Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif.
Branch Office Application—Coast Federal Savings & Loan Association, Los Angeles, Calif.
Concurrent Consideration of Branch Office Applications: (1) Home Federal Savings & Loan Association, Birmingham, Ala.; and, (2) First Federal Savings & Loan Association of Tuscaloosa, Tuscaloosa, Ala.

No. 174, August 22, 1978.

[S-1695-78 Filed 8-22-78; 12:22 pm]

[6730-01]

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 37074, August 21, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 24, 1978.

CHANGES IN THE MEETING: Addition of the following item:

15. Docket No. 72-35: Pacific Westbound Conference—Investigation of Rates, Rules and Practices pertaining to the movement of wastepaper and woodpulp from United States West Coast Ports to Ports in Japan—Decision on request for oral argument and various pending petitions.

[S-1694-78 Filed 8-22-78; 11:55 am]

[7020-02]

3

[USITC SE-78-42]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, August 31, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Light bulbs from Hungary (Inv. AA1921-Inq.-18)—Briefing and vote.
2. Automotive and motorcycle repair manuals from the United Kingdom (Inv. AA1921-Inq.-19)—Briefing and vote.
3. Fishing tackle (Inv. TA-201-34)—Briefing.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1692-78 Filed 8-22-78; 11:33 am]

[4910-58]

4

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, August 31, 1978. [NM-78-32]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first six items on the agenda will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Southern Co. Services, Inc., Beech-Hawker 125-600A, N40PL, McLean, Va., April 28, 1977.
2. *Highway Accident Report*—Cates Trucking, Inc., tractor-semi-trailer/mulitple vehicle collision and override, I-285, Atlanta, Ga., June 20, 1977.
3. *Letter* to Federal Railroad Administration re their response to safety recommendation R-73-5.
4. *Recommendation Closeout*—Safety recommendations A-78-4, R-74-33, R-77-18, R-75-32, and R-75-37.
5. *Recommendation Closeout*—Safety recommendations H-77-9, H-77-43, and R-76-8.
6. *Discussion*—Determination of probable cause.
7. *Opinion and Order*—Petition of Jolls, Dkt. SM-1953; disposition of petitioner's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1697-78 Filed 8-22-78; 3:35 pm]

[7910-01]

5

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, September 5, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 7 are open to public observation. Matter 8 is closed to public observation. Matters 9 and 10 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held August 15, 1978 and other Board meetings, if any.
2. Recommended clearances without assignment (List 1917):
   A. Plessy Inc., fiscal years ended March 31, 1975 and 1976.
   B. Republic Corp., fiscal years ended January 31, 1974; March 31, 1975 and 1976.
   C. Borg-Warner Corp., fiscal year ended December 31, 1975.
   C-1. Borg-Warner Health Products, Inc., fiscal year ended December 31, 1975.
   D. American Chain & Cable Co., fiscal years ended December 31, 1973, 1974, and 1975.
   E. Lasko Metal Products Inc., fiscal years ended Aril 30, 1973 and 1974.
3. Recommended clearances without assignment (List 1918):
   A. Rohm and Haas Co., fiscal year ended December 31, 1972.
   B. Clark Equipment Co., fiscal years ended December 31, 1971, 1972, 1974, and 1975.
   C. Dunlap and Associates, Inc., fiscal year ended March 31, 1976.
   D. Tumpane Co., Inc., fiscal year ended December 31, 1975.
   D-1. Tumpane Iran Services Inc., fiscal year ended December 31, 1975.
   E. Pepper Industries, Inc., fiscal year ended June 30, 1974.
   E-1. Siemag Systems, Inc., fiscal year ended March 31, 1974.
   E-2. United Ship Services, Inc., fiscal year ended April 30, 1974.
   E-3. Waterfront Enterprises, Inc., fiscal year ended December 31, 1974.
   E-4. Waterfront Industries, Inc., fiscal year ended December 31, 1974.
   E-5. Waterfront Services, Inc., fiscal year ended March 31, 1974.
   E-6. Western Ship Services, Inc., fiscal year ended September 30, 1974.
4. Exemption recommendation (ACE List 3005): Burroughs Wellcome Co., fiscal year ended September 25, 1976.
5. Staff Guide No. 10.
6. Recommended determination of excessive profits: MBAssociates, fiscal year ended April 1, 1973.
7. Determination of clearance or excessive profits: Marshall Industries, fiscal year ended May 31, 1974.
8. Recommended finding of excessive profits: DeLong Corp. (New York), SII to: DeLong Corp. (Delaware), fiscal year ended December 31, 1969.
9. Approval of agenda for meeting to be held September 19, 1978.
10. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: August 21, 1978.

WILLIAM F. MCQUILLEN,
Acting Chairman.

[S-1696-78 Filed 8-22-78; 3:35 pm]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 28, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Tuesday, August 29, 1978, at 10 a.m., and on Thursday, August 31, 1978, at 10 a.m. A closed meeting will be held on Wednesday, August 30, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams, and Commissioners Loomis and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, August 30, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal orders of investigation.
Institution of injunctive actions.
Chapter X proceeding.
Other litigation matters.

The subject matter of the open meeting scheduled for Tuesday, August 29, 1978, at 10 a.m., will be:

Consideration of the staff's recommendations concerning financial accounting and reporting practices for oil and gas producing activities. For further information, please contact Gretta Powers at 202-472-3782.

The subject matter of the open meeting scheduled for Thursday, August 31, 1978, at 10 a.m., will be:

1. Consideration of the adoption of new rules designated sections 210.9-01 to 210.9-05 of Regulation S-X intended to establish a comprehensive set of requirements for financial statements included in annual reports of bank holding companies filed with the Securities and Exchange Commission. For further information, please contact Lawrence J. Bloch at 202-472-3782.
2. Consideration of a proposed letter to be sent to the Municipal Securities Rulemaking Board ("MSRB") regarding the election of two public representatives to the MSRB. For further information, please contact Anne E. Chaier at 202-755-7915.

AUGUST 22, 1978.

[S-1693-78 Filed 8-22-78; 11:33 am]

federal register

THURSDAY, AUGUST 24, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT (SEOG), COLLEGE WORK-STUDY (CWS) AND NATIONAL DIRECT STUDENT LOAN (NDSL) PROGRAMS

Interim Final Regulations

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

PART 175—COLLEGE WORK-STUDY PROGRAM

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

AGENCY: Office of Education.

ACTION: Interim final regulations.

SUMMARY: These regulations modify earlier regulations which implement part A, subpart 2; part C; and part E of title IV of the Higher Education Act of 1965, as amended. They govern the operation of the supplemental educational opportunity grant (SEOG), college work-study (CWS), and national direct student loan (NDSL) programs respectively. These programs are known collectively as the "campus based programs".

The modifications in the regulations are based on certain policy changes, or changes made by the Education Amendments of 1976, and on comments received from the public in response to interim regulations for the NDSL and SEOG programs published in the FEDERAL REGISTER on November 24, 1976, and a notice of proposed rule making for the CWS program published in the FEDERAL REGISTER on September 28, 1977.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The NDSL regulation, part 144, and SEOG regulations, part 176, were published as interim final regulations in the FEDERAL REGISTER on November 24, 1976 (41 FR 51946-51982), and the Commissioner invited comments on these provisions at that time. The CWS regulations, part 175, were published as a notice of proposed rulemaking on September 28, 1977 (42 FR 49904-49923). In the latter publication the Commissioner indicated that §§ 175.5 and 175.6 dealing with application procedures and funding procedures would be made applicable to the SEOG and NDSL programs and that comments on those sections should take that fact into account. The Commissioner further stated that final rules for those two sections would apply to all three programs.

The Commissioner is issuing interim final regulations for these three programs at this time because these regulations will be consolidated and rewritten in simpler English in the next 90 to 100 days and republished at that time. No substantive changes, except those that may be proposed under a notice of proposed rulemaking, are anticipated. Therefore the Commissioner is not soliciting additional public comments on the substance of these rules.

The Commissioner has reorganized the three regulations so that common sections appear at the beginning, are in the same order, and when appropriate are identical.

The preamble will first discuss those provisions that are common to all three programs where significant changes were made. Second will be those changes that relate solely to the NDSL regulation, and third will be those changes that relate to the CWS regulation. Sections will be discussed in order.

GENERAL

Comment. One commenter recommended that various sections of the CWS regulations be amended to specify that the program must be administered without discrimination on the basis of sex, race, age, ethnic heritage, or handicap. The commenter observed that civil rights requirements of title IX of the 1972 Education Amendments (45 CFR part 86) and title VI of the 1964 Civil Rights Act (45 CFR part 80), as well as section 504 of the Vocational Rehabilitation Act have direct application to the CWS regulation and will be binding on recipients.

Response. This recommendation was not accepted. To be eligible to participate in any of the Federal programs of student financial aid, an institution must file an assurance of its compliance with these requirements. These requirements are not mentioned in the particular program regulations. In that respect, these requirements are similar to many other laws, including income tax laws and the Social Security Act, which are binding on institutions but are enforced by agencies other than the Office of Education.

Section 2—*Definitions.* The definitions of terms used in the three programs have been revised to make them identical to each other as well as to the definitions used in the basic educational opportunity grant program. The definition of full-time student has been deleted in all three regulations since it is not needed, the basic eligibility criterion being that a student be at least a half-time student.

The definitions of the term "regular student" does not appear in these regulations. This term is defined in an NPRM for the basic grant program published in the FEDERAL REGISTER on May 15, 1978 (43 FR 20922-20936). When the definition of this term is published in the final basic grants regulations, it will be adopted for the campus-based programs.

Half-time student. Several commenters expressed the view that the definition of a half-time undergraduate student did not permit the school to count courses that were not for credit and suggested that the definition be revised. Other commenters noted the distinction between the more general definition of a half-time graduate student and the more detailed description of a half-time undergraduate student.

The definition of a half-time undergraduate student used in the basic grant program was simiplified and adopted for the three campus-based programs. It permits a school to include non-credit courses in determining whether a student is half-time if it views that course as the equivalent of a creditbearing course. Graduate students are not eligible for basic or supplemental grants, so a common definition was not required for that term.

INSTITUTION OF HIGHER EDUCATION

The definition of an institution of higher education was revised to conform to the changes made in the definition by section 181 of the Education Amendments of 1976. This change permits public and nonprofit private institutions to admit as regular students persons beyond the age of compulsory school attendance who have the ability to benefit from the training offered by the institution. This change was inadvertently left out of the NDSL and SEOG interim regulations.

Sections 5 and 6—*Institutional application and funding procedures.* These two sections are being amended for all three programs in response to public comment on the notice of proposed rulemaking for the CWS program.

Before official publication of the NPRM, advance copies of sections 5 and 6 were circulated to all institutions of higher education to obtain

their comments. Those copies were mailed in July, and comments were received during July and August. More than 300 institutions submitted written comments. The procedures set forth in these two sections of the NPRM were than revised, a new application form developed, and the new application together with the panel review guidelines mailed to institutions for use in the Fall 1977 application process.

The Commissioner took this action in reponse to concerns and reservations expressed by officials from participating institutions, professional associations, and the Federal Government about the application process that had been used in past years. Some of the principal concerns were the following:

1. The application form had become increasingly long and complex. The long form used in the Fall of 1976 was 15 pages in length.

2. An inordinate amount of time was required for completing and reviewing the application.

3. After several years of using a form based on an analysis of need, there had been only partial success in distributing funds equitably.

In view of these concerns, and recognizing the fact that the student financial aid programs in many institutions had achieved a satisfactory level of funding, the Commissioner decided to propose a new procedure for distributing funds for the three campus-based programs. It was important to have this new procedure in operation in the Fall of 1977, so that the panel of experts which had been appointed to study the application process might be able to observe it in action and evaluate its effectiveness. This need for prompt action precluded accepting the many suggestions that implementing the new process be delayed for a year or that the form be based on an institutional need analysis as in the past.

The procedure proposed in the NPRM, in summary, provided that the request for new funds would be based on funds actually expended during the "base year." (For the Fall of 1977, "base year" means the year from July 1, 1976 to June 30, 1977.) Any increase in funding over the "base year" expenditures would be the result primarily of an increase in enrollement. In addition, an institution could request a further increase by documenting the fact that students had to drop out of school because of a lack of student financial aid funds. It is important to note that all data supplied in the application had to be objectively verifiable. Subjective data, e.g. number of needy students, were not acceptable.

After analyzing the comments, several changes were made in the proposed rule, as follows:

1. Institutions were given the option of selecting a base amount or "formula limit" which was based on their expenditures during either the "base year" or the "current year." Several institutions pointed out that they received increases in funding levels between these 2 years, and forcing them to base their requests on the "base year" would penalize them unfairly.

2. An inflation factor of 6 percent per year was incorporated into the process to account for increasing costs and to offset an erosion of program funds resulting from an institution's budgeting of expenditures so that a small amount remains unexpended.

3. Provision was made for an institution to augment its request if there were exceptional circumstances relating to that institution which made its need greater than that of other institutions within the State. Institutions which had been underfunded over a period of several years could use the augmentation provision combined with further documentation in a narrative to justify a request for increased funding.

4. Provision was made for institutions to shift funds from one program to another to a limited extent.

5. The provision for basing a portion of an institution's request on the unmet need of dropouts was dropped from the regulation. Any request for additional funds because of past unmet need was to be explained in the narrative. Many commenters objected to this part of the proposed rule, stating that it was difficult to make a reliable determination of a student's true reasons for dropping out of school. Others protested that the Office of Education was imposing an additional record-keeping requirement retroactively, stating that there is no way to obtain financial data on students who had dropped out during the base year.

6. Some commenters pointed out that the proposed criteria for reviewing applications from previous nonparticipants would prevent any new category of institutions, such as correspondence schools, from entering the program. No correspondence school participated in the programs; hence it would not be possible to compare the base year expenditures of a correspondence school with comparable institutions as required by the proposed rule.

In recognition of the validity of this comment, a special criterion has been adopted for the evaluation of applications from correspondence schools. That criterion is set forth in section 6(c)(5) and requires a correspondence school to establish its request based on a survey of individual need analyses of its students and to supply data about this survey.

7. One commenter suggested that institutions with histories of good utilization and low delinquency rates should not have to list the qualifications of all their key student financial aid personnel each year. As a result of this suggestion, the following change was made. An institution which adopted its first formula limit as its base amount and did not request an augmentation would not be required to list the qualifications of its key personnel. The institution's past performance is accepted as evidence that it is capable of administering the funds it is requesting.

The final regulation, then, provides the option of either a one or two step process, both based on objectively verifiable data. First, the "base amount" or formula limit is calculated by multiplying the actual expenditure in the "base year" or the projected expenditure in the "current year" by an inflation factor and an enrollment factor. Second, an institution can request an augmentation over the base amount if there are exceptional circumstances which make that institution's need greater than that of other institutions in the State. The narrative section of the application is extremely important as a way of providing information to substantiate the data set forth in the augmentation request.

Section 7—*Application review and approval of request.* The comments made regarding this section related more to operating procedures than to the content of the section itself. Hence, no substantive change was made in this section.

One suggestion resulted in a substantial change in operating procedures. The panel guidelines, which previously had been issued as internal operating instructions were printed and distributd to all institutions with the application. Thus, institutions could refer to the guidelines while preparing the application.

Other suggestions were the following: 1. Panelists should be given improved training and orientation, so that they will obtain the same understanding of the way in which their job is to be performed.

2. Variations among the regions in the instructions given to panels should be eliminated.

3. No panelist should be permitted to make a recommendation on the application of an institution which is in competition with the panelist's own institution.

4. Regional panels should be eliminated.

5. In reviewing appeals the original panel recommendation should never be lowered.

The Commissioner agrees that review procedures should be consistent in all regions. To help accomplish this end, panelists were required to attend a training session before considering

applications. The Commissioner did not, however, wish to eliminate panels at this time. Therefore, no change was made in the regulation on this point. Also, if there is to be peer review, panelists must necessarily participate in the review of applications from institutions which are in competition with the panelist's own institution.

The recommendation regarding action on appeals was not adopted. If the original panel has made an error, that error should be corrected when it is detected. To do otherwise would deny other institutions funds that they should receive.

Section 9—*Eligibility and selection of students* (Section 175.10 in the NPRM). Comments were not requested on this section despite the incorporation of four new paragraphs. These new paragraphs are (g), (h), (i), and (j) in the CWS regulation and (e), (f), (g), and (h) in the NDSL and SEOG regulations. The paragraphs were published initially in section 144.15, 175.9, and 176.17 in an NPRM on April 8, 1977, and comments were invited at that time.

The four paragraphs are based on two requirements for all title IV programs which are contained in the Education Amendments of 1976. These requirements, set forth in section 497(e) of the higher Education Act of 1965, amended, stipulate that a student may receive assistance form title IV programs only if that student:

(a) is maintaining satisfactory progress in his or her course of study according to the standards and practices of the institution in which the student is enrolled, and

(b) does not owe a refund on a basic grant, supplemental grant, or State student incentive grant received to meet the costs of attendance at the institution at which the student is enrolled, and is not in default on a national direct student loan received from the institution or on a guaranteed student loan advanced to meet the student's cost of attendance at that institution.

In responding to the April 8th NPRM, a number of commenters asked if the Office of Education would set any parameters for institutional standards of satisfactory progress. The Commissioner believes that the content of the institution's standards of satisfactory progress is strictly an institutional matter. The statute requires that the institution must have some standards before it can pay title IV funds to students, but neither the statute nor the program regulations specify the content of those standards.

In setting standards of satisfactory progress, an institution is attempting to evaluate a student's efforts to achieve an educational goal within a given period of time. To make this evaluation, the institution needs to establish a normal time frame for completing the course of study, and it must have some means, such as grades or work completed which can be measured against a norm. An institution lacking any standards would be precluded from making payments to students under title IV programs, because it would have no means of making the determination required by the statute.

If an institution already has standards of satisfactory progress, it may use those standards in determining eligibility for payments under title IV programs. If it does not already have any standards, it must adopt standards which will be applicable at least to recipients of aid under title IV programs.

In the course of the discussion on this issue, a number of commenters have asked whether an institution could have one set of standards which would be required for students receiving aid under title IV programs and another to be use for other institutional purposes. It is the Commission's view that an institution may have more than one set of standards of satisfactory progress. Whatever standards are used for determining eligibility for payment under title IV program must, of course, be applied uniformly for recipients of aid under all of those programs. It would not be permissible, for example, to have one standard for receiving a basic grant and another for receiving a national direct student loan.

For a number of years, financial aid officers have expressed concern about an inability to deny aid to "perpetual students" who may continue in enrollment from year to year while making little or no progress toward the achievement of any educational goal. Many of them have pointed out that some public institutions are required by State law to permit any State resident to continue in attendance as long as he or she wishes without regard to the student's academic performance. Prior to the passage of the Education Amendments of 1976, the Office of Education attempted to respond to this concern by amending the definition of "good standing." This term was originally defined as eligibility, according to institutional standards and practices, to continue in attendance at the institution. To respond to the commenters' concern, the definition of "good standing" in the regulation for the campus-based programs was amended at that time to include the requirement that the student must be "making measureable progress toward the completion of his or her course of study." Since the "satisfactory progress" requirement established by the Education Amendments of 1976 has eliminated the need for the "measureable progress" criterion, it has been deleted from the definition of "good standing" in these regulations.

Paragraph (h) of the CWS, and paragraph (f) of NDSL and SEOG regulations further provide that if the institution determines at the beginning of a payment period that the student is not making satisfactory progress but is able to reverse that determination before the end of the payment period, the student may receive payments for the entire period. However, if the reversal of the original determination does not occur until after the end of the payment period, no retroactive payments may be made for that payment period.

Paragraph (g) of the CWS regulation and paragraph (e) of the NDSL and SEOG regulations also reflect the statutory provision stipulating that the institution may not pay campus-based funds to a student who owes a refund of an overpayment received under any of the three title IV grant programs. The regulations further differentiate between an overpayment resulting from an institutional error and one resulting from the student's error. If the overpayment was the resut of an institutional error, the institution may pay campus-based funds if the student acknowledges in writing the amount of the overpayment and agrees to repay it within a reasonable period of time. If the overpayment resulted from an error on the part of the student, the institution may pay campus-based funds if the overpayment has been repaid by the student or can be eliminated within the academic year by adjusting subsequent payments for that academic year.

In addition to overpayments resulting from student error in completing the application or institutional error in computing the amount of a grant, overpayments may also result if the student leaves the institution before the completion of the period for which the funds were awarded. The NPRM published on April 8, 1977 discussed the issue of attribution of repayments from cash reimbursements made directly to the student when the student leaves the institution before completing the period for which the funds were awarded. In the notice, a formula was proposed to be inserted in § 176.14 of the SEOG regulations, and § 190.77 of the basic grant regulations, for calculating the portion of a grant disbursement which should be considered an overpayment by the student. There was a general consensus among the commenters that the formula did not allow sufficient flexibility for the institution to take into consideration the circumstances of individual students in determining the amount of a cash disbursement which should be repaid. In response to the commenters' concern,

the proposed formula has been discarded.

The reader's attention is also invited to § 168.16 of the proposed Standards Regulations published as an NPRM in the FEDERAL REGISTER on August 10, 1978. When it is published in the final form, this section will be the Office of Education's policy on institutional refunds.

Paragraph (j) of the CWS regulation and paragraph (h) of the NDSL and SEOG regulations are intended to clarify the institution's responsibility in fulfilling the statutory requirements stating that it may not pay campus-based funds to a student who is in default on a guaranteed student loan advanced to the student to meet costs of attendance at that institution. These paragraphs provide that, in determining whether the student is in default, the institution may rely on a written statement from the student unless it has information to the contrary. Thus, the institution would not be required to initiate inquiries with commercial lenders to determine the current repayment status of each of its potential aid recipients. Also, these paragraphs provide that the institution may, if it chooses, award campus-based aid to a student who is in default (1) on a guaranteed student loan if the guarantor (i.e., the Commissioner or the applicable guarantee agency) has determined that the student has made satisfactory arrangements to repay the defaulted loan or (2) on an NDSL if the institution has made a determination that the student has made satisfactory arrangements to repay the loan. For purposes of this section, an NDSL or a GSL which has been discharged in bankruptcy is considered to be in default.

Section 11—*Cost of education* (§ 175.12 of the NPRM). Comments were not requested on this section, because no changes were proposed. However, a change was proposed to the provision governing the cost of a program of study abroad for purposes of determining eligibility for assistance under the campus-based programs. That proposed change was contained in § 175.15 of the NPRM and is now in section 14(g) of the final regulation. The comments received on section II(c) are discussed here, but they are also relevant to § 14(g) of the final regulation.

Under the regulation previously in effect, the total amount of financial aid a student could receive from any and all sources for a course of study abroad was limited to the amount needed for a course of study at his or her "home" campus. Since the regulation was not intended to prevent the receipt of non-Federal funds to pay the additional costs of study abroad, § 175.15(f) of the NPRM proposed that a student could receive funds from any source other than the basic grant program or the three campus-based programs to pay the reasonably necessary additional costs of a program of study abroad.

Most of the comments on § 175.12(c) of the NPRM pointed out inconsistencies between that paragraph and § 175.15(f). To eliminate any possible confusion § 11(c) of the final regulation has been reworded to specify that "cost of education" as used in this section refers only to the figure used in calculating a student's need for funds under the campus-based programs.

Section 13—*Approved need analysis systems* (§ 175.14 of the NPRM). The dollar limits on assets contained in paragraph (b)(2) of this section have been modified to be consistent with the changes being made in the family contribution schedule of the basic grant program. The changes reduce the amount a family would otherwise be expected to contribute from assets.

No comments were requested on this section.

Section 14—*Coordination of student financial aid programs, award amount, and overaward* (§ 175.15 in the NPRM). The NPRM proposed a new paragraph (d) based on § 128(d)(3) of the Education Amendments of 1976. This section provided that no student in the CWS program who had a second job concurrently would have to terminate his or her CWS job when the earnings from the two jobs exceeded the student's financial need. However, when the earnings exceeded the financial need by $200 or more, continued employment under the CWS program could not be subsidized with Federal funds.

Many of the comments on § 175.14(d) sought clarification of the term "additional employment," and others suggested extending the provisions to all employed students. The Commissioner has determined, upon further examination, that the benefits of § 128(d)(3) of the Education Amendments of 1976 should be extended to all students whose overawards arise from one or more jobs. Accordingly, section 14 has been revised as described in the two paragraphs that follow.

Paragraph (b) states a general rule prohibiting an award of assistance which, when combined with other resources from Federal and non-Federal sources, exceeds the student's financial need. Two exceptions to the general rule apply. The institution does not violate the rule when (1) a student obtains additional resources after the institution has made the award if the total resources do not exceed the student's need by more than $200 or (2) the student earns more money from employment than the institution had anticipated when making the award, and the surplus earnings are treated as required by paragraph (d).

Paragraph (d) requires the institution to determine if the surplus earnings (more than $200 above need) are needed to meet any reasonable and necessary costs not anticipated at the time of the award. If there is increased need but the resources will still exceed need by more than $200, the institution must reduce any loan or grant (except Basic Grant) awarded but not yet paid and treat surplus earnings either as a resource for the following year or as a substitute for the expected family contribution unless a Guaranteed Loan has been used for that purpose. This paragraph also states that an institution does not have to take any further action if the student is not returning for the following year.

The Education Amendments of 1976 also increased the income limits for automatic interest eligibility for Guaranteed Loans from $15,000 to $25,000. Section (f) has been revised to reflect this change. The paragraph has also been written in a clearer style.

Section 16—*Payments to students.* This section, as it relates to the NDSL and SEOG programs, has been revised to offer more institutional flexibility in making payments during the year.

Section 19—*Fiscal procedures and records.* Regulations previously in effect have not required physical segregation of Federal funds, but have required institutions to give notice to the banks of all accounts in those banks in which Federal funds are deposited. This provision has been changed to require an institution to deposit all funds for the campus-based and basic grant programs in an account which has no other funds in it.

The provision for non-Federal audits has been changed to require each audit to cover the entire period of time which has elapsed since the last audit. It should be pointed out in this connection that the existing CWS regulations became effective on November 3, 1976, and the NDSL and SEOG regulations, on December 24, 1976. Therefore, the first year in which this requirement applies is the award period which ended on June 30, 1977. An institution which participated in any of the campus-based programs during that year and did not have itself audited as of June 30, 1977 must have itself audited as of June 30, 1978. The audits may be performed by an independent public accounting firm, a State or local auditor where appropriate, or an institution's own internal auditors if they are independent of the accounting for and operation of the program.

SUMMARY OF COMMENTS AND RESPONSES RELATING TO PART 144 (NDSL)

SECTION 144.2—DEFINITIONS

"In default". One commenter asked for a clarification of the phrase "other appropriate arrangements" used in the definition of the term "in default" in the interim regulations.

The final regulation incorporates the term "in default" in the definition of "default." The phraseology relating to curing the default has been dropped entirely from the new definition. The reader should also note that section 9(h)(4) states that an NDSL which has been discharged in bankruptcy is considered to be in default for purposes of determining eligibility for assistance under all three campus-based programs.

"Graduate or professional student". One commenter asked whether a student who already has an undergraduate degree and is enrolled at an institution in a post-baccalaureate unclassified status (e.g., a student who needs to complete certain undergraduate courses to be admitted to a particular program of graduate study) is eligible for a loan.

Under the NDSL regulation a post-baccalaureate student in an unclassified status may be determined eligible for a loan, unless the student has already borrowed $5,000 under the program. Since a post-baccalaureate unclassifed student is not a graduate student, the limit does not increase to $10,000. The reader should also note that any student who has already received a baccalaureate degree is no longer an undergraduate student and is therefore ineligible to receive a basic grant or a supplemental grant.

SECTION 144.8—INSTITUTIONAL AGREEMENT

Comment. Several commenters suggested that this section be revised to allow an institution to make a short-term loan to its Fund in anticipation of collections normally received too late for relending during an award year. Then, when collections were received to cover its loan to the Fund, the institution would be permitted to repay itself from the Fund. This would allow an institution to make more loans to needy students during the award year and to end the year with little or no cash on hand.

Response. The Office of Education concurs, and § 144.8 has been revised by adding new subparagraphs (b)(7) and (c)(6) to authorize institutions to make these short-term loans to the NDSL Fund and to repay them from the Fund.

SECTION 144.9—STUDENT ELIGIBILITY

Comment. One commenter asked for clarification of the language of § 144.9(d) (which was previously § 144.9(e)) which states that "loans made under this part shall be made reasonably available to all eligible applicants except that no loan may be made under this part to any student who indicates an unwillingness to repay that loan." The commenter asked if verbal statements by borrowers indicating an unwillingness to repay would constitute grounds for denial of a loan. The commenter also suggested the substitution of the language from section 132 of Pub. L. 94-482, the Education Amendments of 1976, providing no financial aid payments to students in default on a prior loan for attendance at that institution.

Response. A verbal statement by a potential borrower indicating unwillingness to repay is grounds for denial of a loan. This is much broader than the language of section 132 of Pub. L. 94-482, which is now included as a new paragraph (e) of this section.

Comment. Two commenters raised the question as to the extent of institutional discretion in denying a loan to a student who meets all eligibility criteria for a loan including need, if the difference between the amount the institution can lend and the amount of the student's need is so great that the student cannot reasonably be expected to complete the academic period for which the loan is awarded.

Response. If the disparity between the amount the institution can lend a student and the amount of the student's need is so great that it can be easily predicted that the student will be forced to withdraw before the end to the academic period for which the aid is awarded, the institution may refuse to make the loan.

SECTION 144.16—DISBURSEMENT OF LOANS (SECTION 144.15 OF THE INTERIM REGULATIONS)

Comment. Numerous commenters objected to the provisions of § 144.16(a) requiring disbursement of NDSL funds to students in equal installments by payment period. Many unusual or mitigating circumstances were cited where by this provision might deprive a student of assistance in a particular enrollment period. Examples are: a student teacher who cannot work during a period of student teaching, the fact that many schools do not wish to make loans to freshmen in the first enrollment period and the fact that work-study funds usually are not earned in proportion to other aid granted in the first enrollment period.

Response. The Office of Education agrees, and the regulation has been revised to offer more institutional flexibility in making advances on loans.

SECTION 144.31—LIMITATIONS GOVERNING AGGREGATE AMOUNT OF LOANS

Comment. One commenter requested clarification of § 144.31(c) which provides that the maximum loan is "$2,500 in the case of any student who has not completed 2 academic years of a program of education leading to a bachelor's degree." The commenter cited as an example a student needing 90 quarter units to be classified as a junior, but who has completed only 72 quarter units in the first 2 years and has already received $2,500 in loans.

Response. No borrower may receive more than $2,500 until the borrower has earned enough to be classified as a junior (third year student) in a program leading to a bachelor's degree.

SECTION 144.33—MINIMUM RATE OF REPAYMENT

Comment. One commenter suggested that a borrower who has received both Defense and Direct Loans where the notes evidencing the Defense and Direct Loans contain the optional $15 and $30 minimum monthly repayment provisions respectively should be required to repay a minimum of $45 per month on the two loans.

Response. This practice is prohibited by § 144.33(c) of the regulation. It is not permissible under the Act to require repayment of a combination of Defense and Direct Loans or a combination of Direct Loans at a rate in excess of $30 per month unless a higher monthly repayment rate is required to repay the loans over a repayment period of 10 years. The reader's attention is also directed to page 51953 of the Interim Regulation's "summary of comments" for a more detailed discussion on the use of the optional minimum monthly repayment plans.

SUBPART C—LOAN COLLECTION—DUE DILIGENCE

Discussion. As a result of numerous comments, a public hearing was held on June 14, 1977 in room 3652, Regional Office Building, Seventh and D Streets SW. The public hearing was held for two purposes. The first was to gather additional information concerning loan servicing functions which are performed by a billing service, by a collection agency or by some other third party. The second purpose was to identify and clarify functions which may be performed by a billing service vis-a-vis a collection agency. Representatives of several billing services and collection agencies presently performing billing and/or collection activities on NDSL funds appeared and presented their views on these topics.

During the course of the hearing it was determined that the principal element which distinguishes between a billing service and a collection agency is the degree of delinquency on notes

handled. Normally a collection agency would not receive a loan for collection before it is at least 105 days overdue. However, if the institution considers a note defaulted, it may assign it to a collection agency for collection 30 days after sending a final demand letter. A loan is considered defaulted if the institution believes that the borrower does not intend to repay.

There can be considerable duplication of functions between a billing service and a collection agency. For example both may perform skip-trace activities and both may engage in telephone contact with delinquent borrowers. The fee charged by a billing service is normally a monthly charge per account serviced and may not be charged to the Fund as an "other collection cost" except that payment may be made from the Fund for skip-trace activities and phone calls to the borrower. In contrast, all of the fee charged by a collection agency may normally be charged to the Fund if it does not exceed one-third of the amount collected.

The Office of Education has been assured by billing services that they can provide clients with satisfactory documentation to show which portion of the monthly service charges paid by those clients (i.e., institutions of higher education which participate in the program) may be properly classified as "other collection costs." Accordingly, the Office of Education will permit an institution using a billing service to charge its Fund for the performance of those activities when they are separately documented. The remainder of the monthly service fee may not be charged to the Fund, because it is for the performance of routine administrative duties.

To assist in identifying billing service activities which may be charged to the Fund as well as providing for a high standard of due diligence, the regulations are being amended to specify all the steps which must be performed in collecting on any loan not paid by its due date or on which an appropriate cancellation or deferment form is not filed by the due date. The first two overdue notices have been retained as in the interim regulations—one within 15 days and the second within 45 days of the missed due date. If the borrower does not respond satisfactorily to those contacts, a third effort must be made by mailgram or telephone. If a satisfactory response is not received, a final demand letter must be sent within 15 days of the third contact (i.e., within 75 days of the missed due date). The final demand letter must give the borrower 30 days to repay and inform him or her that the loan will be referred for collection or litigation unless a satisfactory response is received within that time. If the institution intends to accelerate the loan or has already done so, that fact must also be stated in the final demand letter.

If a satisfactory response is not received to the final demand letter, the institution must contact the borrower by telephone before referring the loan for collection or litigation. This telephone call may be made within the 30 days the borrower was given to respond to the final demand letter or after the expiration of the 30 days. The purpose of the telephone call is to find out whether the borrower's reason for non-response is financial hardship such as prolonged illness or unemployment. If it is, the borrower should be given a hardship deferment. This telephone call should be made by a person skilled in making telephone collections.

If the loan is referred for collection and the borrower still fails to pay, the institution must decide whether the borrower has the ability to pay. It must sue for payment if the indebtedness is at least $500 and the borrower (1) can be located, (2) has assets which may be used to satisfy the indebtedness, and (3) has no known defense (e.g., the statute of limitation).

SECTION 144.42—GENERAL (SECTION 144.41 OF THE INTERIM REGULATIONS)

Comment. One commenter suggested that § 144.42(b)(2) be revised to require withholding of services, e.g., transcripts, to the student borrowers who leave the institution without notice and fail to respond to institutional mail.

Response. If not prohibited by State or local law, the withholding of student transcripts and other services is recommended. However, the Office of Education feels that it would be inappropriate for this to be made a requirement by regulation, because it might be prohibited by State law in some States.

SECTION 144.43—CONTACT WITH THE BORROWER PRIOR TO REPAYMENT PERIOD (SECTION 144.42 OF THE INTERIM REGULATION)

Comment. One commenter objected to the provision of § 144.43(b) which requires an exit interview with every student borrower and cited the inability of the institution to do so when a borrower leaves school without notification. One commenter objected to the requirement for contacts with the borrower during the grace period contained in § 144.43(c).

Response. The regulation provides that, whenever possible, the interview must be held in person. When a student borrower leaves school without notice, the institution is required to attempt the exit interview by mail. After this attempt, unless mail is returned, the institution is considered to have fulfilled its responsibility. If, during this period, mail is returned "address unknown," the institution is required to take immediate steps to skip-trace in order to reestablish and maintain contact with the borrower to better insure collection of the loan. Contact with the borrower is necessary during the grace period to enable the institution to keep track of changing addresses.

SECTION 144.46—COLLECTION AND LITIGATION PROCEDURES (SECTION 144.45 OF THE INTERIM REGULATION)

Comment. Several commenters stated that the bond requirements for commercial collection agencies contained in § 144.46(b) were too high.

Response. The Office of Education concurs and has revised the regulation to provide an alternative to bonding. Bonding is not required if the collection agency does not control NDSL cash. Section 144.46(b) now provides for the use of a "lock-box," which results in a deposit of funds in an account in the name of the lending institution without funds passing through the hands of the collection agency.

SECTION 144.47—OTHER COLLECTION COSTS—LITIGATION COSTS (SECTION 144.46 OF THE INTERIM REGULATION)

Comment. Several commenters asked if "actual costs of collection" as provided for in § 144.47(b) may include salaries of the institution's own personnel when it elects to perform its own collections.

Response. Yes. The regulation has been amended to clarify this point.

SUBPART D—LOAN CANCELLATION

SECTION 144.51—SPECIAL DEFINITION

Comment. Several commenters asked if crippled children and children with learning disabilities meet the definition of "handicapped children" set forth in § 144.51(d) of the regulations.

Response. The definition of "handicapped children" is taken directly from the statute. The definition does not specifically speak to either crippled children or children with learning disabilities. Thus whether or not persons in either of these categories would meet the definition of "handicapped children" would depend upon the severity of their impairment within the context of the present definition. It should also be noted that the term "special education" does not necessarily mean education of the handicapped, although it often does. For example, a remedial program for teaching slow learners may be classified as special education but not meet the definition of "handicapped." When in doubt, the institution should request a

job description from the employer to determine whether or not a borrower is a teacher of the handicapped.

SECTION 144.56—MILITARY CANCELLATION (SECTION 144.55 OF THE INTERIM REGULATIONS)

Comment. One commenter noted that § 144.56(b)(1) as written seems not to restrict eligibility for cancellation of loans made after June 30, 1972 to military service performed after that date.

Response. The Office of Education concurs, and the regulation has been revised to correct this error.

SUMMARY OF COMMENTS AND RESPONSES RELATING TO PART 175 (CWS)

SECTION 175.8—INSTITUTIONAL AGREEMENT

Comment. One commenter asked whether § 175.8(a)(8) requiring an institution to make equivalent employment available to all students means that the institution must operate a non-CWS student employment program equal in size to its CWS program.

Response. Section 175.8(a)(8) is a verbatim quote from the statute. It does not require an institution to allocate any specified amount of funds to its non-CWS student employment program. What it does require is that all students in the institution who desire employment must have a reasonable opportunity to obtain any non-CWS employment that is made available or arranged by the institution.

SECTION 175.22—PROGRAM ELIGIBILITY (SECTION 175.17 OF THE NPRM)

Comment. One commenter objected to the inclusion of § 175.22(b)(5) as unnecessary. That clause bars employment under the program for the U.S. Office of Education.

Response. The Commissioner wishes to avoid the possibility of seeming to favor any institution over any other institution as the result of his receipt of items of value from one but not the other. Such an appearance could be created if the Commissioner accepts the services of students employed under the CWS program. Eighty percent of the amount earned by students under the CWS program comes from program funds granted by the Commissioner to an institution. The payroll cost to the Commissioner, if he were to accept the services of those students, would be only twenty percent of student wages (plus a small additional amount for employer contributory costs). The fact that the value of these services is received by the Commissioner in his official capacity, not personally, does not diminish the fact that acceptance of the services could create the appearance that the Commissioner is failing to administer the CWS program in a completely fair and impartial manner.

SECTION 175.24—ESTABLISHMENT OF WAGE RATES (SECTION 175.19 OF THE NPRM)

Discussion. Numerous inquiries were received from public institutions as to whether they would be required to increase their CWS wages to $2.65 an hour on January 1, 1978, because of the recent amendment to the Federal minimum wage law (which is contained in the Fair Labor Standards Act and is administered by the Department of Labor). The commenters point out the fact that, as a result of the Supreme Court's decision in *National League of Cities* v. *Usery*, public institutions of higher education are no longer subject to the Federal minimum wage law. Many of these commenters stated that they are currently paying at least $2.30 an hour to all their students, but that it would be a budgetary hardship for them to be required by regulations to increase that minimum rate to $2.65 an hour on January 1, 1978. Many of these commenters observed that the minimum wage for the CWS program is effectively the minimum wage for all students at their institutions, because they pay the same rate to all students doing the same work.

Despite the fact that public institutions are not subject to the Federal minimum wage law, these institutions are required to pay CWS students at the minimum rate which the Commissioner establishes for the program if they are to receive the Federal share of the wages. In recognition of the difficulties that would be experienced by public institutions if the minimum wage for the CWS program were to be increased on such short notice from $2.30 an hour to $2.65, the Commissioner has provided for that increase to take place on July 1, rather than January 1, 1978. Subsequent increases in the CWS minimum wage will also occur on July 1, rather than January 1, in order to be more closely coordinated with the usual academic calendar.

Private institutions should note, however, that these delays from January 1 to July 1 do not apply to them, because they are subject to the provisions of the Federal minimum wage law. Therefore, they must pay the higher rate beginning on January of each year, unless an exception is granted.

SECTION 175.25—EARNINGS ATTRIBUTABLE TO COST OF EDUCATION (SECTION 175.21 OF THE NPRM)

Discussion. Section 444(a)(3)(A) of the Higher Education Act of 1965 (42 U.S.C. 2754) provides that an institution may furnish employment under the CWS program "only to a student who * * * is in need of the earnings from such employment in order to pursue a course of study at such institution (taking into consideration the actual cost of attendance at such institution". "Need" is defined for all of the campus-based Federal programs of student financial aid as the difference between the student's cost of education and his or her expected family contribution.

However, it would be unreasonable in some cases to expect 100 percent of a student's earnings under the CWS program to be attributed to his or her cost of education; therefore section 175.25 was written to specify what portion of those earnings must be attributed to the student's cost of education. One obvious exclusion is any amount of income taxes which the student is required to pay (which may or may not be equal to the amount of taxes withheld). Another is any job-related cost which the student would not otherwise have to pay, such as job-related commuting costs. A less obvious exclusion is the cost of the student's room and board if he or she is employed under the program during the summer (or other extended vacation period) while not attending classes. The student's room and board costs during the summer may be included in the cost of education, but only if the student is on a twelve-month budget. In that case, a provision for the incidental cost allowance for room and board is not needed.

Section 175.20(b) of the previous final CWS regulation provided that the maximum amount deductible from the student's summer earnings as costs incident to employment was 20 percent or $200 unless the only job obtainable by the student required a greater amount. In the latter case, actual costs could be deducted up to a limit of $400 or 40 percent. Public comment on this restriction was discussed on page 49906 of the NPRM of September 28, 1977 (42 FR 49906). In response to that public comment, the Commissioner proposed to change the $200 limit to $300 and the $400 limit to $600, leaving the percentage limits unchanged.

Comment. A number of commenters objected to the proposed limits of $300 and $600 as being excessively restrictive and offered cost of living data to show that a person needs from $800 to as much as $1,060 for room and board for four months. Some of these commenters recommended the deletion of all the limits in § 175.25(b) leaving the percentages as the standard. One other commenter recommended the retention of the dollar limits, but the deletion of the percentage limits.

Response. Section 175.25 has been expanded to specify that the institution may include room and board costs for the student's summer vacation period in the student's cost of education if it places the student on a twelve-month budget and assesses a twelve-month family contribution.

Comment. One commenter argued that the proposed standards are so restrictive as to eliminate summer programs and recommended that the programs should be prohibited directly, if this is the intent.

Response. It is not the Commissioner's intent to eliminate summer employment under the CWS program, and the Commissioner has received no information which would lead to the conclusion that summer programs are in fact being eliminated. On the other hand, if students find it advantageous to take a summer job other than one under the CWS program, they should be encouraged to do so. It is not the purpose of the CWS program to compete with other summer employers, but to make available jobs that would not otherwise be performed.

SECTION 175.28—MULTI-INSTITUTIONAL ARRANGEMENTS (SECTION 175.9 OF THE NPRM)

Comment. One commenter suggested that this section needed to be worded more plainly and specifically objected that the section does not make provision for an institution to assign only a portion of its CWS allocation to the consortium or agency which it designates to operate its CWS program.

Response. Under section 443(b) of the Act, a group of institutions may enter into a cooperative arrangement with each other (a "consortium") and be considered an eligible institution for the CWS program only. The consortium may also designate or create a public or private nonprofit agency, institution, or organization to administer its CWS program on its behalf. This particular statutory provision permits the consortium to be considered a single institution for purposes of participating in the CWS program, but not for the other Federal programs of aid.

If any particular institution wishes to cooperate with such a consortium without becoming a part of it, it may do so under the long-established "off-campus agency" provisions set forth in §§ 175.22(a)(1) and 175.26(c). Under those off-campus provisions the institution may assign only a portion of its CWS allocation to the consortium, if that is the institution's choice.

Subpart B—Job Location and Development Program

Comment. A large number of commenters objected to the delays encountered in implementing this new statutory provision, which requires its own agreement. Several commenters expressed the opinion that Congress did not intend for implementation of this program to be delayed until the regulations implementing it are final.

Response. The agreement has been made retroactive to July 1, 1977.

Comment. Two commenters expressed the opinion that the category of employers under the job location and development program should include profit-making enterprises.

Response. Any profit-making enterprise may be included. The job location program does not pay any part of the earnings of the students who are placed. Therefore, it is open to any employer and any student, including both employers and students who are not eligible for the CWS program.

Pursuant to the authority contained in title IV of the Higher Education Act of 1965, as amended (Pub. L. 89-329), the Commissioner is amending the regulations in 45 CFR parts 144, 175, and 176.

Dated: June 12, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 14, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.471 National Direct Student Loan; 13.463 College Work-Study; and 13.418 Supplemental Educational Opportunity Grant.)

1. Part 144 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

Subpart A—General Provisions

Sec.
144.1 Scope and purpose.
144.2 Definitions.
144.3 Apportionment and reapportionment of Federal capital contributions to States.
144.4 Allocation, reallocation and payment of Federal capital contributions to institutions.
144.5 Institutional applications.
144.6 Funding procedures.
144.7 Application review and approval of request.
144.8 Institutional agreement.
144.9 Student eligibility.
144.10 Special sessions
144.11 Cost of education.
144.12 Expected family contribution.
144.13 Approved need analysis systems.
144.14 Coordination of student financial aid programs, loan amount and overaward.
144.15 Coordination with BIA grants.
144.16 Making and disbursing loans.
144.17 Federal interest in allocated funds—transfer of Loan Fund.
144.18 Use of funds.
144.19 Fiscal procedures and records.
144.20 Compliance with Truth in Lending and Equal Credit Opportunity Requirements.
144.21 [Reserved]

Subpart B—Terms of Loans

144.31 Limitations governing aggregate amount of loans.
144.32 Promissory note-loan repayment.
144.33 Minimum rate of repayment if the borrower received both Defense and Direct Loans.
144.34 Deferment of repayment.
144.35 Postponement of loan repayments in anticipation of cancellation.
144.36 Treatment of loan repayments where cancellation, loan repaymnents, and minimum monthly repayments apply.

Subpart C—Loan Collection—Due Diligence

144.41 [Reserved]
144.42 General.
144.43 Contact with the borrower prior to repayment period.
144.44 Billing procedures.
144.45 Skip tracing activities.
144.46 Collection and write-off procedures.
144.47 Other collection cost-litigation costs.
144.48 Use of fiscal agent.
144.49 Use of commonly owned billing service and collection agency prohibited.
144.50 Bankruptcy of borrower.

Subpart D—Loan Cancellations

144.51 Special definitions.
144.52 Application for cancellation.
144.53 Teacher cancellation—Defense loans.
144.54 Teacher cancellation—Direct loans.
144.55 Head state cancellation.
144.56 Military cancellation.
144.57 Cancellation for death or disability.
144.58 Cancellation provision not retroactive.
144.59 Reimbursement by the Commissioner of amounts cancelled.

Subpart E—Loans to Institutions for "Institutional Capital Contributions."

144.61 Institutional loan.
144.62 Application.
144.63 Allocation of Federal institutional loans.
144.64 Federal institutional loan agreements.

Appendix A—Allotment of funds to States for fiscal year 1972.
Appendix B—Sample promissory note.
Appendix C—Examples for computing penalty charges.

AUTHORITY: Title IV, Part E of the Higher Education Act of 1965, as added by section 137(b) of Pub. L. 92-318, 86 Stat. 273, as amended (20 U.S.C. 1087aa-1087ff), and Title II of the National Defense Education Act of 1958, as amended (20 U.S.C. 421-29), unless otherwise noted.

Subpart A—General Provisions

§ 144.1 Scope and purpose.

(a) The national direct student loan program authorizes the establishment and operation of a revolving loan fund at an institution of higher education so that the institution may make low

interest loans to help financially needy students meet their educational costs.

(b) The national direct student loan program authorized by Title IV, Part E, of the Higher Education Act (part E) is a continuation of the national defense student loan program authorized by Title II of the National Defense Education Act of 1958 (title II) (20 U.S.C. 421-429). Except as otherwise provided in this part, all rights, privileges, duties, functions, and obligations existing under title II before the enactment of the education amendments of 1972 (Pub. L. 92-318) are vested under Title IV, Part E of the Higher Education Act of 1965. Except as otherwise provided in this part, any student loan fund established under an agreement under title II is considered to have been established under part E and any assets of the student loan fund of any institution are considered the assets of a student loan fund established under an agreement of that institution with the Commissioner under part E.

(20 U.S.C. 1087aa; Pub. L. 92-318, section 137(d)(1))

§ 144.2 Definitions.

For the purposes of this part:

"Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

"Act" means Title IV—Part E of the Higher Education Act of 1965, as amended.

"Award year" means the period of time between July 1 of one year and June 30 of the next year.

"Basic educational opportunity grants program" or "basic grant program" means the program authorized by Title IV-A, Subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a)

"Campus-based programs" means the National Direct Student Loan (NDSL) (45 CFR part 144), the College Work-Study (CWS) (45 CFR part 175), and the Supplemental Educational Opportunity Grant (SEOG) (45 CFR part 176) programs.

"Clock hour" means a period of time which is the equivalent of (a) a 50 to 60 minute class, lecture, or recitation, or (b) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(20 U.S.C. 1087aa-ff)

"College work-study program" or "CWS program" is a federally supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751-2756)

"Commissioner" means the U.S. Commissioner of Education or his or her designee.

(20 U.S.C. 1141(f))

"Default" or "in default" means the failure of a borrower to make an installment payment when due, or to comply with other terms of the promissory note under circumstances where the institution finds it reasonable to conclude that a borrower does not intend to honor his or her obligation to repay.

"Default rate" for an institution means the principal amount outstanding on Defense and Direct loans in default for 120 days if repayable in monthly installments, or 180 days if repayable in less frequent installments, divided by the principal amount of all loans made minus the principal amount of loans that have not reached the repayment period.

Represented as a fraction, "default rate" equals:

Principal amount outstanding on loans in default for 120 days if repayable in monthly installments, or 180 days if repayable in less frequent installments

Principal amount of loan minus the principal amount of loans that have not reached the repayment period.

For purposes of this definition, the "principal amount outstanding" is the total amount loaned minus any amount repaid or canceled on that loan.

A loan that has been discharged in bankruptcy is not considered to be in default for purposes of this definition.

"Defense loan" means a loan made under this part before July 1, 1972.

"Dependent student" means any student who does not qualify as a "self-supporting or independent student."

"Direct loan" means a loan made under this part after June 30, 1972.

"Eligible program" in a public or nonprofit private college, university, junior college, community college or vocational school, means a program of education or training which:

(a) admits as regular students only (1) persons having a certificate of graduation from a secondary school (high school graduates), or the recognized equivalent of that certificate (GED), or (2) persons beyond the age of compulsory school attendance in the State in which the institution is located who have the ability to benefit from the education or training offered;

(b)(1) leads to a bachelors, associate, professional, or higher degree, or (2) is at least a 2-year program which is acceptable for full credit toward a bachelor's degree, or (3) leads to a certificate or degree, is at least 1 year in length, and prepares students for gainful employment in a recognized occupation. A 1-year program of training is defined in the definition of "institution of higher education";

"Eligible program" in a proprietary institution of higher education, means a program of training which:

(a) admits as regular students only high school graduates, or GED recipients,

(b) leads to a degree or certificate,

(c) prepares students for gainful employment in a recognized occupation, and

(d) is at least a 6-month program as defined in the definition of "proprietary institution of higher education."

"Expected family contribution of a dependent student" means the amount which reasonably may be expected from the student and his or her spouse and parents to meet the student's cost of education.

"Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his or her spouse to meet the student's cost of education.

"Federal capital contribution" means the portion of a fund allocated to the institution under § 144.4.

"Federal institutional loan" means a loan made by the Commissioner to an institution to enable that institution to make an institutional capital contribution to its fund.

(20 U.S.C. 1087aa-ff)

"Financial need" means the difference between a student's cost of education and his or her expected family contribution.

"Fund," or "National Direct Student Loan Fund," means a fund established and maintained in accordance with § 144.8.

"Good standing" means the eligibility of a student to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled.

"Graduate or professional student" means, in general, a student who is enrolled in an academic program of instruction above the baccalaureate level which is provided at an institution of higher education. The term includes (a) that portion of any program involving a period of study beyond 4 years of study at the college level, or (b) any portion of a progam leading to (1) a degree beyond the bachelor's or first professional degree, or (2) a first professional degree, when at least 3 years of study at the college level are required for entrance into a program leading to that degree.

(20 U.S.C. 1087aa-ff)

"Guaranteed student loan program" or "GSL program" means the student loan program authorized by Title IV,

Part B of the Higher Education Act of 1965.

(20 U.S.C. 1071-1087-4)

"Half-time graduate student" means a graduate or professional student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered at least half-time graduate study.

"Half-time undergraduate student" means an undergraduate student who is carrying any combination of courses, research, or special studies which the institution in which the student is enrolled considers half-time study. However, the course work and activities must amount to the equivalent of a minimum of (a) 6 semester hours or 6 quarter hours per academic term for institutions using standard semester, trimester, or quarter hour systems; (b) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not use standard semester, trimester, or quarter systems; or (c) 12 clock hours per week for institutions which use clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week are considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(2))

"Institutional capital contribution" means the portion of a fund contributed by the institution under § 144.8(b)(2).

(20 U.S.C. 1087cc)

"Institution of higher education" means an educational institution in any State which—

(a) admits as regular students only persons:

(1) who have a certificate of graduation from a school providing secondary education,

(2) who have the recognized equivalent of that certificate, or

(3) who are beyond the age of compulsory school attendance in the State in which the institution is located and have the ability to benefit from the training offered by the institution;

(b) is legally authorized within that State to provide a program of education beyond secondary education;

(c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree;

(d) is a public or other nonprofit institution; and

(e)(1) is accredited by a nationally recognized accrediting agency or association, or

(2) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or

(3) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of a nationally recognized accrediting agency or association within a reasonable time, or

(4) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an accredited institution.

The term "institution of higher education" also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (a), (b), (d), and (e) of this definition.

For purposes of this part a 1-year program of training for institutions using a standard semester, trimester, or quarter system means a program of at least 24 semester or trimester hours or 36 quarter hours. For institutions not using those standard terms, a 1-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction.

The term "institution of higher education" also includes any proprietary institution of higher education which has an agreement with the Commissioner containing those terms and conditions the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in tuition, fees, or other charges.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a).)

"National of the United States" means (a) a citizen of the United States, or (b) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22).)

"Nonprofit" as applied to a school or institution means a school or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which benefits, or may lawfully benefit, any private shareholder or individual.

(20 U.S.C. 1141(c).)

"Payment period" means a semester, trimester, or quarter; however, for institutions which do not use those academic periods, it is the period between the beginning and the midpoint or between the midpoint and the end of the academic year.

"Proprietary institution of higher education" means a school:

(a) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation,

(b) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate,

(c) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education,

(d) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose,

(e) which is not a public or other nonprofit institution, and

(f) which has been in existence for at least 2 years.

For purposes of this part a 6-month program of training for institutions using standard semester, trimester, or quarter systems means a program of at least 16 semester or trimester hours or 24 quarter hours. For institutions not using those standard terms, a 6-month program of training means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3).)
(20 U.S.C. 1087aa-ff.)

"Self-supporting or Independent Student" means a student (a) who is a veteran or (b) who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested;

(2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested; and

(3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received or the

calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a loan, and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year in which aid is requested.

(20 U.S.C. 1087aa-ff; 20 U.S.C. 1087dd(e).)

"State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a).)

"State Student Incentive Grant Program" means the grant program authorized by Title IV-A, Subpart 3 of the Higher Education Act of 1965 (20 U.S.C. 1070c-1070c-4). "Supplemental educational opportunity grant program" or "SEOG program" means the grant program for students with exceptional financial need authorized by Title IV, Part A, Subpart 2 of the Higher Education Act of 1965.

(20 U.S.C. 1070b et seq.)

"Veteran" means a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

(38 U.S.C. 101(2).)
(20 U.S.C. 1087aa-ff unless otherwise noted.)

§ 144.3 Apportionment and reapportionment of Federal capital contributions to States.

(a) *Apportionment.* (1)(i) Ninety percent of the sums appropriated for Federal capital contributions will be apportioned as set forth in section 462(a)(1) of the Act.

(2) The Commissioner will apportion any sums remaining after the apportionment of funds under subparagraph (1) of this paragraph to those States which received the lowest percentage of approved requests for Federal capital contributions as a result of that apportionment so that no State will receive less than a uniform minimum percentage of its total approved requests for Federal capital contributions.

(3) To compute this apportionment the Commissioner will use information for the most recent year for which satisfactory data are available.

(b) *Reapportionment.* If the apportionment to a State under paragraph (a) of this section exceeds the total amount of approved requests for Federal capital contributions of institutions of higher education in that State, the excess will be reapportioned. The Commissioner will reapportion any excess to those States in which the total approved requests exceed the amount of funds apportioned. The amount reapportioned to a State will bear the same ratio to the aggregate excess as the total amount of shortfall in that State bears to the total amount of shortfalls in all the states.

(20 U.S.C. 1087bb)

(c) *Amounts to be transferred to the State student financial assistance training program.*

(1) The Commissioner may transfer an amount equal to .05 percent of a State's apportionment determined under paragraph (a) of this section, or $10,000, whichever is less, to that State under the State student financial assistance training program authorized under Section 493C of the Higher Education Act of 1965, if the State has submitted an approved application.

(2) Funds reserved for transfer to the State student financial assistance training program which have not been granted to the appropriate agency by the end of the fiscal year for which appropriated will be returned to that State's apportionment and may be allocated on an equitable basis to one or more institutions in that State.

(20 U.S.C. 1088b-3)

§ 144.4 Allocation, reallocation and payment of Federal capital contributions to institutions.

(a) *Allocation of funds to institutions.* (1) Subject to the provisions of subparagraphs (2) and (3) of this paragraph when funds available for distribution among the institutions within a State for Federal capital contributions are not sufficient to honor all approved requests of institutions within that State, the sums that are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including both apportionments and reapportionments, bears to the total approved requests for that State.

(2) If an institution is unable to match the Federal capital contribution which the institution would otherwise receive in accordance with subparagraph (1) of this paragraph, the institution will receive only the amount of Federal capital contribution that it is able to match. "Match" means to provide an amount equal to one-ninth of the Federal capital contribution.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, amounts which would otherwise be granted to proprietary institutions of higher education for any fiscal year shall be reduced so as not to exceed the difference between $190,000,000 and the amount appropriated for Federal capital contributions.

(b) *Reallocation.* If an institution fails to accept all of the Federal capital contribution awarded to it, or if it projects that it will not use a portion of its allocation by the end of the period for which those funds were made available, the amount not accepted or used will be restored as part of the State apportionment. When the aggregate of funds restored to a State's apportionment becomes sufficient to increase significantly the amount of the Federal capital contributions that can be awarded to other institutions within the State, those funds will be awarded to other institutions in that State in accordance with subparagraph (1) of paragraph (a) of this section.

(c) *Payment.* Payment of the Federal capital contribution will be made in installments which the Commissioner determines will not result in unnecessary accumulations of capital in the student loan fund of the applicant.

(20 U.S.C. 1087bb)

§ 144.5 Institutional applications.

(a) *Definitions.* For purposes of this section and section 144.6—

(1) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing the application;

(2) "Prior year" means the 12-month period preceding the base year;

(3) "Current year" means the 12-month period ending on the June 30 immediately following application;

(4) "Request year" means the 12-month period beginning on the July 1 immediately following the closing date for filing the application; and

(5) "Enrollment factor" means—

(i) For an institution which typically admits most new students in the fall, the factor obtained by dividing the opening fall enrollment for the current year by the opening fall enrollment for the base year; or

(ii) For an institution which does not typically admit most new students in the fall, the factor obtained by dividing the total enrollment for the base year by the total enrollment for the prior year.

(b)(1) If an institution wishes to participate in the NDSL program, it must file an application with the Commissioner before an annually established closing date. That application must be filed in the form prescribed by the

Commissioner and must contain the information needed by the Commissioner to carry out the evaluation specified in § 144.6. If the institution applies for CWS and/or SEOG funds the application must also contain information needed to determine whether the institution is in compliance with the maintenance of effort requirements set forth in the CWS and SEOG regulations (45 CFR Parts 175 and 176, respectively).

(2) The application must be signed by the official authorized to submit the application and must contain the names of the institution's Director of student financial aid and of the individual or official who will be responsible for the receipt, custody, and disbursement of Federal funds. The application must also contain the following enrollment information:

(i) For an institution which typically admits most new students in the fall, the opening fall enrollment for the current year and for the base year. In addition, if its enrollment factor exceeds 1.20, a projection of the opening fall enrollment for the request year and an explanation of that projection;

(ii) If an institution which typically admits most new students in the fall was not in existence during the base year, its enrollment for the current year plus a projection of its enrollment for the request year and an explanation of that projection;

(iii) For an institution which does not typically admit most new students in the fall, the total enrollment for the base year and the prior year. In addition, if its enrollment factor exceeds 1.20, projections of the total enrollments for the current year and the request year and an explanation of those projections;

(iv) If an institution which typically does not admit most new students in the fall was not in existence during either the base year or the prior year, its actual enrollment for the year, if any, during which it was in existence, plus a projection of its total enrollments for the current and request years and an explanation of that projection.

(c) *Augmentation requests.* If an institution makes an augmentation request as described in § 144.6(e), it must submit additional narrative information justifying its request.

(d) *Correspondence schools.* An application submitted by an institution offering only a program of study by correspondence (a "correspondence school") must set forth, in addition to the information required by paragraph (b) of this section, (1) the number of students that have expected family contributions which are less than their costs of education in the current year and (2) the amount of basic grant funds which these students are entitled to receive for the current year. Those expected family contributions must be based on a need analysis of individual students performed in accordance with the standards and procedures used by need analysis systems approved under § 144.13.

(20 U.S.C. 1087bb)

§ 144.6 Funding procedures.

(a) *Definitions.* For purposes of this section—

(1) "Aggregate request" means the sum of the institution's requests for the request year for

(i) Federal funds under the CWS and SEOG programs and

(ii) An approved level of expenditure ("level of lending") under the NDSL program; and

(2) "Funds available" means

(i) With respect to the CWS and SEOG programs, the amount of Federal funds granted by the Commissioner to the institution for its expenditure under the program during any award year, and

(ii) With respect to the NDSL program, the sum of the Federal Capital Contribution (FCC) granted to the institution for any award year, plus an amount equal to one-ninth of that FCC, plus the amount of funds received by the institution as repayment from borrowers or as other income of its fund for that award year, plus the cash balance in its fund on July 1 of that award year.

(b) *General.* (1) The Commissioner will evaluate an application according to the procedures in paragraphs (c), (d), and (e) of this section to determine whether the institution's aggregate request is reasonably necessary to meet the needs of its students who are eligible for aid under the campus-based programs.

(2) The Commissioner will further review each application to determine whether the institution has made effective provisions to carry out the requirements of each of the campus-based programs for which it applies. In making that determination, the Commissioner will consider

(i) The institution's previous experience in administering each program,

(ii) The number, experience, and qualifications of the personnel chosen to administer the program,

(iii) The administrative arrangements the institution has made to comply with the requirements of § 144.14 concerning coordination of programs and § 144.19 concerning separation of functions,

(iv) The institution's procedures for making a vigorous and effective collection effort in compliance with subpart C,

(v) The institution's default rate, and

(vi) Whether the institution has spent all the funds available to it under the campus-based programs during the base year and can be expected to spend all the funds available to it under those programs during the current year.

(c) *Institutions not receiving funds in the base year.* (1) If an institution did not have funds available to it in any of the campus-based programs during the base year, the aggregate of its approved requests for those programs may not exceed the average aggregate expenditure per enrolled student during the base year at comparable institutions in the same area times an inflation factor of 1.12 times the applicant institution's approved projected enrollment as defined in subparagraph (2) or (3) of this paragraph.

(2)(i) If an institution typically admits most of its new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its opening fall enrollment in the current year by its enrollment factor, if that factor does not exceed 1.20.

(ii) If an institution does not typically admit most new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its annual enrollment for the base year by the square of its enrollment factor, if that factor does not exceed 1.20.

(3) If an enrollment factor cannot be calculated for an institution because it was not in existence during one of the years used for calculation or if an institution's enrollment factor is greater than 1.20, the Commissioner will evaluate the reasonableness of the institution's justification of its projected enrollment.

(4) If the institution applies for funds under the national direct student loan program, the Commissioner will further evaluate the institution's request for that program in terms of the reasonableness of the number of students to be awarded loans in relation to the projected enrollment of the institution.

(5) The Commissioner will evaluate whether the methods used by a correspondence school in preparing the information required by § 144.5(d) were soundly conceived and the source materials used were appropriate and reliable. Based on this evaluation, the Commissioner will either approve the institution's request or reduce it accordingly.

(d) *Institutions with base year funds, base amounts.* If an institution had funds available to it in the base year, its request for funds will be evaluated in the following manner:

(1) The institution establishes a base amount by choosing its first or second

formula limit or an amount less than the lower of those figures.

(2) The institution's first formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.12 times

(ii) The sum of its expenditures for the campus-based programs during the base year.

(3) The institution's second formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.06 times

(ii) The sum of the products obtained by multiplying the amount of funds available to the institution in each of the campus-based programs during the application year by the projection rate for that program.

(4) The projection rate referred to in subparagraph (3) of this paragraph is the rate obtained by dividing the institution's expenditures in the base year in each of the campus-based programs by the total funds available to it in each program for that year. (For the CWS and SEOG programs this is the utilization rate reported on the annual fiscal operations report for those programs.)

(5) After the institution establishes its base amount, it may distribute that amount among the campus-based programs as it chooses. However, if it allocates to any program an amount greater than 110 percent of that program's share of the base amount, the amount in excess of 110 percent will be evaluated as an augmentation request in accordance with paragraph (e) of this section.

(6) The procedures described in subparagraphs (1) through (5) of this paragraph are represented in the following table.

Example - CALCULATION OF FORMULA LIMIT - for Request year 1978-1979

To be completed by all institutions which participated in one or more of the programs in the 12 months ending June 30, 1977. Enter "NA" for any program in which you did not participate. COMPLETE ALL COLUMNS.

Entries in column (A), "Base Year," must be derived from your Award Period 1976-77 Fiscal Operations Report.
Entries in column (B), "Current Year," are derived from your Award Letters for the 12 months ending June 30, 1978.
In Column (D), Authorization X Projection Rate = Projection. For CWS and SEOG, "projection rate" means the utilization rate reported on the annual fiscal-operations report.

FORMULA LIMIT	"Base Year" AWARD YEAR 1976-77 EXPENDITURES Fiscal Operations Report (A)	AWARD PERIOD 1977-78 PROJECTION		
		"Current Year" Authorization (B)	X Projection Rate (C)	= "Current Year" Projection (D)
61 CWS - Federal Funds	$	$	%	$
62 SEOG - Initial Year	$	$	%	$
63 SEOG - Continuing Year	$	$	%	$
64 NDSL - Level of Lending	$	$	%	$
65 TOTAL: Sum of Lines 61 through 64	$	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	$
66 Inflation Factor	1.12	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	1.06
67 Enrollment Factor		XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
68 FORMULA LIMIT: lines 65 x 66 x 67	$	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	$

Select Either 68 (A) or 68 (D) as your Formula Limit request and indicatethe selection in the following boxes:

(CHECK ONE) First Formula Limit ☐ 68 (A) Second Formula Limit ☐ 68 (D)

Distribute the Amount selected in the following boxes. The sum of lines 69 through 72 may not exceed the selected Formula Limit.

69. CWS Federal Funds ☐ 70 SEOG Initial Year ☐ 71 SEOG Continuing Year ☐ 72 NDSL Level of Lending ☐

(7) If: (i) The institution chooses its first formula limit as its base amount, or (ii) it chooses its second formula limit as its base amount and that amount is not more than 130 percent of its first formula limit, the Commissioner will approve that base amount. However, the Commissioner will not approve that amount if there is evidence in program reviews, audits, fiscal operations reports, or applications filed by the institution, that the institution has not complied with the requirements of the programs for which it is applying. The institution's failure to file required reports in an acceptable form and in a timely manner may be viewed as a failure to comply with program requirements.

(8) (i) If the institution's base amount exceeds 130 percent of its first formula limit, the Commissioner will review the institution's expenditure and commitment of funds during the current year to determine whether it is reasonable to expect that the institution will spend the amounts projected under subparagraph (3) (ii) of this paragraph for each program. (ii) If the Commissioner determines that the projected expenditures are unreasonably large, an appropriate downward adjustment will be made.

(e) *Institutions with base year funds; augmentation requests.* (1) If the institution's aggregate request exceeds its base amount or if its request in any program exceeds 110 percent of that program's share of its base amount, the amount in excess of that limit will be considered to be an "augmentation request" and will be evaluated by the Commissioner separately from the institution's base amount. For each program, the Commissioner will approve or disapprove any augmentation request in its entirety.

(2) The Commissioner will approve an augmentation request only if it is based on exceptional circumstances which make an institution's need for additional funding greater than and different from that of other institutions in its State. In deciding whether this condition has been met, the Commissioner will review the request to determine whether

(i) The procedures used by the institution to calculate the aggregate amount of funds needed by its students were soundly conceived,

(ii) The data used are verifiable, and

(iii) The procedure and data justify the request.

(3) The Commissioner will not approve an augmentation request for any program if the projection rate described in paragraph (d) (4) of this section is less than 90 percent, unless the institution can justify the low rate.

(4) The Commissioner will not approve an augmentation request for any program if the institution requests, as part of its base amount, an amount which is less than that program's share of the base amount.

(20 U.S.C. 1087bb.)

§ 144.7 Application review and approval of request.

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel will evaluate each institution's request for funds in accordance with the criteria set forth in § 144.6 and recommend an amount which it considers appropriate.

(2) No panelist may review an application from the panelist's own institution or an application from any other institution which the panelist has prepared or assisted in preparing or in which he or she has any personal or financial interest.

(b) Institutions which file applications under this part will be notified of the amount recommended by the review panel. If the amount recommended is less than the institution's request, the reasons for the reduction will be forwarded to the institution. The regional office staff will adjust the recommendation to correct arithmetic or technical errors that are brought to their attention.

(c) (1) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it must submit a written request for review to the regional office within the time specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review the request and will notify the institution in writing of its decision and the reasons therefor.

(2) The institution may reply to the regional office's decision if it believes that the reasons used by the regional office in arriving at its decision were wrong.

(3) The regional office will respond to the institution's reply indicating its agreement or disagreement with the institution's statement.

(d) (1) If an institution wishes a review of the regional office recommendation, it may request a review by a national review panel. The national review panel will consist of institutional student financial aid officers from each of the regions and personnel of the Office of Education.

(2) A request for national review must be submitted in writing by the institution to the regional office within the time specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review the request and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1087bb.)

§ 144.8 Institutional agreement.

To participate in the NDSL program, an institution of higher education must enter into an agreement with the Commissioner for that purpose. The agreement must include any provisions the Commissioner considers appropriate to carry out the NDSL program. Specifically, the agreement must provide:

(a) For the establishment and maintenance of a student loan fund (fund) by the institution;

(b) For the deposit in the fund of:

(1) Federal capital contributions;

(2) A capital contribution by the institution in an amount equal to not less than one-ninth of the amount of the Federal contribution (institutional capital contribution);

(3) Collections of principal and interest on student loans made from the Fund;

(4) Payments to the institution by the Commissioner under section 465(b) of the act as a result of cancellations on direct loans;

(5) Penalty charges collected under § 144.32(f);

(6) Any other earnings of the fund; and

(7) Short term, no interest loans made to the fund by the institution in anticipation of collections;

(c) That the fund be used only for:

(1) Loans to students in accordance with this part;

(2) Payments to the institution in lieu or reimbursement for administrative expenses in the amount and for the purposes provided for in § 144.18;

(3) Capital distributions as provided in section 466 of the act;

(4) Costs of litigation;

(5) Other collection costs agreed to by the Commissioner in connection with the collection of principal, interest, and penalty charges, if any, on a loan made from the fund. "Other collection costs" are described in § 144.47 but do not include costs of employing individual contractors or agents to handle routine administrative duties that the lending institution may reasonably be expected to perform with its own personnel as part of the rou-

tine administration of this program; and

(6) Repayment of the short term loans made to the fund under subparagraph (b)(7) of this section;

(d) That where a note or written agreement evidencing a loan has been in default for at least two years despite due diligence, as set forth in subpart C, on the part of the institution in collecting those loans, the institution may assign its rights under that note or agreement to the United States, without recompense. Any amount collected on that loan will be deposited in the general fund of the Treasury;

(e) That the institution must submit a report to the Commissioner, on at least a semiannual basis, indicating the total number of loans made from its fund which are in default for 120 days in the case of loans repayable in monthly installments, or for 180 days in the case of loans repayable in less frequent installments; and

(f) That the institution must make loans from the fund reasonably available (to the extent of the of the available funds in the fund) to all eligible students in the institution in need thereof.

(20 U.S.C. 427, 1087bb, 1087cc.)

§ 141.9 Student eligibility.

(a) *General.* Except as provided in paragraphs (e) through (h) of this section, a student enrolled in an eligible program is eligible for a loan under this part if the student:

(1) Is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Has financial need;

(3) Is capable, in the opinion of the institution, of maintaining good standing in his or her course of study; and

(4) Has been accepted for enrollment as at least a half-time undergraduate, graduate, or professional student in the institution or, in the case of a student already attending the institution, is in good standing and is enrolled as at least a half-time undergraduate, graduate, or professional student. If an eligible student fails to maintain good standing, his or her eligibility will be suspended, and no loan payments to that student may be made until he or she regains good standing.

(b) *Programs of study abroad.* A student participating in a program of study abroad will be considered to be enrolled in his or her "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution, and (2) the student's academic performance during the program of study abroad becomes a part of the permanent academic record at the home institution in the same manner as if performed at that institution.

(c) *Member of religious community—financial need.* A member of a religious community, society or order who by direction of the community, society or order is pursuing a course of study in an institution of higher education or who receives support and maintenance from the community, society, or order is considered not to have financial need.

(d) *Selection.* Loans made under this part must be made reasonably available to all eligible applicants. However, no loan may be made under this part to any student who indicates an unwillingness to repay that loan. If applications for loans exceed available funds, the order of selection must be made on the basis of need. The institution must establish procedures for selecting among eligible students and its procedures must be (1) set forth in writing, (2) available for public inspection, and (3) maintained in the files of the institution's office which selects loan recipients.

(e) An institution may award an NDSL to a student only after it determines that the student:

(1) Is maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

(2) Is not in default on any national direct or defense student loan made by that institution or on a loan made, insured, or guaranteed under the guaranteed student loan program (title IV-B, HEA) for attendance at that institution; and

(3) Does not owe a refund on grants previously received for attendance at that institution under the basic grant, supplemental grant, or State student incentive grant programs.

(f) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself before the end of that payment period, it may make that student a loan to cover that entire period; if the institution reverses itself after the end of that period, it may not make that student a loan for that period, nor make adjustments in subsequent periods, to compensate for the loss of aid for that period.

(g) Students who receive overpayments on grants may continue to receive loan payments under the following conditions:

(1) *Overpayment of a basic grant.* If a student is overpaid on a basic grant at an institution, that institution may still disburse a loan to that student if:

(i) The student is otherwise eligible, and

(ii) The overpayment can be eliminated in the award year in which it occurred by adjusting subsequent basic grant payments for that award year.

(2) *Overpayment of a basic grant due to institutional error.* If the student is overpaid on a basic grant at an institution as a result of institutional error, and the overpayment cannot be eliminated by adjusting subsequent basic grant payments in the award year, the institution may also pay the student if:

(i) The student is otherwise eligible, and

(ii) The student acknowledges in writing the amount of the basic grant overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment of a supplemental grant.* An institution may continue to disburse a loan to a student who receives an overpayment on a supplemental grant if:

(i) The student is otherwise eligible, and

(ii) An adjustment in subsequent financial aid payments (other than basic grants) eliminates the overpayment in the same award year in which it occurred.

(4) *Definition of overpayment.* For purposes of this part overpayment of a grant means that a student received a grant payment which was greater than the amount he or she was entitled to receive.

(h)(1) In determining whether a student is in default on a guaranteed student loan, the institution may rely on a written statement from the student that he or she is not in default unless the institution has information to the contrary.

(2) An institution may make an NDSL to a student who is in default on a guaranteed student loan if the Commissioner, for a federally insured loan, or a guarantee agency, for a loan insured by that guarantee agency, has determined that the student has made satisfactory arrangements to repay the defaulted loan.

(3) An institution may make an NDSL to a student who is in default on a national direct or defense student loan made by the institution if it determines that the student has made satisfactory arrangements to repay the defaulted loan.

(4) For purposes of this section, a national defense or direct student loan or a guaranteed student loan which has been discharged in bankruptcy is considered to be in default.

(20 U.S.C. 1087dd, 1088f.)

§ 144.10 Special sessions.

A student enrolled in an institution of higher education during a period of special enrollment, such as a summer

term, will be eligible for a national direct student loan if the student—

(a) Is otherwise eligible,

(b) Is registered as at least a halftime student at that institution during that session, and

(c) Is at least a halftime student at that institution during the regular term immediately preceding that session or will be enrolled or has been accepted for enrollment as at least a halftime student during the subsequent regular term at that institution.

A student who is taking all of the courses required to complete his or her degree or certificate meets the requirement of paragraph (b) of this section.

(20 U.S.C. 1087aa-ff.)

§ 144.11 Cost of education.

(a) A student's educational costs include tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of the student's dependents. However, for independent students, if a family size offset is deducted from the income of the student or the student's spouse in determining the student's expected family contribution, room and board, miscellaneous personal expenses, and expenses related to the maintenance of persons who are dependent on the student or the student's spouse are not considered costs of education.

(b) For a student engaged in a program of study by correspondence only tuition and fees are considered a cost of education. However, travel and room and board costs incurred specifically in fulfilling a required period of residential training will be considered a cost of education.

(c) If a student is enrolled in an eligible program of study outside the United States the student's cost of education for purposes of calculating financial need for the campus-based programs may not exceed the student's cost of education at his or her home campus. For further treatment of study-abroad, see § 144.14(g).

(20 U.S.C. 1087dd.)

§ 144.12 Expected family contribution.

(a) *Dependent student.* In determining the amount of income and net assets that should reasonably be made available by the dependent student and his or her spouse and parents to meet that student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parents may claim an exemption under the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of those dependent children attending institutions of higher education; and

(4) Any other circumstances that may affect the ability of the student and his or her spouse and parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net asset that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet the student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of those dependent children attending institutions of higher education; and

(4) Any other circumstances that may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) *Special considerations.* The student financial aid officer must determine whether the relationship between a student and his or her parents makes it unreasonable to expect the parents to contribute toward that student's cost of education, regardless of their ability to do so, if requested by a student who:

(1) Does not live with his or her parents;

(2) Does not visit them for periods that are longer than those which are typical for adults visiting their parents; and

(3) Does not receive from them gifts which exceed in value gifts typically given by parents as incidental gifts to their adult nondependent offspring.

The student financial aid officer must make the reasons for that determination part of the institution's written records. Before making a finding of that nature, the student financial aid officer must make such efforts as he or she considers appropriate to ascertain whether the student's parents are in fact willing to contribute toward the student's cost of education.

(d) In determining the expected family contribution of eligible Indian or other Native American students, the institution must not consider as income or as an asset of the student or his or her family:

(1) Funds received pursuant to an award made under the Distribution of Judgment Fund Act (25 U.S.C. 1401 et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(2) Property which may not be sold or encumbered without the consent of the Secretary of the Interior; and

(3) Any other property held in trust for the student or the student's family by the U.S. Government.

(e) *Annual determinations.* For a student who is enrolled in a program of study by correspondence for which the total cost of education is $1,000 or less, the determination of need may be made only once, at the beginning of the course of study. In all other cases an institution must make the need determinations at least annually.

(20 U.S.C. 1087dd.)

§ 144.13 Approved need analysis systems.

(a) *General.* To comply with the requirements of § 144.12 an institution must use a need analysis system or method of calculation approved by the Commissioner.

(b) *Preapproved systems for dependent students.* For dependent students the Commissioner has approved:

(1) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190); and

(2) The income tax system, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. The expected family contribution calculated according to the income tax system is an amount equal to the sum of the amount the student is reasonably able to contribute plus the amount of Federal income tax paid by the parents of the student, plus 5 percent of the parents' net assets in excess of $17,000 if those assets do not include farm or business assets and $50,000 if those assets do include farm and business assets. However, no more than $17,000 may be deducted from nonfarm and nonbusiness assets.

(c) *Criteria for approval of other systems for dependent students.* The Commissioner will approve any other need analysis system as meeting the requirements of § 144.12 for dependent students, which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(1) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (i) Increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (ii) are equal for families of equal measured financial strength; and

(2) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate

by less than $50 from the figures produced for those sample cases by the following calculations:

(i) From the sum of the adjusted gross income and nontaxable income of the parents, deduct Federal income taxes and social security taxes, an allowance of 8 percent of total income for State and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(ii) To the remainder obtained in subparagraph (i) add 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve; and

(iii) Apply the following rate schedule of expected contributions to the sum obtained in subparagraph (2)(ii):

If the sum is—		The expected contribution is—
At least—	But less than—	
$0	$4,000	22 pct of the amount over $0.
$4,000	5,000	$880+25 pct of the amount over $4,000.
$5,000	6,000	$1,130+29 pct of the amount over $5,000.
$6,000	7,000	$1,420+34 pct of the amount over $6,000
$7,000	8,000	$1,760+40 pct of the amount over $7,000.
$8,000		$2,160+47 pct of the amount over $8,000.

(3) In developing the sample cases the Commissioner will select only cases where the main wage earner is 45 years old and where the elements set forth in subparagraph (2) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending postsecondary institutions, social security or veterans' benefits or any unusual family circumstance.

(4) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero must be treated as zero.

(5) The figures for the set of sample cases used for purposes of this paragraph will be revised annually for inflation by adjusting the deductions for family maintenance, the standard deduction from assets and the rates of contribution from income and assets so that the revised standard expected contributions, expressed in constant dollars remain constant for families with equal income and asset positions measured in constant dollars.

(d) *Independent students.* (1) For independent students, the Commissioner has approved:

(i) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190);

(ii) The system of need analysis published by the American college testing program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service;

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates; and

(vi) The system of need analysis published by Educational Methods, Inc., of Denver, Colo.

(2) The Commissioner will approve any other need analysis system as meeting the requirements of § 144.12 for independent students, which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which increase in reasonably smooth increments as the family financial strength, measured in real terms, increases and are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (1) of this paragraph.

(e) *Application procedure for system approval.* (1) Any individual or institution that wishes to have its need analysis system approved must submit that system to the Commissioner by June 30.

(2) The Commissioner will publish in the FEDERAL REGISTER a list of all approved need analysis systems by the following September 1.

(3) Applications for need analysis systems for dependent students must include the information necessary for the Commissioner to determine whether that system meets the requirements of paragraph (c) of this section. The application must include the expected family contribution amounts produced by the system for the sample cases.

(4) Applications for need analysis systems for independent students must include the information necessary for the Commissioner to determine whether the system meets the requirements of paragraph (d) of this section.

(f) *Duration of approval.* (1) Need analysis systems approved under paragraphs (b) and (d)(1) are approved without a specified expiration date.

(2) A need analysis system approved under paragraph (c) of this section and included on the list published by the Commissioner may be used by the institution (i) in its application for funds for the campus-based programs which is submitted by the closing date immediately following the publication of that list and (ii) in determining the eligibility of students for assistance and the amount of that assistance under the campus-based programs for any academic year beginning no earlier than the following June 1 or later than 12 months following that date.

(3) A need analysis system approved under paragraph (d)(2) of this section will be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that subparagraph.

(g) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the approved need analysis systems if the student financial aid officer believes that the expected family contribution does not realistically reflect the ability of the student and the student's parents to contribute toward the student's cost of education. Those adjustments must be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1087dd.)

§ 144.14 Coordination of student financial aid programs, loan amount, and overaward.

(a) *Coordinating official.* The institution must appoint an official who will be responsible for coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Overaward prohibited.*

(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, an institution may not award assistance under this part in an amount which, when combined with the other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need. For purposes of this part, a student's financial need may not exceed the student's cost of education.

(2) *Exceptions.* An institution does not violate the rule set forth in subparagraph (1) of this paragraph even if a student obtains additional resources after the institution awards financial aid to the student if—

(i) The total resources made available to the student from Federal and non-Federal sources do not exceed the student's financial need by more than $200 or

(ii) The student earns more money from employment than the institution expected when it awarded the student financial aid and it treats the student's "surplus earnings" in accordance with the requirements of paragraph (d) of this section.

(c) *Resources.* Except as provided in paragraphs (f) and (g) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to,

(1) the amount of funds a student is entitled to receive under the basic grants program, regardless of whether the student has applied for those funds,

(2) any waiver of tuition and fees,

(3) any scholarship or grant-in-aid including supplemental grants and athletic scholarships,

(4) any fellowships or assistantship,

(5) any loan made under the guaranteed student loan program except where paragraph (f) of this section applies,

(6) any long-term loan made by the institution other than under the guaranteed student loan program, and

(7) any net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required taxes and any costs incidental to employment.

(d) *Prevention of overaward and treatment of surplus earnings.*

The institution must take the following steps when it becomes aware that a borrower has earned or will earn more than $200 above the amount it expected when it awarded financial aid:

(1) It must determine if the student needs the surplus earnings to pay reasonable and necessary additional costs of education not anticipated when it awarded financial aid to the student;

(2) If it determines that the resources available to the student from Federal and non-Federal sources still exceed the student's need by more than $200, it must cancel any loan or grant (other than a basic grant) awarded to the student but not yet disbursed, to avoid exceeding the student's need by more than $200;

(3) If the student will not be enrolled in that institution in the following academic year, it need not take any further action;

(4) If the borrower will be enrolled in that institution in the following academic year and if the institution cannot avoid exceeding the student's need by more than $200 it must treat the student's "surplus earnings" as

(i) A resource available to pay the student's cost of education in the following academic year, or

(ii) A substitute for the student's expected family contribution, unless a GSL has already been used for that purpose.

(e) *Definition of surplus earnings.*

For purposes of this section, "surplus earnings" means the amount earned by the student which, when combined with previous earnings and other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need by more than $200.

(f) *Treatment of guaranteed loans.*

(1) Any guaranteed student loan (GSL) for which no Federal interest benefits are payable (a nonsubsidized GSL) is not considered a student resource and may be used to replace the expected family contribution, up to the amount of the expected family contribution.

(2) A student may replace his or her expected family contribution with a GSL for which the student qualifies for Federal interest benefits automatically (i.e., on the basis of the borrower's adjusted family income rather than a need test).

(3) A student may not replace his or her expected family contribution with a GSL for which a need test is required for the student to receive Federal interest benefits. A GSL of this nature must be considered a student resource under paragraph (b) of this section.

(4) That part of a GSL which does not qualify to replace the borrower's expected family contribution under subparagraph (1) or (2) of this paragraph is considered a student resource under paragraph (b) of this section.

(5) If a borrower receives a loan under the GSL program which exceeds the amount of the borrower's expected family contribution, the excess is considered a student resource in all cases.

(6) Subparagraph (2) of this paragraph is effective retroactively to July 1, 1976.

(g) *Study abroad.* A student engaged in an eligible program of study abroad may have additional costs that do not qualify as educational costs under § 144.11. However, any funds obtained by the student to pay for those costs will not be considered a resource for the purposes of paragraph (c) of this section if they are obtained from sources other than the basic grant and campus-based programs. This paragraph is effective retroactively to November 3, 1976.

(h) *Institutional responsibility.* (1) The institution's responsibility under paragraph (b) of this section extends only to those resources which it makes available to the student, or about which it knows, or has reason to know, or can reasonably anticipate, at the time that the assistance under this part is disbursed to the student. (2) The institution must take reasonable steps to inform itself about earnings from any additional employment not provided by the institution which the student may obtain. (3) When an institution awards a loan to a student it employs or will employ, it is considered to know how much the student will earn.

(20 U.S.C. 1087dd.)

§ 144.15 Coordination with BIA grants.

(a) (1) An institution, in determining the amount of the loan to be awarded a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, must prepare a package of student assistance for that student from resources other than the BIA grant.

(2) In preparing that package, the institution must not consider any BIA education grant which the student has received or is expected to receive.

(3) The package must be consistent, in both type and amount of aid, with packages prepared for students in similar circumstances who are not eligible for BIA education grants.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package supplements that package.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the total amount of the BIA education grant, when combined with the package of other assistance exceeds the institution's determination of the student's need, only the excess may be deducted from the package of other assistance. (2) Except as provided for in subparagraph (3) of this paragraph, deductions must be made in sequence, so that the excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all loan awards have been adjusted, deductions must next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all work-study awards have been adjusted, deductions must be made from any award, or proposed award, in the form of a grant, other than a grant under the basic grants program.

(3) If requested by an eligible recipient, the sequence of deductions provided in subparagraph (2) of this paragraph may be altered if the institution determines that such an alteration

more adequately meets the need of that student.

(d) In determining the financial need of students eligible for BIA education grants, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(20 U.S.C. 1087dd.)

§ 144.16 Making and disbursing loans.

(a)(1) Before an institution makes its first disbursement to a student, it must have one of its employees meet personally with that student to insure that the borrower understands his or her obligations under the loan, including the obligation to apply the proceeds only to educational expenses and the obligation to repay the loan. The interview may be held individually with each borrower, or with groups of borrowers.

(2) A correspondence school may inform the student of his or her obligations by mail.

(b) For institutions which use a semester, trimester or quarter system:

(1) If the institution makes a loan to a student for a full academic year, it must advance a portion of that loan in each academic term. The amount to be advanced in each term is the amount obtained by dividing the amount for the full academic year by the number of semesters, trimesters or quarters in that year;

(2) If the institution makes a loan for less than a full academic year, it must divide that loan by the number of academic term remaining in the academic year and advance funds to the student accordingly.

(3) If a student incurs uneven costs in a particular academic term, or has need for additional funds for that terms, the institution may advance those additional funds to the student without regard to the requirements of subparagraphs (1) and (2) of this paragraph.

(c) If an institution does not use a semester, trimester, or quarter system, it must advance funds to the student at least twice during the academic year. One advance must be made at the beginning and the other at the midpoint of that year. However, the institution may not advance more than half of the loan before the midpoint.

(d) Within each payment period, the institution may advance funds to students at such times and in such installments as it determines will best meet the student's need for the funds. It may pay the loan by check or by crediting the borrower's account. If it credits the borrower's account, it must give the borrower a receipt. In either case the borrower must sign for the funds in the Schedule of Advances part of the note.

(e) Not withstanding paragraphs (b) and (c) of this section, if the total amount of funds awarded to a student under the campus-based programs is less than $301, only one advance need be made.

(f) For purposes of this section, a program of training of at least 6 months which prepares students for gainful employment in a recognized occupation equals a full academic year.

(g) No loan may be made to a student unless the student has filed a notarized affidavit with the institution he or she attends which—

(1) Is on a form approved by the Commissioner;

(2) States that the loan proceeds will be used solely for educational expenses at the institution; and

(3) Is notarized by someone who does not recruit students for the institution.

(h) No payment may be made from a fund to a student pursuing a program of study by correspondence before the student completes and submits the first lesson.

(20 U.S.C. 424, 1087cc, 1088g.)

§ 144.17 Federal interest in allocated funds—Transfer of loan fund.

(a) Funds received by an institution under this part, excluding funds authorized for administrative expenses, are held in trust for the intended student beneficiary. They may be used only for the purposes for which allocated and may not be pledged or hypothecated for any other purpose.

(b)(1) If an institution responsible for the maintenance of a loan fund including the collection of outstanding loans, ceases operation or is no longer willing to participate in the program, the Commissioner will take necessary steps to protect the Federal interest in that loan fund and in those outstanding loans. Those steps may include (i) the undertaking of a capital distribution of the liquid assets of the Fund in accordance with § 466(c) of the act, or (ii) the transfer of the outstanding loans of the Fund to another institution in the same State or to the Office of Education if no institution in that State wishes to receive them.

(2) The cost of collecting the transferred loans described in subparagraph (1) of this paragraph will be considered to equal the institutional share of those loans.

(3) If the loans described in subparagraph (1) of this paragraph are transferred to another institution the transferee institution may deposit all the funds it collects on those loans in its own loan fund and the transferror institution's share of those collections will be considered the transferee institution's institutional capital contribution.

(4) If the loans described in subparagraph (1) of this paragraph are transferred to the Office of Education, the Commissioner may use the institutional share of the collected funds to pay for the costs of collecting those loans.

(c) If more than one institution in that State offers to collect the outstanding loans referred to in paragraph (b) of this section, the Commissioner will select the transferee institution primarily on the basis of the institution's demonstrated capability in the area of loan collection and secondarily on the basis of the number of students of the transferror institution expected to enroll in the transferee institution.

(d) If a transfer of a fund is made under paragraph (b)(1)(ii) of this section, no audit exceptions will be taken against the transferee institution on account of actions or omissions of the transferror institution in the administration of its fund before the transfer. However, the transferred fund must be maintained by the transferee institution as a segregated account until an audit satisfactory to the Commissioner has been performed on the operation of the program at the transferror institution.

(20 U.S.C. 1087aa-ff; 1087cc(a)(5).)

§ 144.18 Use of funds.

(a) Funds received by an institution must be used:

(1) As specified in sections 144.8 and 144.59(b),

(2) To carry out the student consumer information services requirements set forth in section 493A of the act and 45 CFR 178, and

(3) To pay the cost of administering the Federal student financial aid programs.

(b) An institution is entitled to receive an administrative cost allowance for each award year during which it makes loans from its fund. The allowance is payable from the institution's fund and equals 4 percent of the principal amount of loans made from the fund during the award year. However, the aggregate amount paid to an institution under this paragraph plus the amount paid to the institution for an administrative cost allowance under the CWS and SEOG programs may not exceed $325,000 for any award year.

(c) Any institution which receives an administrative cost allowance for any award year must first use that allowance to carry out Part 178 of Title 45 of the Code of Federal Regulations, "Student Consumer Information Services." If any funds remain, the institution may use those funds

only to pay the costs of administering the Federal programs of student financial aid.

(20 U.S.C. 424, 1087cc, 1088b.)

§ 144.19 Fiscal procedures and records.

(a) *Fiscal procedures.* The institution must administer the national direct student loan program in a manner which provides for an adequate system of internal controls. The various administrative procedures must be divided to provide for a system of checks and balances. The functions of authorizing payment and disbursing funds must be divided in such a fashion that no office has responsibility for both functions with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions must give notice to any bank in which they deposit Federal funds of all accounts in that bank in which Federal funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Account for NDSL fund.* Federal funds become a Federal capital contribution to the institution's NDSL Fund only when deposited in a separate bank account identified as the institution's NDSL fund account (fund account). The fund account must contain all of the fund's cash and no other funds. The institution's capital contributions plus loan repayments and all other earnings of the fund must be deposited in the fund account.

(c) *Records and reporting.* (1) Each institution must establish and maintain on a current basis all general ledger control accounts and related subsidiary accounts necessary to identify all transactions relating to the NDSL program. Those records must:

(i) Be maintained in such a manner as to identify all program transactions separately from other institutional funds and activities;

(ii) Be reconciled at least monthly;

(iii) Afford ready identification of each student's account and the status thereof;

(iv) Be adequate to demonstrate the eligibility of every student aided under the program;

(v) Indicate the amount of need determined for each student and the way that need has been met; and

(vi) Identify the institutional officer who made the determination of need.

(2) An institution must submit an institutional fiscal operations report annually. It must also submit any other reports and information in the form and at the times required by the Commissioner. It must comply with the requirements the Commissioner finds necessary to insure the correctness of required reports.

(d) *Retention of records.* (1) *Records.* Each institution must keep intact and accessible records relating to the receipt and expenditure of Federal funds, including all accounting records and related original and supporting documents that substantiate costs charged to the fund. These records must include the ones specified in § 144.9(d).

(2) *5-year period.* Except as provided in subparagraphs (3) and (5) of this paragraph, the records specified in subparagraph (1) of this paragraph must be retained for 5 years after the date of submission of the annual institutional fiscal operations report.

(3) *Loan records.* (i) An institution must maintain a payment history for each borrower, showing the date and amount of each payment received from or on behalf of the borrower (or a proper endorser) over the life of the loan. This payment history must also indicate the amount of each payment which is attributable to principal and interest respectively.

(ii) An institution must also maintain a collection history for each borrower, showing the date, nature, and results of each contact made with the borrower (and any proper endorser) for the collection of a delinquent loan. Copies of all correspondence addressed to or received from the borrower and endorser must be included.

(iii) An institution must retain all financial and repayment records pertaining to any individual loan made under this part for not less than five years from the date on which the entire amount of the loan has been repaid, cancelled, or assigned.

(4) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(5) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit must be retained until resolution of the audit question. However, records need not be retained if they relate to a payment with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(6) *Audit and examination.* The institution must give the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, access to the records specified in subparagraphs (1) and (3) of this paragraph and to any other pertinent books, documents, papers, and records necessary for the purpose of audit and examination.

(e) An institution need not maintain separate records for national defense student loans as opposed to national direct student loans except with respect to loan cancellation.

(f) *Audits—Non-Federal.* (1) All of an institution's transactions involving the assets of its fund must be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether those transactions are in compliance with applicable laws and regulations. The required audits must be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of required audits may vary, depending on the size and complexity of the activity of the fund. However, an audit must be carried out at least once every two years.

(2) Each audit must cover the entire period of time which has elapsed since the last audit.

(3) The required audit reports must be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located.

(4) The institution must provide the Audit Agency and the Commissioner with access to records or other documents necessary to review the results of required audits.

(g) Promissory notes and student loan ledgers must be maintained in good order in a locked fireproof container. Only authorized personnel may have access to these documents.

(20 U.S.C. 424, 1087cc.)

§ 144.20 Compliance with truth in lending and equal credit opportunity requirements.

In making loans under this part, the institution must comply with the truth in lending requirements of regulation Z (12 CFR 226) and with the equal credit opportunity requirements of regulation B (12 CFR 202).

(20 U.S.C. 1087aa-ff.)

§ 144.21 [Reserved]

Subpart B—Terms of Loans

§ 144.31 Limitations governing aggregate amount of loans.

The maximum amount of direct and defense loans that a student may receive is:

(a) $10,000 in the case of any graduate or professional student, including any loans made to that person before

he or she became a graduate or professional student;

(b) $5,000 in the case of a student who has successfully completed 2 academic years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for that degree, and including any loans made to that person before he or she became such a student; and

(c) $2,500 in the case of any student who has not completed 2 academic years of a program of education leading to a bachelor's degree.

(20 U.S.C. 1087dd.)

§ 144.32 Promissory note—loan repayment.

(a) *Evidence of indebtedness.* A loan must be evidenced by a promissory note executed by the student borrower. A promissory note acceptable to the Commissioner is set forth in appendix B. Any substantive deviation from the provisions of this promissory note form must be approved by the Commissioner before the institution uses the revised form. A copy of the executed note must be supplied to the borrower.

(b) *Rate of interest.* The promissory note must provide:

(1) That the interest rate on the loan is 3 percent a year on the unpaid balance but

(2) That no interest is charged before the beginning of the repayment period specified in paragraph (c) of this section or during any period in which repayment is deferred in accordance with § 144.34(a).

(c) Repayment. (1) *Repayment period.* The promissory note must provide

(i) That the repayment period begins nine months after the date the student ceases to be at least a half-time student at an institution of higher education or at a comparable institution outside of the United States approved for this purpose by the Commissioner and ends 10 years and 9 months after that date;

(ii) That the borrower may request that the repayment period begin earlier than described in the preceding clause; and

(iii) That the length of the repayment period may vary as a result of section 144.34 (deferments) and paragraph (e) of this section (minimum repayments).

(2) *Repayment amount.* The note must provide:

(i) For the repayment of principal and interest in equal installments payable quarterly, bimonthly or monthly at the option of the institution; or

(ii) For the repayment of the loan in graduated periodic installments if requested by the borrower. However, the schedule of graduated repayments must be approved by the Commissioner. The Commissioner will accept requests for approval of graduated repayment schedules only from lending institutions.

(3) The student must select a repayment plan before ceasing to be at least a half-time student at the lending institution.

(4) The institution must attach a copy of the repayment plan to the promissory note and give a copy of the plan to the borrower.

(5) If the applicable repayment plan results in a final payment of not more than $10, the institution may increase the next-to-last payment of the repayment plan to include that amount.

(6) Any loan repayment made by a borrower must first be applied against any interest due on the loan with the remainder applied against principal.

(d) *Prepayment.* (1) The note must provide that a borrower may, at his or her option and without penalty, prepay all or part of the loan at any time. However, any refund attributable to a loan made under this part and any repayment made by the student during the academic year for which the loan was made must be treated as a reduction in the original amount of the loan and not as a prepayment.

(2) Unless the borrower indicates otherwise, any amount paid by the borrower which exceeds the amount due for that period or any previous period must be considered a prepayment of principal rather than an advance payment on any subsequent installment.

(e) *Minimum rates of repayment.* (1) *Defense loans.* (i) If the monthly repayment of principal and interest on a defense loan which would otherwise be required under paragraph (c) of this section is less than $15 a month (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), the institution may at its option and if it has so provided in the note require a student borrower to repay the loan at a monthly rate of up to $15.

(ii) If a borrower has obtained defense loans from more than one institution and if the monthly repayment of principal and interest is less than the equivalent of $15 per month, and only one institution exercises the $15 minimum monthly repayment option, the institution which exercises the option, will receive the difference between $15 and the monthly repayment owed to the other institution.

(iii) If a borrower has obtained defense loans from more than one institution, and if the monthly repayment of principal and interest is less than the equivalent of $15 per month, and each of the institutions exercises the $15 minimum monthly repayment option, the $15 minimum repayment must be divided among the institutions in proportion to the total amount of principal advanced by each of the institutions.

(2) *Direct loans.* (i) If the monthly repayment of the principal and interest which would otherwise be required under paragraph (c) of this section on a direct loan is less than $30 a month (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), the institution may at its option and if it has so provided in the note, require a student borrower to repay the loan at a monthly rate of up to $30.

(ii) If a borrower has obtained direct loans from more than one institution and if the monthly repayment of principal and interest is less than the equivalent of $30 per month, and only one institution exercises the $30 minimum monthly repayment option, the institution which exercises the option will receive the difference between $30 and the monthly repayment owed to the other institution.

(iii) If a borrower has obtained direct loans from more than one institution and if the monthly repayment of principal and interest is less than the equivalent of $30 per month and each of the institutions exercises the $30 minimum monthly repayment option, the $30 minimum repayment must be divided among the institutions in proportion to the total amount of principal advanced by each of the institutions.

(f) *Penalty charges.* An institution may provide in the note for a penalty charge if the borrower fails to pay all or any part of an installment when due, or fails to file timely and satisfactory evidence of an entitlement to deferment under § 144.34 or cancellation under subpart D of this part. The penalty charge may not exceed:

(1) $1 for the first month or part thereof by which an installment or evidence is late and $2 for each month or part thereof thereafter, if the loan is repayable monthly;

(2) $3 for each bimonthly period or part thereof by which an installment or evidence is late, if the loan is repayable bimonthly; or

(3) $6 for each quarterly period or part thereof by which an installment or evidence is late, if the loan is repayable quarterly.

(4) An institution may add the penalty charge to principal on the day following the day the installment was due, or it may require the borrower to pay the charge on the due date of the installment following the day the borrower received a notice of the penalty charge assessment. (See appendix C for calculating penalty charges.)

(g) *Security and endorsement.* The note must provide that the loan is

made without security and without endorsement, except that security or endorsement may be required if the borrower is a minor and if under applicable State law, a note executed by a minor would not create a binding obligation.

(20 U.S.C. 425 and 1087dd.)

(h) *Assignment of notes.* The note must provide that it may not be assigned except to the United States (or to a party specifically approved by the Commissioner), or to another institution to which the borrower transfers which is participating in the program, or if not so participating, is eligible to do so and is approved by the Commissioner to receive assigned notes.

(20 U.S.C. 1087cc-dd.)

(i) *Acceleration.* The note must provide that the institution may, at its option, make the entire unpaid indebtedness, including interest due and accrued and any penalty charges, immediately due and payable if the borrower.

(1) Fails to make a scheduled repayment on time, or

(2) Fails to file evidence of an entitlement to cancellation or deferment on time.

(j) *Costs of collection.* The note may, at the option of the institution, provide that the borrower must pay all attorneys' fees and other collection costs and charges.

(20 U.S.C. 425 and 1087dd)

§ 144.33 Minimum rate of repayment if the borrower received both Defense and Direct Loans.

(a) This section applies to the repayment of loans by a borrower who has received both defense and direct loans.

(b) If the monthly repayment of principal and interest that a borrower must repay on defense and direct loans is at least $30 (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), the institution may not exercise the option provided in either promissory note to increase the minimum monthly repayment even though the amount to be repaid by the borrower on the defense loans is less than the equivalent of $15 per month or the amount to be repaid on the direct loans is less than the equivalent of $30 per month.

(c) If the monthly repayment of principal and interest that a borrower must repay on defense and direct loans is less than $30 (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), and the institution exercises the option provided in either promissory note to increase the minimum monthly repayment, the maximum monthly repayment may not exceed $30 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis).

(d) If (1) the monthly repayment of principal and interest that a borrower must repay on defense and direct loans is less than $30 (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), (2) the amount otherwise required to be repaid on the defense loan is less than $15 per month (or the equivalent amount for loans repaid on a bimonthly or quarterly basis), and (3) the institution exercises its option for a minimum monthly repayment under one or both loans, no more than $15 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis) may be attributed to the defense loan. Furthermore, that $15 may be attributed to the defense loan only if the institution exercises its minimum repayment option on the defense loan.

(20 U.S.C. 425 and 1087dd; section 137d of Pub. L. 92-318)

§ 144.34 Deferment of repayment.

(a) The note must provide that installments of principal need not be paid and interest will not accrue during any period (1) in which the borrower is at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner; (2) not exceeding 3 years during which the borrower is a member of the Armed Forces of the United States, as defined in § 144.55(d); (3) not exceeding 3 years during which the borrower is in service as a volunteer under the Peace Corps Act; or (4) not exceeding 3 years during which the borrower is a VISTA volunteer under title I—part A of the Domestic Volunteer Service Act of 1973 Pub. L. 93-113, (formerly title VIII of the Economic Opportunity Act of 1964). The above periods may not be included in determining the 10-year repayment period specified in § 144.32(c).

(b) *Extraordinary circumstances.* If a borrower is unable, due to extraordinary circumstances such as prolonged illness or unemployment, to make a scheduled repayment, he or she may apply to the lending institution for a revision of the schedule. The institution may revise the schedule. However, a revision which extends the repayment period provided for in § 144.32(c), must first be approved by the Commissioner. Interest, however, continues to accrue.

(c)(1) If an institution elects the minimum monthly repayment rate on a direct loan set forth in § 144.32(e) and the borrower is unable, due to extraordinary circumstances, to make a payment when due, the institution may, upon application of the borrower, defer the borrower's repayments or revise the repayment schedule for a period of not more than 1 year. If, at the end of that period, the borrower is still unable to repay the loan at the minimum monthly rate, the institution may, upon reevaluation of the borrower's financial situation, defer or revise the borrower's repayment schedule for another period of not more than 1 year. Interest, however, continues to accrue.

(2) The institution may not grant the relief described in subparagraph (1) of this section if the revision or deferment will result in a repayment period longer than 10 years.

(d) *Less than half-time attendance.* For defense loans, the institution may provide that installments need not be paid during any period or periods, aggregating up to 3 years, during which the borrower is in attendance as less than a half-time student at an institution of higher education taking courses which are creditable toward a degree. The institution may also exclude those periods in computing the 10 year repayment period. Interest, however, continues to accrue during those periods.

(20 U.S.C. 425 and 1087dd)

§ 144.35 Postponement of loan repayments in anticipation of cancellation.

(a) An institution must postpone loan repayments for a 12-month period if the borrower:

(1) Will be teaching or providing other services that are eligible for loan cancellation, and

(2) Has submitted a statement signed by a responsible official of the military, agency, school or institution employing the borrower indicating that the borrower will be so employed. That statement must include the borrower's job description, the period of employment, and the full-time or part-time nature of the employment.

(b) If a borrower has received both defense loans and direct loans and is eligible for cancellation benefits on only one of those loans, only the loan repayments due on the loan for which cancellation is available may be postponed.

(20 U.S.C. 425 and 1087dd-ee)

§ 144.36 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.

(a) *Minimum monthly repayment rate.* Notwithstanding the provisions of §§ 144.32(e) and 144.33, an institution may not exercise the minimum repayment provision in a note that is subject to partial cancellation for a period covered by a postponement, if the borrower receives a partial cancellation of the note for that period.

(b) If a borrower has received both defense and direct loans and is eligible to have only one of those loans canceled, the amount due on the loan not being canceled shall be at the rate established under § 144.32(c) or (e), whichever is applicable.

(20 U.S.C. 425 and 1087dd-ee)

Subpart C—Loan Collection—Due Diligence

§ 144.41 [Reserved]

§ 144.42 General.

Each participating institution must exercise due diligence as described in this subpart in the collection of loans. In the exercise of that responsibility it must consistently use extensive and forceful collection practices. In particular, an institution must:

(a) Provide to each borrower, not later than the time when the borrower signs the promissory note, full disclosure of the borrower's rights and obligations thereunder;

(b) Conduct an exit interview as described in § 144.43 with each borrower before he or she leaves the institution and provide the borrower at that time with a copy of the repayment schedule specifying the total amount of the loan and the dates and amounts of installments as they become due. It must also have the borrower sign a copy of the repayment schedule and must place that copy in the borrower's file;

(c) Mail the borrower a copy of the note and two copies of the repayment schedule and request the borrower to sign and return one of the copies of the repayment schedule, if the borrower leaves the institution without notice;

(d) Maintain contact with the borrower after he or she leaves the institution to facilitate billing and to keep the borrower informed on a timely basis of all changes in the program affecting his or her rights or obligations; and

(e) Respond promptly to written inquiries and other communications of the borrower and any endorser.

(20 U.S.C. 1087cc)

§ 144.43 Contact with the borrower prior to repayment period.

(a) *Coordination of institutional offices.* Each institution must provide for the exchange of information among all appropriate institutional offices, e.g., the registrar, student financial aid, business, and alumni offices. This exchange will enable the institution to determine (1) the date the borrower will graduate so that an exit interview may be scheduled, or (2) whether a student has left school without proper notice so that it may mail the borrower the required information.

(b) *Exit interview.* An institution must, if possible, conduct an exit interview with each borrower before the borrower leaves the institution. The exit interview must, if possible, be conducted on an individual basis. However, if individual interviews are not feasible, a group interview is permitted.

During the exit interview the institution must provide the borrower with a detailed explanation of his or her rights and obligations. It must inform the borrower that he or she received a loan which must be repaid in accordance with the repayment schedule. Furthermore, it must inform the borrower of:

(1) His or her responsibility to inform the institution immediately of any change of address;

(2) The full amount of the loan and the interest rate;

(3) The amount of the first payment and the date it is due;

(4) His or her responsibility to contact the institution before any repayment is due, if for any reason payment cannot be made;

(5) His or her right to a deferment, cancellation or postponement as well as the procedures for filing for those benefits;

(6) The right to prepay without penalty; and

(7) Any optional features included in the note such as minimum monthly repayment, penalty charges and collection charges.

(c) The institution must contact each borrower at least three times before the first repayment is due, as follows:

(1) 90 days into the grace period the institution must transmit to the borrower in writing the information described in paragraph (b) of this section and any other information necessary to satisfy Truth in Lending Act regulations;

(2) 180 days into the grace period the institution must notify the borrower of the date the borrower's grace period ends; and

(3) At least 30 days before the first repayment is due the institution must notify the borrower of that due date and of the amount due.

(d) If the institution finds that a borrower's address has changed, it must implement the procedures set forth in § 144.44(a)(4) to find the borrower's correct address.

(20 U.S.C. 425 and 1087cc)

§ 144.44 Billing procedures.

(a) Each institution must establish and maintain the following billing and followup procedures during the period in which any outstanding balance remains unpaid.

(1) The institution must send to each borrower a letter of notice and a statement of account at least 30 days before the date on which the first repayment installment is due and a statement of account at least 10 days before the due date of each payment after the first payment, unless a coupon system is established.

(2) If a payment or a deferment or cancellation form is not received within 15 days of its due date, the institution must contact the borrower to demand payment. The demand for payment must be made in accordance with subparagraph (3) of this paragraph.

(3) Except as provided in subparagraph (4) of this paragraph, the institution must implement the following procedure:

(i) Within 15 days of a missed due date, it must contact the borrower by telephone or in writing to demand payment (first overdue notice).

(ii) Within 30 days of the date of the first overdue notice, if the borrower does not respond satisfactorily, it must contact the borrower again by telephone or in writing (second overdue notice).

(iii) Within 15 days of the date of the second overdue notice, if the borrower does not respond satisfactorily, it must contact the borrower by telephone or by mailgram (third overdue notice).

(iv) Within 15 days of the date of the third overdue notice, if the borrower does not respond satisfactorily, it must send the borrower a final demand letter. The final demand letter must tell the borrower that the loan will be referred for collection or for litigation if the appropriate pay ment or form is not received within 30 days of the date of the letter.

(v) If an institution accelerates a loan, it must give the borrower advance notice of this action. This written notice may be given independently or in any of the demands for payment required by this subparagraph. In any event, if an institution accelerates a loan or intends to do so, it must say so in the final demand letter. To "accelerate a loan" means that the entire unpaid indebtedness, including accrued interest and any penalty charges, is made immediately due and payable.

(4) If the borrower's payment history has been unsatisfactory (e.g., the borrower has often failed to be on time in making payments or filing cancellation or deferment forms, or has previously received a final demand letter) or if the institution believes that the borrower does not intend to pay or file the appropriate form, it may choose to omit any or all of the required overdue notices before sending the final demand letter.

(5) The institution must maintain a monthly list of payments in arrears with respect to loans not paid when due.

(6) A thorough search must be made of information available to the institution to locate the borrower's address if mail is returned. The search should include record checks in all appropriate institutional offices, checks of the telephone directory or with the information operator in the city or town of the borrower's last known address and a telephone call to the borrower if a phone number is obtained.

(b) Costs incurred by the institution in carrying out the activities enumerated in paragraph (a) of this section are considered routine administrative expenses which may not be charged to the fund, except for the costs of phone calls to the borrower, which are considered other collection costs chargeable to the Fund.

(20 U.S.C. 424 and 1087cc)

§ 144.45 Skip-tracing activities.

(a) If an institution is still unable to locate a borrower, in spite of its efforts under § 144.44(a)(6), it must engage the services of a commercial skip tracing organization or perform equivalent skip tracing activities with its own personnel.

(b) If the borrower's address is located as a result of the activities described in paragraph (a) of this section, the institution must contact the borrower for the purpose of collecting amounts past due before referring the loan for collection or litigation.

§ 144.46 Collection and litigation procedures.

(a) If an institution is still unable to obtain payment from a borrower after performing all of the activities set forth in §§ 144.44 and 144.45, it must contact the borrower by telephone or in person to find out why the borrower has not paid. If the borrower fails to respond satisfactorily, it must use the services of a collection agency or perform comparable collection activities with its own personnel.

(b) If a collection agency is used it must (1) be bonded in an amount to cover those particular assets of the Fund which are under its control at any particular time, or (2) have all the collected funds deposited on receipt in a bank account in the institution's name ("lock-box" deposits).

(c)(1) The institution must bring suit against the borrower or against any proper endorser if collection efforts have failed and it determines that

(i) The borrower has assets which may cover all or substantially all of the outstanding obligations,

(ii) The borrower has no known defense,

(iii) The borrower's whereabouts are known and the borrower can be easily served, and

(iv) The amount outstanding exceeds $500.

(2) The institution may choose to bring suit against the borrower even if the conditions of subparagraph (1) of this paragraph are not met.

(d) Notwithstanding the provisions of paragraph (a) of this section, if the amount of principal and interest outstanding on a loan is not more than $10, the institution may writeoff that amount and need not take any further collection action with regard to that loan.

(20 U.S.C. 424 and 1087cc)

§ 144.47 Other collection costs—litigation costs.

(a) Reasonable costs incurred in carrying out the activities described in §§ 144.45(a) and 144.46 and the costs of telephone calls incurred in carrying out §§ 144.44(a) and 144.45(b) are considered other collection costs which may be charged to the fund. However, any collection costs paid by the borrower may not be charged to the fund. For audit purposes, "other collection costs" must be supported by appropriate financial statements (e.g. telephone bills and collection agency bills). The statement of the collection agency must indicate specific amounts collected and charges retained.

(b) If an institution elects to perform its own collections, rather than using a collection agency, its actual costs of collection, including salaries of its own personnel may be considered other collection costs and charged to the fund. However, those costs may not exceed the costs that would have been permitted under paragraph (a) of this section if the institution had used a commercial collection agency.

(c) Reasonable litigation costs incurred in carrying out this subpart may be charged to the fund.

(20 U.S.C. 424 and 1087cc)

§ 144.48 Use of fiscal agent.

(a) If an institution uses a billing service, collection agency or any other type of fiscal agent in carrying out its functions under this part, that service or agency may perform only ministerial acts. The institution is ultimately responsible for decisions about making, collecting, cancelling, or deferring loans.

(b)(1) If a billing service is used to carry out the functions required by § 144.44, the billing service may not deduct its fee from the funds it receives from borrowers.

(2) In carrying out the functions required by § 144.44, a billing service may perform skiptracing activities and/or make telephone calls to borrowers for the purpose of preventing a loan from falling into default. Skiptracing activities and telephone calls may be charged to the fund by the institution as "other collection costs."

(3) A billing service performing the functions set forth in subparagraph (2) of this paragraph must provide its clients with satisfactory documentation, no less often than monthly, showing which portions of its monthly service charges are for skiptracing activities and telephone calls.

(20 U.S.C. 424 and 1087cc)

§ 144.49 Use of commonly owned billing service and collection agency prohibited.

If an institution uses a commercial billing service to carry out the activities required by § 144.44, it may not use a collection agency which owns or controls, or is owned or controlled by, the billing service or which is owned and controlled by a corporation, partnership, association or individual which also owns or controls the billing service.

(20 U.S.C. 1087cc)

§ 144.50 Bankruptcy of borrower.

An institution must refrain from collection activity with respect to a loan if the borrower is adjudicated a bankrupt and the loan has been discharged. However, no loan may be written off until an official notice of the discharge in bankruptcy has been received by the institution. That notification must be kept in the file of that borrower to support the writeoff entry. If the institution receives any payment from a borrower after the loan has been discharged, it must deposit the payment in its fund.

(20 U.S.C. 424, 1087cc)

Subpart D—Loan Cancellation

§ 144.51 Special definitions.

For purposes of this subpart:

"Academic year or its equivalent" for an elementary or secondary school teacher or a teacher of handicapped children in a public or nonprofit private elementary or secondary school system means—(a) a school year or (b) two complete and consecutive half years from different school years, excluding summer sessions, generally falling within a 12-month period.

"Academic year or its equivalent" for teachers in institutions of higher education means the equivalent of two semesters, two trimesters or three quarters generally falling within a 12-month period.

"Elementary school" means a school which provides elementary education (including education below grade 1), as determined under State law, or, if that

school is not in any State, as determined by the Commissioner.

"Handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or otherwise health-impaired who by reason thereof require special education and related services.

"Local educational agency" means an agency defined in section 1201(g) of the act.

"Secondary school" means a school which provides secondary education as determined under State law, or if the school is not in any State, as determined by the Commissioner. However, secondary education does not include any education provided beyond grade 12.

"State educational agency" means the State board of education or other agency or officer primarily responsible in a State for the supervision of public elementary and secondary schools. If there is no such officer or agency, this term means an officer or agency designated by the Governor or by State law.

"Teacher" means a person engaged in providing direct and personal services to students to further their educational development. This term includes only professional personnel engaged in (a) classroom instruction or (b) curricular-supportive activities. Personnel engaged in curricular-supportive activities include school librarians and guidance counselors, but do not include any supervisor, researcher, or curriculum specialist unless he or she is engaged primarily in providing direct and personal services to students.

A teacher in an institution of higher education does not include any person engaged in teaching elementary or secondary education unless that person is teaching in a program of remedial education specifically designed to prepare high school graduates for postsecondary education.

"Title I children" means, for purposes of §§ 144.53(b) and 144.54(a), children between the ages of 5 and 17 (inclusive) coming from families with adjusted gross annual incomes below $3,000.

(20 U.S.C. 425, 1087ee, 1141)

§ 144.52 Application for cancellation.

(a) A borrower applies for cancellation on a form supplied by the lending institution. The form must be completed and filed by the due date established by the institution. If the borrower fails to file the completed form by the due date, the institution must follow the procedures for contacting the borrower set forth in § 144.44. If the borrower still fails to submit the form, the institution may determine that the loan is in default and require immediate repayment of the entire unpaid principal balance of the loan, plus accrued interest and penalty charges.

(b) The determination of a borrower's entitlement to cancellation must be made by the institution to whose fund the loan is payable.

(c) An institution may refuse to grant cancellation for teaching service performed in two or more schools or institutions concurrently if it is administratively difficult for it to determine that the borrower's service was full time. However, it must grant cancellation if a single official of the school system or institutions which employed the borrower certifies that the work was performed under his or her direct or general supervision and constituted full-time employment for an academic year.

(20 U.S.C. 425, 1087ee)

§ 144.53 Teacher cancellation—Defense loans.

The following applies to defense loans:

(a)(1) A borrower may cancel up to 50 percent of any loan plus the interest thereon for service as a full-time teacher in:

(i) a public or other nonprofit elementary or secondary school in a State,

(ii) an institution of higher education, or

(iii) an elementary or secondary school overseas of the Armed Forces of the United States.

(2) Cancellation will be at the rate of 10 percent of the total amount of the loan plus the interest thereon for each complete academic year or its equivalent of teaching service.

(b)(1) A borrower may cancel the entire amount of any loan plus the interest thereon for service as a full-time teacher in a public or other nonprofit elementary or secondary school under the following conditions: The school in which he or she is teaching—

(i) is in the school district of a local educational agency which is eligible in that year for funds under title I of the Elementary and Secondary Education Act of 1965, and

(ii) has been determined by the Commissioner to be a school in which there is a high concentration of students from low-income families.

(2) The Commissioner may not select more than 25 percent of the eligible schools in a State for any year unless all of the schools selected are schools where the enrollment of title I children, using a low-income factor of $3,000, exceeds 50 percent of the total enrollment of that school.

For purpose of this paragraph, low-income families are those families whose adjusted gross income is not more than $3,000.

(3) A defense loan will be cancelled at the rate of 15 percent of the total amount of the loan plus the interest thereon for each complete academic year or its equivalent of teaching service in a school selected by the Commissioner under subparagraph (1) of this paragraph.

(4) The Commissioner will list schools under subparagraph (1) of this paragraph based upon a ranking of schools submitted by the State educational agency. The schools will be ranked on the basis of objective standards and methods, approved by the Commissioner, which take into account the numbers and percentages of students from low-income families in attendance in those schools. For each academic year the Commissioner will notify participating institutions of the schools selected under this paragraph.

(5) Cancellation as described in this paragraph is only available for teaching service beginning with the 1966-67 academic year.

(c)(1) A borrower may cancel the entire amount of any loan plus the interest thereon for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(2) A defense loan will be cancelled at the rate of 15 percent of the total amount of the loan plus the interest thereon for each complete academic year or its equivalent of the teaching service specified in subparagraph (1) of this paragraph.

(3) Cancellation as described in this paragraph is only available for teaching service beginning with the 1967-68 academic year.

(20 U.S.C. 425(b)(3))

§ 144.54 Teacher cancellation—Direct loans.

The following provisions apply to direct loans:

(a)(1) A borrower may cancel the entire amount of any loan plus the interest thereon for service as a full-time teacher in a public or other nonprofit elementary or secondary school which—

(i) is in the school district of a local educational agency which is eligible for funds under title I of the Elementary and Secondary Education Act of 1965, and

(ii) has been determined by the Commissioner to be a school in which the enrollment of title I children, using a low-income factor of $3,000, exceeds 30 percent of the total enrollment of that school. However, the Commissioner will not select more than 50 percent of the schools in that State receiving assistance under Title I.

(2) If more than 50 percent of the schools in a State qualify under subparagraph (1) of this paragraph, the Commissioner will list schools for which cancellation is permitted from among those eligible schools based upon a ranking of schools by the State educational agency. Schools will be ranked on the basis of objective standards and methods approved by the Commissioner which take into account the number and percentages of title I children in those schools.

For each academic year, the Commissioner will notify participating institutions of the schools selected under this paragraph.

(b) A borrower may cancel his or her entire loan for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(c) A borrower qualifying for cancellation under paragraphs (a) and (b) of this section may cancel his or her direct loan at the following rates: (1) 15 percent of the total amount of the loan plus the interest thereon for each of the first and second complete academic years or their equivalent of teaching service described in paragraphs (a) and (b), (2) 20 percent of the total amount of the loan plus the interest thereon for each of the third and fourth complete academic years or their equivalent of such teaching service, and (3) 30 percent of the total amount of the loan plus the interest thereon for the fifth complete academic year or its equivalent of such teaching service.

(20 U.S.C. 1087ee)

§ 144.55 Head Start cancellation.

(a)(1) A borrower may cancel the entire amount of his or her direct loan plus the interest thereon for service as a full-time staff member in a "Head Start" program if—

(i) That program is operated for a period which is comparable to a full school year in the locality; and

(ii) The borrower's salary as a full-time staff member is not more than the salary of a comparable employee of the local educational agency in the area served by the head start program.

(2) The loan will be canceled at the rate of 15 percent of the total amount of the loan plus the interest thereon for each complete school year or its equivalent of eligible service.

(3) The head start program is the preschool program carried out under section 222(a)(1) of the Economic Opportunity Act of 1964.

(b) For purposes of paragraph (a) of this section "Full-time staff member" means any person regularly employed in a professional capacity on a full-time basis in carrying out the educational component of a head start program.

(20 U.S.C. 1087ee)

§ 144.56 Military cancellation.

(a)(1) A borrower may cancel up to 50 percent of any defense loan made after April 13, 1970 but before July 1, 1972, plus the interest thereon, for service after June 30, 1970 as a member of the Armed Forces of the United States.

(2) A defense loan will be canceled at the rate of 12½ percent of the total amount of the loan plus the interest thereon for each year of consecutive service as a member of the Armed Forces.

(b)(1) A borrower may cancel up to 50 percent of any direct loan, plus the interest thereon, for service as a member of the Armed Forces of the United States in an area that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) A direct loan will be canceled at the rate of 12½ percent of the total amount of the loan, plus the interest thereon, for each year of qualifying service.

(c) A borrower's entitlement to a deferment of repayment under § 144.34 runs concurrently with any periods for which the cancellation entitlement has been granted.

(d) For purposes of this section and § 144.34, "Member of the Armed Forces of the United States" means an individual who is on full-time active duty in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

(20 U.S.C. 425(b)(3), 20 U.S.C. 1087ee)

§ 144.57 Cancellation for death or disability.

(a) *Death.* Any defense or direct loan, and the interest thereon, will be canceled upon the death of the borrower. A determination as to whether cancellation is warranted must be made by the institution to whose fund the borrower is indebted on the basis of a certificate of death or other official proof that is conclusive under State law.

(b) *Permanent and total disability.* Any defense or direct loan, and the interest thereon, will be canceled if the borrower becomes permanently and totally disabled after receiving the loan. A determination as to whether cancellation is warranted must be made by the lending institution on the basis of medical evidence supplied by the borrower or his or her representative.

(c) "Permanent and total disability" means the inability to work and earn money because of a medically determinable impairment, if that impairment is expected to continue for an indefinite period of time, or to result in death.

(d) *No Federal reimbursement.* No Federal reimbursement will be made to an institution for cancellation of loans under this section.

(e) This section applies retroactively to all defense and direct loans whenever made.

(20 U.S.C. 425 and 1087dd and section 130(g)(2) of the Education Amendments of 1976, Pub. L. 94-482.)

§ 144.58 Cancellation provision not retroactive—No refund.

(a) No portion of any loan made under this part may be canceled for services performed by a borrower before the date of execution of the loan note.

(b) No repayment may be refunded unless the repayment was made as a result of an institutional error.

(20 U.S.C. 425, 1087ee)

§ 144.59 Reimbursement by the Commissioner of amounts canceled.

(a) For each award year the Commissioner will pay to each institution its share of the interest which has been prevented from accruing and the portion of the principal which has been canceled on defense loans under §§ 144.53 and 144.56(a).

The institution's share of canceled principal and interest will be calculated by dividing the total amount of the institution's capital contributions to its fund by the sum of the institution's capital contributions and the Federal capital contributions to that fund.

(20 U.S.C. 428)

(b) For direct loans, for each award year the Commissioner will pay to each institution, for deposit into its fund, an amount equal to the amount of principal and interest thereon which has been canceled from its student loan fund for that year under §§ 144.54, 144.55, and 144.56(b).

(20 U.S.C. 1087ee)

Subpart E—Loans to Institutions for Institutional Capital Contributions

§ 144.61 Institutional loans.

(a) The Commissioner may lend money to an institution with which he has an agreement under § 144.8 to help that institution pay its "institutional capital contribution" to its Student Loan Fund if the Commissioner determines that the institution cannot borrow those funds from non-Federal sources upon terms and conditions which are reasonable and consistent with the purposes of this part.

(b) Loans under this section will bear interest at a rate which the Commissioner determines to be adequate to cover:

(1) The cost of the funds to the Treasury as determined by the Secre-

tary of the Treasury after considering the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Commissioner under this section;

(2) The cost of administering this section; and

(3) Probable loss.

(c) The Commissioner will determine the maturity period of the loan. However, that period may not exceed 15 years.

(20 U.S.C. 427.)

§ 144.62 Application.

(a) Any institution requesting a loan must file an application with the Commissioner before the established closing date for those applications.

The application must be in the form prescribed by the Commissioner and contain the following information:

(1) The amount of institutional capital contribution needed to match the institution's Federal capital contribution for the award year;

(2) The steps taken by the institution to obtain loan funds from non-Federal sources including the names of and addresses of the banks or other lenders contacted;

(3) A description of the best terms available to the institution from non-Federal sources for borrowing such funds, including the interest rate, duration of repayment, and the collateral or security required; and

(4) If non-Federal sources were not contacted, an explanation why non-Federal sources were not contacted.

(b) The application must be signed by the official authorized to submit the application and include the name of the individual or official who will be responsible for carrying out the program. Unless otherwise indicated in the application, the former individual or official will be considered the individual or official to whom communications should be directed, who is responsible for the receipt, custody, and disbursement of Federal funds, and who has ultimate responsibility to account for those Federal funds.

(20 U.S.C. 427.)

§ 144.63 Allocation of Federal institutional loans.

(a) If the amount of funds available to make institutional loans under this subpart for any award year is less than the amount approved for institutions for that year, the Commissioner will allocate the available funds among all approved requests in the same ratio as the amount of each approved request bears to the sum of all approved requests.

(b) If an institution fails to accept all of the funds that would otherwise be lent to it, the Commissioner will reallocate the unaccepted funds to other institutions if the amount of unaccepted funds is sufficent to increase significantly the size of the loans to other institutions.

(20 U.S.C. 427.)

§ 144.64 Federal institutional loan agreements.

An institutional capital contribution loan must be evidenced by a promissory note executed by an official who is authorized to execute notes on behalf of the borrowing institution. The note will contain provisions to carry out the purposes of this subpart.

(20 U.S.C. 427.)

APPENDIX A

Allotment of funds to States for fiscal year 1972

Alabama	$4,329,888
Alaska	143,019
Arizona	3,025,951
Arkansas	2,457,919
California	30,963,291
Colorado	4,163,216
Connecticut	3,790,537
Delaware	663,468
District of Columbia	2,167,676
Florida	7,872,683
Georgia	4,919,990
Hawaii	1,137,046
Idaho	1,220,847
Illinois	14,264,322
Indiana	7,496,071
Iowa	5,075,628
Kansas	4,125,849
Kentucky	4,117,819
Louisiana	4,863,504
Maine	1,175,287
Maryland	4,453,186
Massachusetts	10,510,277
Michigan	12,724,387
Minnesota	6,340,123
Mississippi	3,292,103
Missouri	6,686,416
Montana	1,233,084
Nebraska	2,719,537
Nevada	443,641
New Hampshire	1,228,222
New Jersey	5,036,568
New Mexico	1,570,800
New York	23,755,497
North Carolina	6,796,494
North Dakota	1,339,610
Ohio	13,598,996
Oklahoma	4,489,951
Oregon	3,944,044
Pennsylvania	14,293,876
Rhode Island	1,501,312
South Carolina	2,631,093
South Dakota	1,322,457
Tennessee	5,330,199
Texas	15,388,640
Utah	2,976,511
Vermont	901,213
Virginia	4,928,348
Washington	5,811,589
West Virginia	2,695,336
Wisconsin	7,300,992
Wyoming	578,575
Canal Zone	19,503
Guam	50,368
Puerto Rico	2,114,959
Virgin Islands	18,082
Total	286,000,000

APPENDIX B—PROMISSORY NOTE

NATIONAL DIRECT STUDENT LOAN PROGRAM

(Bracketed clause may be included at option of institution)

I, _____

promise to pay to _____, (hereinafter called the Lending Institution) located at _____, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below [together with all attorney's fees and other costs and charges necessary for the collection of any amount not paid when due].

I further understand and agree that:

GENERAL

I. All sums advanced under this note are drawn from a fund created under Part E of Title IV of the Higher Education Act of 1965, hereinafter called the Act, and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note must be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Lending Institution.

REPAYMENT

II. (1) Interest shall accrue from the beginning of the repayment period and shall be at the rate of 3 per centum per year on the unpaid balance except that no interest shall accrue during any period described in paragraph III (3).

(Bracketed clause must be included if the institution uses paragraph II(3))

(2) [Except as provided in paragraph II (3)] I promise to repay the principal and the interest which accrues on it over a period beginning 9 months after the date on which I cease to be at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the United States Commissioner of Education (hereinafter called the Commissioner), and ending, unless paragraph III (3) applies, 10 years later. I may however request that the payment period start on an earlier date. I promise to repay the principal and interest over the course of the repayment period in equal monthly, bimonthly or quarterly installments, as determined by the Lending Institution, except that, if I request, payments may be made in graduated installments determined in accordance with schedules approved by the Lending Institution and the Commissioner. In either case, a schedule of repayment shall be attached to and made part of this note.

(Bracketed paragraph may be included at option of institution)

[(3) If the repayment schedule that would otherwise be established in accordance with paragraph II(2) provides for payments of principal and interest at a rate of less than $30 per month, I shall repay the total amount of this loan plus the interest thereon at the rate of $30 per month, which shall include repayment of principal and interest. In the event I receive or have received National Direct or Defense Student Loans from other lending institutions, I shall repay this note at a monthly rate equal to not less than the amount by which $30 exceeds the total monthly rate of principal and interest repaid on the other loans. A

schedule of repayment will be attached to and made part of this note. The Lending Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph 2 of this article.]

III. This note is also subject to the following conditions:

PREPAYMENT

(1) I may at my option and without penalty prepay all or any part of the principal, plus the accrued interest thereon, at any time.

DEFAULT

(2) If I fail to meet a scheduled repayment of any of the installments due on this note, the entire unpaid indebtedness including interest due and accrued thereon, plus any applicable penalty charges, will at the option of the Lending Institution, become immediately due and payable.

DEFERMENT

Interest will not accure, and installments need not be paid (A) while I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commission, or (B) for a period not in excess of 3 years during which I am (i) on full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard), (ii) in service as a Volunteer under the Peace Corps Act, or (iii) a VISTA volunteer under Title I—Part A of the domestic Service Act of 1973, P.L. 93-113, (formerly Title VIII of the Economic Opportunity Act of 1964).

The Lending Institution may, upon my application, defer or reduce any scheduled repayments if, in the opinion of the Lending Institution, extraordinary circumstances such as prolonged illness or unemployment, prevent me from making such payments. However, interest will continue to accure.

CANCELLATION FOR TEACHING

(4) I am entitled to have the entire amount of this loan plus the interest thereon cancelled if I undertake service (A) as a full-time teacher in a public or other nonprofit elementary or secondary school which is in a school district of a local educational agency which is eligible for funds under Title I of the Elementary and Secondary Education Act of 1965 and which has been designated by the Commissioner in accordance with the provisions of Section 465(a)(2) of the Higher Education Act as a school with a high enrollment of students from low-income families, or (B) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

This loan will be cancelled at the following rates: 15 per centum of the total principal amount of the loan plus interest thereon will be cancelled for the first and second complete academic years of that teaching service; and 20 per centum of the total principal amount plus interest thereon for the third and fourth complete academic years of that teaching service; and 30 per centum of the total principal amount plus interest thereon for the fifth complete academic year of that teaching service.

HEAD START CANCELLATION

(5) I am entitled to have the entire amount of this loan plus the interest thereon canceled if I undertake service as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 (Head Start) if that Head Start program is operated for a period which is comparable to a full school year in the locality, and if my salary is not more than the salary of a comparable employee of the local educational agency. Cancellation will be at the rate of 15 per centum of the total principal amount plus the interest thereon for each complete school year or the equivalent of service in a Head Start program.

MILITARY CANCELLATION

(6) If I serve as a member of the Armed Forces of the United States, up to 50 per centum of the principal amount of this loan plus the interest thereon will be canceled at the rate of 12½ per centum of the total principal amount of the loan plus interest thereon for each complete year of service in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

DEATH AND DISABILITY CANCELLATION

(7) If I should die or become permanently and totally disabled, the entire amount of this loan plus the interest thereon shall be canceled.

ADDRESS CHANGE

(8) I am responsible for informing the Lending Institution of any change or changes in my address.

PENALTY CHARGE

(Bracketed paragraph may be included at option of institution)

[(9) If I fail to make timely payment of all or any part of a scheduled installment, or if I am eligible for deferment or cancellation of payment (pursuant to paragraphs III (3), (4), (5), or (6)), but fail to submit timely and satisfactory evidence thereof, I promise to pay the charge assessed against me by the Lending Institution. No charge may exceed (1) where the loan is repayable in monthly installments, $1 for the first month or part of a month by which the installment or evidence is late, and $2 for each month or part of a month thereafter; or (2) in the case of a loan which is repayable in bimonthly or quarterly installments, $3 and $6, respectively, for each installment interval or part thereof by which the installment or evidence is late. If the Lending Institution elects to add the assessed charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.]

ASSIGNMENT

IV. This note may be assigned by the Lending Institution only (A) to another institution upon my transfer to that institution if that institution is participating in this program (or, if not so participating, is eligible to do so and is approved by the Commissioner for that purpose) or (B) to the United States if this note has been in default for 2 years. The provisions of this note that relate to the Lending Institution shall, where appropriate, relate to an assignee.

PRIOR LOANS

V. I hereby certify that I have listed below all of the National Direct Student Loans (or National Defense Student Loans) I have obtained at other institutions. (If no prior loans have been received state "None.")

Schedule of national direct student loans and national defense student loans at other institutions

	Amount	Date	Institution
1	$		
2	$		
3	$		
4	$		

VI. Schedule of advances

	Amount	Date	Signature of maker
1	$		
2	$		
3	$		
4	$		

Signature————
Date——,19——
Permanent address————
(Street or Box Number, City, State, and Zip Code)

Caveat—This note is to be executed without security and without endorsement, except that if I am a minor and this note would not, under the law of the State in which the Lending Institution is located, create a binding obligation, either security or endorsement may be required. The Lending Institution shall supply a copy of this note to me.

Signature of endorser————
Date————, 19——
Permanent Address————
(Street or Box Number, City, State, and Zip Code)

APPENDIX C.—*Example for computing penalty charges—6 mo*

	Jan. 2	Feb. 2	Mar. 2	Apr. 2	May 2	June 2	Total per payment
Monthly:							
1st past due	$1	$1+$2	$3+$2	$5+$2	$7+$2	$9+$2	$11
2d past due		1	1+2	3+2	5+2	7+2	9
3d past due			1	1+2	3+2	5+2	7
4th past due				1	1+2	3+2	5
5th past due					1	1+2	3
6th past due						1	1
Total, all payments							36

APPENDIX C.—*Example for computing penalty charges—6 mo* —Continued

	Jan. 2	Feb. 2	Mar. 2	Apr. 2	May 2	June 2	Total per payment
Bimonthly:							
1st past due	3		3+3		6+3		9
2d past due			3		3+3		6
3d past due					3		3
Total, all payments							18
Quarterly:							
1st past due	6			6+6			12
2d past due				6			6
Total, all payments							18

Part 175 of title 45 of the Code of Federal Regulations is amended to read as follows:

PART 175—COLLEGE WORK-STUDY AND JOB LOCATION AND DEVELOPMENT PROGRAM

Subpart A—College Work-Study Program

Sec.
175.1 Purpose and objectives.
175.2 Definitions.
175.3 Allotment of Federal funds to States.
175.4 Allocation, reallocation, and payment of funds to institutions.
175.5 Institutional applications.
175.6 Funding procedures.
175.7 Application review and approval of request.
175.8 Institutional agreement.
175.9 Eligibility and selection of students.
175.10 Special sessions.
175.11 Cost of education.
175.12 Expected family contribution.
175.13 Approved need analysis systems.
175.14 Coordination of student financial aid programs, award amount and overaward.
175.15 Coordination with BIA grant.
175.16 Payments to students.
175.17 Federal interest in allocated funds.
175.18 Use of funds.
175.19 Fiscal procedures and records.
175.20 Maintenance of effort.
175.21 Transfer of funds.
175.22 Program eligibility.
175.23 Eligible employment.
175.24 Establishment of wage rates.
175.25 Earnings attributable to cost of education.
175.26 Limitations on the Federal share of student compensation.
175.27 Nature and source of institutional share of student compensation.
175.28 Multi-institutional arrangements.

Subpart B—Job Location and Development Program

175.31 Purpose.
175.32 Definition.
175.33 Federal contribution.
175.34 Allowable costs.
175.35 Federal share of allowable costs.
175.36 Institutional share of allowable costs.
175.37 Multi-institutional job location and development programs and contractual arrangements with nonprofit organizations.
175.38 General restrictions.
175.39 Agreement.
175.40 Maintenance of effort.
175.41 Procedures and records.
175.42 Termination and suspension.

Appendix A Allotment of funds to States for fiscal year 1972.
Appendix B Model off-campus agreement.

AUTHORITY: Sec. 441-447 of Pub. L. 89-329, Title IV, 79 Stat. 1219, as amended (42 U.S.C. 2751-2756a), unless otherwise noted.

Subpart A—College Work-Study Program

§ 175.1 Purpose and objectives.

The purpose of the college work-study program is to stimulate and promote the part-time employment of students who are in need of the earnings from that employment to meet their educational costs.

(42 U.S.C. 2751-2756.)

§ 175.2 Definitions.

For the purposes of this part:

"Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

"Act" means title IV, part C of the Higher Education Act of 1965, as amended.

(42 U.S.C. 2751-2756.)

"Area vocational school" means a school defined in section 195(2) of the Vocational Education Act of 1963 as amended.

(20 U.S.C. 2461(2).)

"Award year" means the period of time between July 1 of one year and June 30 of the next year.

"Basic educational opportunity grants program" or "basic grant program" means the program authorized by title IV-A, subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a.)

"Campus-based programs" means the national direct student loan (NDSL) (45 CFR part 144), college work-study (CWS) (45 CFR part 175), and supplemental educational opportunity grant (SEOG) (45 CFR part 176) programs.

"Clock hour" means a period of time which is the equivalent of (a) a 50- to 60-minute class, lecture, or recitation, or (b) a 50- to 60-minute faculty supervised laboratory, shop training, or internship.

"Commissioner" means the U.S. Commissioner of Education or his or her designee.

(20 U.S.C. 1141(b).)

"Dependent student" means a student who does not qualify as a "self-supporting or independent student."

(42 U.S.C. 2751-2756.)

"Eligible institution" or "institution" means an institution of higher education, an area vocational school, or a proprietary institution of higher education.

(42 U.S.C. 2753(b).)

"Eligible program" in a public or nonprofit college, university, junior college, community college, or vocational school, means a program of education or training which:

(a) Admits as a regular student only

(1) Persons having a certificate of graduation from a secondary school (high school graduates), or the recognized equivalent of that certificate, a general education development certificate (GED), or

(2) Persons beyond the age of compulsory school attendance in the State in which the institution is located who have the ability to benefit from the education or training offered,

(b)(1) Leads to a bachelor's, associate, professional, or higher degree, or

(2) Is at least a 2-year program which is acceptable for full credit toward a bachelor's degree, or

(3) Leads to a certificate or degree, is at least 1 year in length, and prepares students for gainful employment in a recognized occupation. A 1-year program of training is defined in the definition of "institution of higher education."

"Eligible program" in a proprietary institution of higher education, means a program of training which:

(a) Admits as a regular student only high school graduates, or GED recipients,

(b) Leads to a degree or certificate,

(c) Prepares students for gainful employment in a recognized occupation, and

(d) Is at least a 6-month program as defined in the definition of "proprietary institution of higher education."

"Expected family contribution of a dependent student" means the amount which reasonably may be ex-

pected from the student and his or her spouse and parents, to meet the student's cost of education.

"Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his or her spouse to meet the student's cost of education.

"Financial need" means the difference between a student's cost of education and his or her expected family contribution.

"Good standing" means the eligibility of a student to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled.

"Graduate or professional student" means, in general, a student who is enrolled in an academic program of instruction above the baccalaureate level which is provided at an institution of higher education. The term includes (a) that portion of any program involving a period of study beyond 4 years of study at the college level, or (b) any portion of a program leading to (1) a degree beyond the bachelor's or first professional degree, or (2) a first professional degree, when at least 3 years of study at the college level are required for entrance into a program leading to that degree.

(42 U.S.C. 2751-2756.)

"Guaranteed student loan program" or "GSL program" means the student loan program authorized by title IV, part B of the Higher Education Act of 1965.

(20 U.S.C. 1071-1087-4.)

"Halftime graduate student" means a graduate or professional student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered at least halftime graduate study.

"Halftime undergraduate student" means an undergraduate student who is carrying any combination of courses, research or special studies which the institution in which the student is enrolled considers at least halftime study.

However, the course work and activities must amount to the equivalent of a minimum of (a) 6 semester hours or 6 quarter hours per academic term for institutions using standard semester, trimester, or quarter hours systems; (b) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not use standard semester, trimester, or quarter systems; or (c) 12 clock-hours per week for institutions which use clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week are considered halftime students for purposes of this part.

(20 U.S.C. 1088(c)(2).)

"Institution of higher education" means an educational institution in any State which

(a) Admits as regular students only persons

(1) Who have a certificate of graduation from a school providing secondary education, or

(2) Who have the recognized equivalent of that certificate, or

(3) Who are beyond the age of compulsory school attendance in the State in which the institution is located and have the ability to benefit from the training offered by the institution;

(b) Is legally authorized within that State to provide a program of education beyond secondary education;

(c) Provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward that degree;

(d) Is a public or other nonprofit institution; and

(e) (1) Is accredited by a nationally recognized accrediting agency or association, or

(2) In the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or

(3) Is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of a nationally recognized accrediting agency or association within a reasonable time, or

(4) Is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an accredited institution.

The term "institution of higher education" also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (a), (b), (d), and (e) of this definition.

For purposes of this part a 1-year program of training for institutions using a standard semester, trimester, or quarter system means a program of at least 24 semester or trimester hours or 36 quarter hours. For institutions not using those standard terms, a 1-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction.

The term "institution of higher education" also includes any proprietary institution of higher education which has an agreement with the Commissioner containing those terms and conditions the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in tuition, fees or other charges.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a).)

"National direct student loan program" or "NDSL program" means the student loan program authorized by title IV, part E of the Higher Education Act of 1965.

(20 U.S.C. (1087 aa-ff).)

"National of the United States" means (a) a citizen of the United States, or (b) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22).)

"Nonprofit" as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which benefits or may lawfully benefit any private shareholder or individual.

(20 U.S.C. 1141(c).)

"Payment period" means a semester, trimester, or quarter; however, for institutions which do not use those academic terms, it is the period between the beginning and the midpoint or between the midpoint and the end of an academic year. A payment period is not a payroll period, which occurs at least monthly under § 175.16.

"Proprietary institution of higher education" means a school which

(a) Provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation,

(b) Admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate,

(c) Is legally authorized by the State in which it is located to provide a program of education beyond secondary education,

(d) Is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose,

(e) Is not a public or other nonprofit institution, and

(f) Has been in existence for at least 2 years.

For purposes of this part a 6-month program of training for institutions using a standard semester, trimester, or quarter system means a program of at least 16 semester or trimester hours or 24 quarter hours. For institutions not using those standard terms, a 6-month program of training means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correpondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3).)

"Self-supporting or independent student" means a student who:

(a) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested;

(b) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested; and

(c) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during any calendar year in which aid is received or the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for employment under the college work-study program, and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year in which assistance is requested.

(42 U.S.C. 2751-2756.)

"State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a).)

"Supplemental educational opportunity grant program" or "SEOG program" means the grant program authorized by title IV, part A, subpart 2 of the Higher Education Act of 1965.

(20 U.S.C. 1070b.)
(42 U.S.C. 2751-2756, unless otherwise noted.)

§ 175.3 Allotment of Federal funds to States.

(a) *Initial allotments.* From sums appropriated to carry out this part for a fiscal year, a sum not to exceed 2 percent of that appropriation will be allotted in accordance with section 442(a) of the Act. To compute this allotment, the Commissioner will use information for the most recent year for which satisfactory data are available to him.

(42 U.S.C. 2752.)

(b) (1) *Initial allotment to States.* Ninety percent of the sums remaining after the allotment of funds under paragraph (a) of this section will be allotted as set forth in section 442(b) of the Act.

(2) If the amount allotted to any State under subparagraph (1) of this paragraph is less than its allotment for fiscal year 1972, additional sums will be allotted to that State from the sums remaining to make its allotment for that year equal to its allotment for fiscal year 1972. (See appendix A for the amounts allotted to each State for fiscal year 1972.) If the funds available are insufficient to meet that level, the Commissioner will instead allot the remaining sums so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment.

(3) The Commissioner will allot the sums remaining, if any, after the allotment of funds under paragraph (a) of this section and subparagraphs (1) and (2) of this paragraph, to those State(s) which received the lowest percentage of approved requests for funds as a result of the allotment under subparagraphs (1) and (2) of this paragraph so that no State will receive less than a uniform minimum percentage of its total approved requests for funds.

(42 U.S.C. 2752.)

(c) *Amounts to be transferred to the State student financial assistance training program.* (1) The Commissioner may transfer an amount equal to 0.05 percent of each State's initial allotment, as determined under paragraphs (a) and (b) of this section, or $10,000, whichever is less, to that State under the State student financial assistance training program authorized under section 493C of the Higher Education Act of 1965, if the State has submitted an approved application.

(2) Funds reserved for transfer to the State student financial assistance training program which have not been granted to the appropriate agency by the end of the fiscal year for which appropriated will be returned to that State's allotment under the college work-study program and may be allocated on an equitable basis to one or more institutions in that State.

(20 U.S.C. 1088b-3.)

(d) *Reallotment.* The amount of any State's allotment which has not been granted to any institution at the end of the fiscal year for which appropriated or which has not been transferred to carry out the State student financial assistance training program will be reallotted by the Commissioner to those remaining States which received the lowest percentage of approved requests for funds under paragraphs (b) and (c) of this section in such a manner that no State will receive less than a uniform minimum percentage of its total approved requests for funds.

(e) For purposes of paragraphs (b) and (d) of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(42 U.S.C. 2752.)

§ 175.4 Allocation, reallocation, and payment of funds to institutions.

(a) *Allocation of funds to institutions.* When funds available for distribution among institutions within a State are not sufficient to honor all approved requests of institutions within that State, the sums that are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State.

(b) *Reallocation of funds.* Funds allocated to an institution which the institution anticipates will not be used by the end of the period for which the funds were made available may be reallocated on an equitable basis to other institutions in that State.

(c) *Payment of funds.* Funds will be made available for a specific period of time as determined by the Commissioner and may be payable in advance or by way of reimbursement on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(42 U.S.C. 2756.)

§ 175.5 Institutional applications.

(a) *Definitions.* For purposes of this section and § 175.6—

(1) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing the application;

(2) "Prior year" means the 12-month period preceding the base year;

(3) "Current year" means the 12-month period ending on the June 30 immediately following the closing date for filing the application;

(4) "Request year" means the 12-month period beginning on the July 1 immediately following the closing date for filing the application; and

(5) "Enrollment factor" means—

(i) For an institution which typically admits most new students in the fall, the factor obtained by dividing the fall enrollment for the current year by the fall enrollment for the base year; or

(ii) For an institution which does not typically admit most new students in the fall, the factor obtained by dividing the total enrollment for the base year by the total enrollment for the prior year.

(b)(1) If an institution wishes to participate in any of the campus-based programs, it must file an application with the Commissioner before an annually established closing date. That application must be filed in the form prescribed by the Commissioner and must contain the information needed by the Commissioner to carry out the evaluation specified in § 175.6. The application must also contain the information needed to determine whether the institution is in compliance with the maintenance of effort requirements set forth in § 175.20.

(2) The application must be signed by the official authorized to submit the application and must contain the names of the institution's Director of Student Financial Aid and of the individual who will be responsible for the receipt, custody, and disbursement of Federal funds. The application must also contain the following enrollment information:

(i) For an institution which typically admits most new students in the fall, the opening fall enrollment for the current year and for the base year. In addition, if its enrollment factor exceeds 1.20, a projection of the opening fall enrollment for the request year and an explanation of that projection;

(ii) If an institution which typically admits most new students in the fall was not in existence during the base year, its opening fall enrollment for the current year plus a projection of its opening fall enrollment for the request year and an explanation of that projection;

(iii) For an institution which does typically admit most new studends in the fall, the total enrollment for the base year and the prior year. In addition, if its enrollment factor exceeds 1.20, projections of the total enrollment for the current year and the request year and an explanation of those projections;

(iv) If an institution which does not typically admit most new students in the fall was not in existence during either the base year or the prior year, its actual total enrollment for the year, if any, during which it was in existence, plus a projection of its total enrollments for the current and request years and an explanation of that projection.

(c) *Augmentation requests.* If an institution makes an augmentation request as described in § 175.6(e), it must submit additional narrative information justifying its request.

(d) *Correspondence schools.* An application submitted by an institution offering only a program of study by correspondence (a) "correspondence school" must set forth, in addition to the information required by paragraph (b) of this section, (1) the number of students that have expected family contributions that are less than their costs of education in the current year and (2) the amount of basic grant funds which these students are entitled to receive for the current year. Those expected family contributions must be based on a need analysis of individual students performed in accordance with the standards and procedures used by need analysis systems approved under § 175.13.

(42 U.S.C. 2756.)

§ 175.6 Funding procedures.

(a) *Definitions.* For purposes of this section—

(1) "Aggregate request" means the sum of the institution's requests for the request year for—

(i) Federal funds under the CWS and SEOG programs and

(ii) an approved level of expenditure ("level of lending") under the NDSL program; and

(2) "Funds available" means—

(i) With respect to the CWS or SEOG program, the amount of Federal funds granted the institution for its expenditure under that program during any award year, and

(ii) With respect to the NDSL program, the sum of the Federal capital contribution (FCC) granted the institution for any award year, plus an amount equal to one-ninth of that FCC, plus the amount of funds received by the institution as repayments from borrowers or as other income of its Fund for that award year, plus the cash balance in its Fund on July 1 of that award year.

(b) *General.* (1) The Commissioner will evaluate an application according to the procedures in paragraphs (c), (d), and (e) of this section to determine whether the institution's aggregate request is reasonably necessary to meet the needs of its students who are eligible for aid under the campus-based programs.

(2) The Commissioner will further review each application to determine whether the institution has made effective provisions to carry out the requirements of each of the campus-based programs for which it applies. In making that determination, the Commissioner will consider

(i) The institution's previous experience in administering each program,

(ii) The number, experience, and qualifications of the personnel chosen to administer the program,

(iii) The administrative arrangements the institution has made to comply with the requirements of § 175.14 concerning coordination of programs and § 175.19 concerning separation of functions (and subpart C in the NDSL regulations (45 CFR part 144) concerning due diligence), and

(iv) Whether the institution has spent all the funds available to it under the campus-based programs during the base year and can be expected to spend all the funds available to it under those programs during the current year.

(c) *Institutions not receiving funds in the base year.* (1) If an institution did not have funds available to it in any of the campus-based programs during the base year, the aggregate of its approved requests for those programs may not exceed the average expenditure per enrolled student during the base year at comparable institutions in the same area times an inflation factor of 1.12 times the applicant institution's approved projected enrollment as defined in subparagraph (2) or (3) of this paragraph.

(2)(i) If an institution typically admits most of its new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its opening fall enrollment in the current year by its enrollment factor, if that factor does not exceed 1.20.

(ii) If an institution does not typically admit most new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its annual enrollment for the base year by the square of its enrollment factor, if that factor does not exceed 1.20.

(3) If an enrollment factor cannot be calculated for an institution because it was not in existence during one of the years used for calculation, or if an institution's enrollment factor is greater than 1.20, the Commissioner will evaluate the reasonableness of the institution's justification of its projected enrollment.

(4) If an institution applies for funds under the CWS program, the Commissioner will further evaluate the institution's request for that program in terms of

(i) The reasonableness of the number of students to be employed in relation to the projected enrollment of the institution, and

(ii) The institution's ability to place its students in eligible jobs.

(5) The Commissioner will evaluate whether the methods used by a correspondence school in preparing the information required by § 175.5(c) were soundly conceived and the source materials used were appropriate and reliable. Based on this evaluation, the Commissioner will either approve the institution's request or reduce it accordingly.

(d) *Institutions with base-year funds, base amounts.* If an institution had funds available to it in the base year, its request for funds will be evaluated in the following manner:

(1) The institution establishes a base amount by choosing its first or second formula limit or an amount less than the lower of those figures.

(2) The institution's first formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.12 times

(ii) The sum of its expenditures for the campus-based programs during the base year.

(3) The institution's second formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.06 times

(ii) The sum of the products obtained by multiplying the amount of funds available to the institution in each of the campus-based programs during the current year by the projection rate for that program.

(4) The projection rate referred to in subparagraph (3) of this paragraph is the rate obtained by dividing the institution's expenditures in the base year in each of the campus-based programs by the total funds available to it in each program for that year. (For the CWS and SEOG programs this is the utilization rate reported on the annual fiscal operations report for those programs.)

(5) After the institution establishes its base amount, it may distribute that amount among the campus-based programs as it chooses. However, if it allocates to any program an amount greater than 110 percent of that program's share of the base amount, the amount in excess of 110 percent will be evaluated as an augmentation request in accordance with paragraph (e) of this section.

(6) The procedures described in subparagraphs (1) through (5) of this paragraph are represented in the following table.

Example - CALCULATION OF FORMULA LIMIT - for Request year 1978-1979

To be completed by all institutions which participated in one or more of the programs in the 12 months ending June 30, 1977. Enter "NA" for any program in which you did not participate. COMPLETE ALL COLUMNS.

Entries in column (A), "Base Year," must be derived from your Award Period 1976-77 Fiscal Operations Report.
Entries in column (B), "Current Year," are derived from your Award Letters for the 12 months ending June 30, 1978.
In Column (D), Authorization X Projection Rate = Projection. For CWS and SEOG, "projection rate" means the utilization rate reported on the annual fiscal-operations report.

FORMULA LIMIT	"Base Year" AWARD YEAR 1976-77 EXPENDITURES Fiscal Operations Report (A)	AWARD PERIOD 1977-78 PROJECTION: "Current Year" Authorization (B)	X Projection Rate (C)	= "Current Year" Projection (D)
61 CWS - Federal Funds	$	$	%	$
62 SEOG - Initial Year	$	$	%	$
63 SEOG - Continuing Year	$	$	%	$
64 NDSL - Level of Lending	$	$	%	$
65 TOTAL: Sum of Lines 61 through 64	$	XXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXX	$
66 Inflation Factor	1.12	XXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXX	1.06
67 Enrollment Factor		XXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXX	
68 FORMULA LIMIT: lines 65 x 66 x 67	$	XXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXX	$

Select Either 68 (A) or 68 (D) as your Formula Limit request and indicatethe selection in the following boxes:

(CHECK ONE) First Formula Limit [ ] 68 (A) Second Formula Limit [ ] 68 (D)

Distribute the Amount selected in the following boxes. The sum of lines 69 through 72 may not exceed the selected Formula Limit.

69. CWS Federal Funds [ ] 70 SEOG Initial Year [ ] 71 SEOG Continuing Year [ ] 72 NDSL Level of Lending [ ]

(7) If (i) the institution chooses its first formula limit as its base amount or (ii) it chooses its second formula limit as its base amount and that amount is not more than 130 percent of its first formula limit, the Commissioner will approve that base amount. However, the Commissioner will not approve that amount if there is evidence in program reviews, audits, fiscal operations reports, or applications filed by the institution, that the institution has not complied with the requirements of the programs for which it is applying. The institution's failure to file required reports in an acceptable form and in a timely manner may be viewed as a failure to comply with program requirements.

(8)(i) If the institution's base amount exceeds 130 percent of its first formula limit, the Commissioner will review the institution's expenditure and commitment of funds during the current year to determine whether it is reasonable to expect that the institution will spend the amounts projected under subparagraph (3)(ii) of this paragraph for each program.

(ii) If the Commissioner determines that the projected expenditures are unreasonably large, an appropriate downward adjustment will be made.

(e) *Institutions with base year funds; augmentation requests.*

(1) If the institution's aggregate request exceeds its base amount, or if its request in any program exceeds 110 percent of that program's share of its base amount, the amount in excess of that limit will be considered to be an "augmentation request" and will be evaluated by the Commissioner separately from the institution's base amount. For each program, the Commissioner will approve or disapprove any augmentation request in its entirety.

(2) The Commissioner will approve an augmentation request only if it is based on exceptional circumstances which make an institution's need for additional funding greater than and different from that of other institutions in its State. In deciding whether this condition has been met, the Commissioner will review the request to determine whether (i) the procedures used by the institution to calculate the aggregate amount of funds needed by its students were soundly conceived, (ii) the data used are verifiable, and (iii) the procedure and data justify the request.

(3) The Commissioner will not approve an augmentation request for any program if the projection rate described in paragraph (d)(4) of this section is less than 90 percent unless the institution can justify the low rate.

(4) The Commissioner will not approve an augmentation request for any program if the institution requests, as part of its base amount, an amount which is less than that program's share of the base amount.

(42 U.S.C. 2756.)

§ 175.7 Application review and approval of request.

(a)(1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education to review applications submitted under this part by institutions situated in those regions. The review panel will evaluate each institution's request for funds in accordance with the criteria set forth in § 175.6 and recommend an amount which it considers appropriate.

(2) No panelist may review an application from the panelist's own institution, or any application from any other institution which the panelist has prepared or assisted in preparing or in which he or she has any personal or financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel. If the amount recommended is less than the institution's request, the reasons for the reduction will be forwarded. The regional office staff will adjust the recommendation to correct arithmetic or technical errors that are brought to their attention.

(c)(1) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors it must submit a written request for that review to the regional office within the time specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review the requests and will notify the institution in writing of its recommendation and the reasons therefor.

(2) The institution may reply to the regional office's decision if it believes that the reasons used by the regional office in arriving at its decision were wrong. The regional office will respond to the institution's reply indicating its agreement or disagreement with the institution's statement.

(d)(1) If an institution wishes a review of the regional office recommendation, it may request a review by a national review panel. The national review panel will consist of institutional student financial aid officers from each of the regions and personnel of the Office of Education.

(2) A request for national review must be submitted in writing by the institution to the regional office within the time specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution will be considered.

(3) The national review panel will review the request and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(42 U.S.C. 2756.)

§ 175.8 Institutional agreement.

(a) To participate in the CWS program, an institution of higher education must enter into an agreement with the Commissioner for that purpose. The agreement must include any provisions the Commissioner considers appropriate to carry out the CWS program. Specifically, the agreement must provide:

(1) For the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and the agency or organization. That work:

(i) Must not result in the displacement of employed workers or impair existing contracts for services;

(ii) Must be governed by conditions of employment that will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee; and

(iii) Must not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) That CWS funds will be used solely for the purposes specified in, and in accordance with, the provisions of this part;

(3) That in the selection of students for CWS employment, preference will be given to students with the greatest financial need taking into account grant assistance provided the student from any public or private sources;

(4) That employment will be furnished only to a student who—

(i) Has financial need;

(ii) Shows evidence of academic or creative promise and capability of maintaining good standing in his or her course of study while employed; and

(iii) Has been accepted for enrollment at the institution as at least a half-time student or, in the case of a student already enrolled in and at-

tending the institution, is in good standing and in attendance there as at least a half-time student;

(5) That the institution will comply with § 175.20 relating to maintenance of effort and § 175.18 relating to costs of administration;

(6) That the Federal share of compensation paid to students employed in the CWS program will not exceed 80 percent. However, the Federal share may exceed 80 percent if the Commissioner determines under § 175.26, that a Federal share in excess of 80 percent is appropriate;

(7) That no student employed in the CWS program will be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with the CWS income is in excess of the amount determined to be needed by the student for that semester (or other regular enrollment period) under § 175.14. However, when that excess income equals $200 or more, continued employment under the CWS program must not be subsidized with funds allocated to the institution under this part; and

(8) That employment under the CWS program will be made reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and that equivalent employment offered or arranged by the institution will be made reasonably available (to the extent of available funds) to all students in the institution who desire employment.

(b) To participate in the CWS program, an area vocational school must enter into an agreement with the Commissioner for that purpose. The agreement must contain, in addition to the provisions described in paragraph (a) of this section, a provision that a student in that school is eligible to participate in the CWS program only if the student—

(1) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of that certificate; and

(2) Is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

(20 U.S.C. 2754)

§ 175.9 Eligibility and selection of students.

(a) *Eligibility.* Except as provided in paragraphs (g) through (j) of this section, a student enrolled, or accepted for enrollment, in an eligible program is eligible for part-time employment under the CWS program if the student—

(1) Is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Has been accepted for enrollment as at least a half-time student at the institution or, in the case of a student already attending the institution, is enrolled and in good standing as at least a half-time student;

(3) Shows evidence of academic or creative promise and is capable, in the opinion of the institution, of maintaining good standing in his or her course of study while employed under this program; and

(4) Has financial need.

(b) *Eligibility of area vocational school students.* Except as provided in paragraphs (g) through (j) of this section, a student enrolled in an area vocational school is eligible for part-time employment under this part if, in addition to satisfying the conditions described in paragraphs (a) (1) through (4) of this section, the student—

(1) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of that certificate; and

(2) Is pursuing a program of education or training which requires at least 6 months to complete and which is designed to prepare the student for gainful employment in a recognized occupation.

(c) *Programs of study abroad.* A student participating in a program of study abroad will be considered to be enrolled in the "home" institution if—

(1) The program of study abroad is arranged or approved in advance by the home institution; and

(2) The student's academic performance during the program of study abroad becomes a part of the permanent academic record at the home institution in the same manner as if performed at that institution.

(d) *Member of religious community—financial need.* A member of a religious community, society, or order who by direction of the community, society, or order is pursuing a course of study in an institution or who receives support and maintenance from the community, society, or order is considered not to have financial need.

(e) *Institutional responsibility.* Each institution participating in the college work-study program is responsible for determining the eligibility of the students participating in its program regardless of whether the students work for the institution itself or for a Federal, State, or local public agency or private nonprofit organization.

(f) *Selection.*

(1) An eligible institution must make employment under the CWS program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof.

(2) If requests for employment exceed available funds, the institution must give preference in the awarding of employment to those of its students with the greatest financial need.

(3) In determining financial need the institution must take into account grant assistance provided to the student from any public or private source, including grant funds which the student is entitled to receive under the basic grants program, even if the student has not applied for those funds.

(4) The institution's selection procedures must be uniformly applied, set forth in writing, and maintained in the files of the institution's office which selects student aid recipients. All applications for employment under this part must be maintained on file by the institution as specified in § 175.19(c)(2).

(g) An institution may award CWS employment to a student only after it determines that the student:

(1) Is maintaining satisfactory progress in the course of study the student is pursuing, according to the standards and practices of the institution at which the student is in attendance;

(2) Is not in default on any national direct or defense student loan made by that institution or on a loan made, insured, or guaranteed under the guaranteed student loan program for attendance at that institution; and

(3) Does not owe a refund on grants previously received for attendance at that institution under the basic grant, the supplemental grant, or the state student incentive grant programs.

(h) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself BEFORE the end of that payment period, it may give the student a CWS job for that period. If the institution reverses itself AFTER the end of that period, it may neither provide the student employment for that period nor make adjustments in subsequent periods to compensate for the loss of aid for that period.

(i) Students who receive overpayments on grants may continue their CWS jobs under the following conditions:

(1) *Overpayment of a basic grant.* If a student is overpaid on a basic grant at an institution, that institution may still employ that student if (i) the student is otherwise eligible, and (ii) the overpayment can be eliminated in the award year in which it occurred by adjusting subsequent basic grant payments for that award year.

(2) *Overpayment of a basic grant due to institutional error.* If the student is overpaid on a basic grant at an institution as a result of institutional error, and the overpayment cannot be eliminated by adjusting subsequent basic grant payments in that award year, the institution may also employ the student if:

(i) The student is otherwise eligible, and

(ii) The student acknowledges in writing the amount of the basic grant overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment of a supplemental grant.* An institution may continue to employ a student who receives an overpayment on a supplemental grant if:

(i) The student is otherwise eligible, and

(ii) An adjustment in subsequent financial aid payments (other than basic grants) eliminates the overpayment in the same award year in which it occurred.

(4) *Definition of overpayment.* For purposes of this part overpayment of a grant means that a student received a grant payment which was greater than the amount he or she was entitled to receive.

(j) (1) In determining whether a student is in default on a guaranteed student loan, the institution may rely on a written statement from the student that he or she is not in default on a guaranteed student loan made for the purpose of attending that institution unless the institution has information to the contrary.

(2) An institution may provide CWS employment to a student who is in default on a guaranteed student loan if the Commissioner, for a federally insured loan, or a guarantee agency, for a loan insured by that agency, has determined that the student has made satisfactory arrangements to repay the defaulted loan.

(3) An institution may provide CWS employment to a student who is in default on a National direct or defense student loan made by the institution if it determines that the student has made satisfactory arrangements to repay the defaulted loan.

(4) For purposes of this section a national defense or direct student loan or a guaranteed student loan which has been discharged in bankruptcy is considered to be in default.

(42 U.S.C. 2754; 20 U.S.C. 1088f)

§ 175.10 Special sessions.

(a) During a period of nonregular enrollment (special session), such as a summer or equivalent vacation period, or the full-time work period of a cooperative education program, a student will be eligible for employment under the college work-study program if the student meets the eligibility requirements of § 175.9 and meets one of the following two conditions.

(1) The student was enrolled and in attendance as at least a half-time student at the institution during the preceding period of regular enrollment (regular session) and will complete his or her course of study during the special session or

(2) the student will be enrolled, or has been accepted for enrollment, at the institution as at least a half-time student for the regular session following that special session.

(b) A student will be considered enrolled or accepted for enrollment at the institution for the regular session following the special session if the student will be studying in an eligible program of study abroad.

(c) If the institution provides employment under this part to a student during a special session in which the student is not enrolled as at least a half-time student at that institution, it must maintain a written record demonstrating that it accepted the student for enrollment as at least a half-time student during the following regular session and that the student accepted its offer. However, the institution must not provide CWS employment to a student if it believes the student does not intend to honor his or her acceptance of its offer. It must also immediately terminate the student's employment if it becomes aware of such an intention after the employment has begun.

(42 U.S.C. 2754)

§ 175.11 Cost of education.

(a) A student's educational costs include tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents. However, for independent students, if a family size offset is deducted from the income of the student or the student's spouse in determining the student's expected family contribution, room and board, miscellaneous personal expenses, and expenses related to the maintenance of persons who are dependent on the student or the student's spouse are not considered costs of education.

(b) For a student engaged in a program of study by correspondence, only tuition and fees are considered a cost of education. However, travel and room and board costs incurred specifically in fulfilling a required period of residential training will be considered a cost of education.

(c) If a student is enrolled in an eligible program of study outside the United States, the student's cost of education for purposes of calculating financial need for the campus-based programs may not exceed the student's cost of education at his or her home campus. For further treatment of study abroad, see §§ 175.9(c) and 175.14(g).

(42 U.S.C. 2754)

§ 175.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student and his or her spouse and parents to meet that student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parent may claim an exemption under the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of those dependent children attending institutions of higher education; and

(4) Any other circumstances that may affect the ability of the student and his or her spouse and parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet the student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of those dependent children attending institutions of higher education; and

(4) Any other circumstances that may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) The student financial aid officer must determine whether the relationship between a student and his or her parents makes it unreasonable to expect the parents to contribute toward that student's cost of education, regardless of their ability to do so, if requested by a student who:

(1) Does not live with his or her parents;

(2) Does not visit them for periods that are longer than those which are typical for adults visiting their parents; and

(3) Does not receive from them gifts which exceed in value gifts typically

given by parents as incidental gifts to their adult nondependent offspring.

The student financial aid officer must make the reasons for that determination part of the institution's written records. Before making a finding of that nature the student financial aid officer must make such efforts as he or she considers appropriate to ascertain whether the student's parents are in fact willing to contribute toward the student's cost of education.

(d) In determining the expected family contribution of eligible Indian or other Native American students, the institution must not consider as income or as an asset of the student or his or her family (1) funds received pursuant to an award made under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), (2) property which may not be sold or encumbered without the consent of the Secretary of the Interior, and (3) any other property held in trust for the student or the student's family by the U.S. Government.

(e) *Annual determinations.*

For a student who is enrolled in a program of study by correspondence for which the total cost of education is $1,000 or less, the determination of need may be made only once, at the beginning of the course of study.

In all other cases an institution must make the need determinations at least annually.

(42 U.S.C. 2754)

§ 175.13 Approved need analysis systems.

(a) To comply with the requirements of § 175.12 an institution must use a need analysis system or method of calculation approved by the Commissioner.

(b) *Pre-approved systems for dependent students.* For dependent students, the Commissioner has approved:

(1) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190); and

(2) The Income Tax System, if adjusted to reflect the number of the parents' dependent children attending institutions of higher education. The expected family contribution calculated according to the Income Tax System is an amount equal to the sum of the amount the student is reasonably able to contribute plus the amount of Federal income tax paid by the parents of the student, plus 5 percent of the parents' net assets in excess of $17,000 if those assets do not include farm or business assets and $50,000 if those assets do include farm and business assets. However, no more than $17,000 may be deducted from nonfarm and nonbusiness assets.

(c) *Criteria for approval of other systems for dependent students.* The Commissioner will approve any other need analysis system as meeting the requirements of § 172.12 for dependent students which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(1) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (i) Increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (ii) are equal for families of equal measured financial strength; and

(2) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for those sample cases by the following calculations:

(i) From the sum of the adjusted gross income and nontaxable income of the parents, deduct the amount of Federal income taxes and social security taxes, an allowance of 8 percent of total income for State and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(ii) To the remainder obtained in subparagraph (2)(i) add 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve, and

(iii) Apply the following rate schedule of expected contributions to the sum obtained in subparagraph (2)(ii):

If the sum is—		The expected contribution is—
At least—	But less than—	
$0	$4,000	22 percent of the amount over $0.
$4,000	5,000	$880+25 percent of the amount over $4,000.
$5,000	6,000	$1,130+29 percent of the amount over $5,000.
$6,000	7,000	$1,420+34 percent of the amount over $6,000.
$7,000	8,000	$1,760+40 percent of the amount over $7,000.
$8,000		$2,160+47 percent of the amount over $8,000.

(3) In developing the sample cases the Commissioner will select only cases where the main wage earner is 45 years old and where the elements set forth in subparagraph (2) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending post-secondary institutions, social security or veteran's benefits or any unusual family circumstance.

(4) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero will be treated as zero.

(5) The figures for the set of sample cases used for purposes of this paragraph will be revised annually for inflation by adjusting the deductions for family maintenance, the standard deduction from assets and the rates of contribution from income and assets so that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(d) *Independent students.* (1) For independent students, the Commissioner has approved:

(i) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190);

(ii) The system of need analysis published by the American college testing program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service;

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates; and

(vi) The system of need analysis published by Educational Methods, Inc. of Denver, Colo.

(2) The Commissioner will approve any other need analysis system as meeting the requirements of § 175.12 for independent students, which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which increase in reasonably smooth increments as the family financial strength, measured in real terms, increases and are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (1) of this paragraph.

(e) (1) *Application procedures for system approval.* (1) Any individual or institution that wishes to have its need analysis system approved must

submit that system to the Commissioner by June 30.

(2) The Commissioner will publish in the FEDERAL REGISTER a list of all approved need analysis systems by the following September 1.

(3) Applications for need analysis systems for dependent students must include the information necessary for the Commissioner to determine whether that system meets the requirements of paragraph (c) of this section. The application must include the expected family contribution amounts produced by the system for the sample cases.

(4) Applications for need analysis systems for independent students must include the information necessary for the Commissioner to determine whether the system meets the requirements of paragraph (d) of this section.

(f) *Duration of approval.* (1) Need analysis systems approved under paragraphs (b) and (d) (1) of this section are approved without a specified expiration date.

(2) A need analysis system approved under paragraph (c) of this section and included on the list published by the Commissioner may be used by the institution (i) in its application for funds for the campus-based programs which is submitted by the closing date immediately following the publication of that list and (ii) in determining the eligibility of students for assistance and the amount of that assistance under the campus-based programs for any academic year beginning no earlier than the following June 1 or later than 12 months following that date.

(3) A need analysis system approved under paragraph (d)(2) of this section will be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(g) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the approved need analysis systems if the student financial aid officer believes that the expected family contribution does not realistically reflect the ability of the student and the students' parents to contribute toward the student's cost of education. Those adjustments must be documented in writing, with an accompanying explanation, and made a part of the institution's records.

(42 U.S.C. 2754.)

§ 175.14 Coordination of student financial aid programs, award amount, and overaward.

(a) *Coordinating official.* The institution must appoint an official who will be responsible for coordinating the CWS program with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Overaward prohibited.* (1) *General rule.* Except as provided in subparagraph (2) of this paragraph, an institution may not award assistance under this part in an amount which, when combined with the other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need. For purposes of this part, a student's financial need may not exceed the student's cost of education.

(2) *Exceptions.* An institution does not violate the rule set forth in subparagraph (1) of this paragraph even if a student obtains additional resources after the institution awards financial aid to the student if—

(i) The total amount of resources made available to the student from Federal and non-Federal sources does not exceed the student's financial need by more than $200; or

(ii) The student earns more money from employment than the institution expected when it awarded the student financial aid and it treats the student's "surplus earnings" in accordance with the requirements of paragraph (d) of this section.

(c) *Resources.* Except as provided in paragraphs (f) and (g) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to:

(1) The amount of funds a student is entitled to receive under the basic grants program, regardless of whether the student has applied for those funds,

(2) Any waiver of tuition and fees,

(3) Any scholarship or grant including supplemental grants and athletic scholarships,

(4) Any fellowship or assistantship,

(5) Any loan made under the guaranteed student loan program except where paragraph (f) of this section applies,

(6) Any long-term loan made by the institution other than under the guaranteed student loan program, including any loan made under the national direct student loan program, and

(7) Any net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earning minus required taxes and any costs incidental to employment.

(d) *Prevention of overaward and treatment of surplus earnings.* An institution must take the following steps when it becomes aware that a student who has received CWS assistance has earned or will earn more than $200 above the amount it expected when it awarded financial aid:

(1) It must determine if the student needs the surplus earnings to pay reasonable and necessary additional costs of education not anticipated when it awarded financial aid to the student;

(2) If it determines that the resources available to the student from Federal and non-Federal sources still exceed the student's need by more than $200, it must cancel any loan or grant (other than a basic grant) awarded to the student but not yet disbursed, to avoid exceeding the student's need by more than $200;

(3) If the student will not be enrolled in that institution in the following academic year, it need not take any further action;

(4) If the student will be enrolled in the institution in the following academic year and if the institution cannot avoid exceeding the student's need by more than $200 it must treat the student's "surplus earnings" (i) as a resource available to pay the student's cost of education in the following academic year, or (ii) as a substitute for the student's expected family contribution, unless a GSL is used for that purpose.

(e) *Definition of surplus earnings.* For purposes of this section, "surplus earnings" means the amount earned by the student which, when combined with previous earnings and other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need by more than $200.

(f) *Treatment of guaranteed loans.* (1) Any guaranteed student loan (GSL) for which no Federal interest benefits are payable (a nonsubsidized GSL) is not considered a student resource and may be used to replace the expected family contribution, up to the amount of the expected family contribution.

(2) A student may replace his or her expected family contribution with a GSL for which the student qualifies for Federal interest benefits automatically (i.e., on the basis of the borrower's adjusted family income rather than a need test).

(3) A student may not replace his or her expected family contribution with a GSL for which a need test is required for the student to receive Federal interest benefits. A GSL of this nature must be considered a student resource under paragraph (b) of this section.

(4) That part of the GSL which does not qualify to replace the borrower's expected family contribution under subparagraph (1) or (2) of this paragraph is considered a student resource under paragraph (b) of this section.

(5) If a borrower receives a loan under the GSL program which ex-

ceeds the amount of the borrower's expected family contribution, the excess is considered a student resource in all cases.

(6) Subparagraph (2) of this paragraph is effective retroactively to July 1, 1976.

(g) *Study abroad.* A student engaged in an eligible program of study abroad may have additional costs that do not qualify as education costs under § 175.11. However, any funds obtained by the student to pay for those costs will not be considered a resource for the purposes of paragraph (b) of this section if they are obtained from sources other than the basic grant and campus-based programs. This paragraph is effective retroactively to November 3, 1976.

(h) *Administrative responsibility.* (1) The institution's responsibility under paragraph (b) of this section extends only to those resources which it makes available to the student, or about which it knows, or has reason to know, or can reasonably anticipate, at the time that assistance under this part is disbursed to the student.

(2) The institution must take reasonable steps to inform itself about earnings from any additional employment not provided by the institution which the student may obtain.

(3) The institution is considered to know the amount of net earnings to be received by each student it employes when it awards CWS employment to that student.

§ 175.15 Coordination with BIA grants.

(a) (1) An institution, in determining the amount of CWS compensation to be awarded a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, must prepare a package of student assistance for that student from resources other than the BIA grant.

(2) In preparing that package, the institution must not consider any BIA education grant which the student has received or is expected to receive.

(3) The package must be consistent, in both type and amount of aid, with packages prepared for students in similar circumstances who are not eligible for BIA education grants.

(b) (1) The BIA education grant, whether received by the student before or after the preparation of the student aid package supplements that package.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c) (1) If the BIA education grant, when combined with the package of other assistance exceeds the institution's determination of the student's need, only the excess may be deducted from the package of other assistance.

(2) Except as provided for in subparagraph (3) of this paragraph, deductions must be made in sequence, so that the excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all loan awards have been adjusted, deductions must next be made from any awards, or proposed awards, in the form of workstudy; if an excess still remains after all work-study awards have been adjusted, deductions must be made from any award, or proposed award, in the form of a grant, other than a grant under the basic grants program.

(3) If requested by an eligible recipient, the sequence of deductions provided in subparagraph (2) of this paragraph may be altered if the institution determines that such an alteration more adequately meets the need of that student.

(d) In determining the financial need of students eligible for BIA education grants, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(42 U.SC. 2754.)

§ 175.16 Payments to students.

(a) (1) A student must be paid at least once a month. The Federal share of each payroll disbursement must be made by check or similar instrument which may be cashed on the student's own endorsement without further restriction. Accounting devices or procedures which result in the direct transfer of the Federal share of student compensation to expenses or bills are not permissible.

(2) The institution is responsible for ensuring that each payroll disbursement to any student represents the net amount of wages earned under the program during the previous payroll period whether the work is for the institution itself or for a public or private nonprofit organization.

(3) A student's wages are considered to be obligated at the time the work is performed.

(b) (1) If the institution's share of a student's compensation is paid by check, it must be disbursed when the Federal share is disbursed.

(2) If the institution's share is paid in the form of tuition, fees, services or equipment for an academic period during which the student is employed, that share must be contributed before the close of the student's final payroll period. If that share is in the form of prepaid tuition, fees, services or equipment for a forthcoming academic period, the institution must give the student a statement before the close of the student's final payroll period indicating the amount of tuition, fees, services, and equipment earned.

(c) Before making CWS employment available to a student, the institution must (1) obtain from that student a written acceptance of the employment and (2) provide the student a statement indicating (i) the amount of his or her college work-study award, (ii) the nature and source of the other student financial aid made available to the student through the institution, and (iii) the fact that continued employment under the college work-study program depends on the student's making satisfactory progress in his or her course of study and continuing as at least a half-time student during the academic year.

(d) No CWS compensation may be paid to a student unless the student has filed a notarized affidavit with the institution he or she attends which—

(1) Is on a form approved by the Commissioner;

(2) States that the loan proceeds will be used solely for educational expenses at the institution; and

(3) Is notarized by someone who does not recruit students for the institution.

(e) *Correspondence study.* No payment may be made to a student pursuing a program of study by correspondence before the student completes and submits the first lesson.

(42 U.S.C. 2754.)

§ 175.17 Federal interest in allocated funds.

Funds received by an institution for compensation to students under this part are held in trust for the intended student beneficiary. All funds received by an institution under this part may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(42 U.S.C. 2751-56.)

§ 175.18 Use of funds.

(a) Federal funds allocated to an institution under this part must be used by the institution—

(1) To pay the Federal share of compensation under its CWS program,

(2) To carry out the Student Consumer Information Services requirements set forth in § 493A of the Act and 45 CFR 178 (with funds received under paragraph (b) of this section),

(3) To pay the cost of administering the Federal student financial aid programs (with funds received under paragraph (b) of this section),

(4) To meet the cost of a job location and development program under subpart B of this part, and

(5) to transfer to the SEOG program under § 175.21.

(b) (1) An institution is entitled to receive an administrative cost allowance for each award year for which it receives an allocation under § 175.4. That allowance equals 4 percent of the compensation earned by students, including the Federal share and the institutional share for both on and off-campus programs. However the administrative cost allowance under this part and the SEOG program plus the amount withdrawn for such purposes from the institution's NDSL Fund may not in the aggregate exceed $325,000 for any award year.

(2) Any institution which receives an administrative cost allowance for any award year must first use that allowance to carry out part 178 of title 45 of the Code of Federal Regulations, "Student Consumer Information Services." If any funds remain, the institution may use those funds only to pay the cost of administering the Federal student financial aid programs.

(42 U.S.C. 2754, 20 U.S.C. 1088b.)

§ 175.19 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution must administer the college work-study program in a manner which provides for an adequate system of internal controls. The various administrative procedures must be divided so as to provide for a system of checks and balances. The functions of authorizing payment and disbursing funds must be divided in such a fashion that no office has responsibility for both functions with respect to any particular student aided under the program.

(2) If a fiscal agent is used by the institution, its function must be limited solely to the performance of ministerial acts.

(3) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions must give notice to any bank in which they deposit Federal funds of all accounts in that bank in which Federal funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or,

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution must establish and maintain on a current basis, adequate records which reflect all program transactions. The institution must establish and maintain all general ledger control accounts and related subsidiary accounts which are necessary to identify all program transactions. Those records must:

(i) Be maintained in such a manner as to identify all program transactions separately from other institutional funds and activities:

(ii) Be reconciled at least monthly;

(iii) Include a weekly (or monthly) time record showing hours worked per day for each student. This form must contain a certification by an official of the institution (or off-campus agency) who is the student's supervisor stating that the student has worked the number of hours listed and whether the work has been performed in a satisfactory manner;

(iv) Include a payroll voucher containing sufficient information to support all payroll disbursements;

(v) Include a noncash contribution record to support by adequate documentation any payment or partial payment of the institution's share of the student's earnings which has been made in the form of services and equipment as permitted by § 175.27;

(vi) Afford ready identification of each student's account and the status thereof;

(vii) Be adequate to demonstrate the eligibility of every student aided under the program;

(viii) Indicate the amount of need determined for each student and the way that need has been met; and

(ix) Identify the institutional officer who made the determination of need.

(2) An institution must submit an Institutional Fiscal-Operations Report annually. It must also submit any other reports and information in the form and at the times required by the Commissioner.

The institution must comply with the requirements the Commissioner finds necessary to insure the corrections of required reports.

(c) *Retention of records.* (1) *Records.* Each institution must keep intact and accessible records relating to the receipt and expenditure of Federal funds including all accounting records and related original and supporting documents that substantiate costs charged to the award and the records required by § 175.9(f).

(2) *Period of retention.* Except as provided in subparagraph (4) of this paragraph, the records specified in subparagraph (1) of this paragraph must be retained for 5 years after the date of the submission of the annual institutional fiscal-operations report.

(3) *Microfilm copies.* An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(4) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit must be further retained until resolution of any audit questions. However, records need not be retained if they relate to a grant with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(5) *Audit and examination.* The institution must give the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, access to the records specified in subparagraph (1) of this paragraph and to any other pertinent books, documents, papers, and records necessary for the purposes of audit and examination.

(d) *Audits—non-Federal.* (1) All of an institution's transactions involving its CWS funds must be audited by the institution or at the institutions' direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether those transactions are in compliance with applicable laws and regulations. The required audits must be performed in accordance with the Department of Health, Education, and Welfare "audit guide" for student financial aid programs. The frequency of required audits may vary depending on the size and complexity of the program. However, an audit must be carried out at least once every two years.

(2) Each audit must cover the entire period of time which has elapsed since the last audit.

(3) The required audit reports must be submitted to the regional office of the Department of Health, Education, and Welfare Audit Agency serving the region in which the institution is located for its review.

(4) The institution must provide the HEW Audit Agency and the Commissioner with access to records or other documents necessary to review the results of required audits.

(42 U.S.C. 2754; 20 U.S.C. 1232c.)

§ 175.20 Maintenance of effort.

(a) For each award year for which it receives an allocation under this part, the institution must continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the 3 award years preceding the latest of the following dates or award years:

(1) The effective date of any agreement required by section 443 of the college work-study program (42 U.S.C. 2753) or section 407 of the educational opportunity grants program (20 U.S.C. 1067) which was in effect on June 30, 1973,

(2) The award year for which the institution receives or received its first allocation under the college work-study program,

(3) The award year for which the institution received its first allocation under the educational opportunity grants program (20 U.S.C. 1061-1067, 1069), or

(4) The award year for which the institution receives or received its first allocation under the supplemental grants program (20 U.S.C. 1070b-1070b-3) if the institution did not participate in the educational opportunity grants program in the award year immediately preceding that award year.

(b)(1) The Commissioner may waive the requirements set forth in paragraph (a) of this section for an award year under special and unusual circumstances. Special and unusual circumstances include (i) a withdrawal of funds from outside sources (for public institutions, public appropriations are not considered an outside source), or (ii) a decline in enrollment where the institution continued to expend in its own scholarship and student aid program, on a per-enrolled-student basis, an amount at least equal to the average amount expended per enrolled student during the three year base period.

(2) Where an institution fails to meet the requirements set forth in paragraph (a) of this section for an award year because it withdrew as a direct lender under the GSL program, the Commissioner may waive that portion of the failure that equals the average amount of loans made by the institution as a direct lender under the GSL program during the 3-year base period if the institution provides financial assistance to its students in an amount equal to the amount it is required to maintain under paragraph (a) of this section through its own scholarship and student financial aid expenditures and by arranging alternative sources of assistance. However, the amount of alternative sources that may be included may not exceed the amount that the Commissioner waives.

(3) Where an institution fails to meet the requirements set forth in paragraph (a) of this section for an award year because the Commissioner withdrew its authority to participate as a direct lender under the GSL program, the Commissioner may waive for that award year that portion of the failure that equals the average amount of loans made by the institution as a direct lender under the GSL program during the 3 year base period. The Commissioner may also waive that amount for future award years if (i) the institution provides financial assistance to its students in an amount equal to the amount it is required to maintain under paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of assistance. However, the amount of alternative sources that is included may not exceed the amount that the Commissioner waives.

(4) For purposes of this paragraph the Commissioner will consider that the institution has arranged alternative sources of assistance for its students if that assistance is provided under a written agreement between the institution and the funding source.

(c) To obtain a waiver of the maintenance of effort requirement set forth in paragraph (a) of this section for a particular award year, an institution must submit to the Commissioner a request for a waiver including a description of the circumstances justifying the waiver.

(d) An institution's "own scholarship and student financial aid program" includes any expenditure of institutional funds for scholarships, grants, loans, tuition and fee waivers or remissions, and any employment given to students enrolled at the institution at both the graduate and undergraduate level, regardless of whether those students are eligible to participate in the CWS or SEOG programs. Funds given to the institution from an outside source to be used for scholarships or other forms of student financial aid will be considered institutional funds if the institution has the authority to choose the recipients and the amount the recipients will receive. However, funds received from Federal sources to be used for student financial aid may not, in any event, be considered as part of an institution's own scholarship and student financial aid program.

(e)(1) An institution may, in accordance with its stated practice, consider scholarships and other student financial assistance given to students who are dependents of faculty members or other employees of the institution as student financial aid or employee benefits.

(2) An institution must count fellowships and assistantships as part of its program of student financial assistance unless it is the stated practice of the institution to consider the holders of fellowships and assistantships as members of the institution's faculty. In that case payments under fellowships and assistantships need not be considered financial aid.

(3) An election of treatment under subparagraphs (1) and (2) of this paragraph applies to both the base year period and current year expenditures. A change of treatment will be permitted only with the express written approval of the Commissioner.

(20 U.S.C. 1088c)

§ 175.21 Transfer of funds.

(a) An institution may transfer up to 10 percent of its allocation for an award year under the CWS program to its allocation of funds for that fiscal year under the SEOG program. Those funds must be used in accordance with the provisions of the latter program. The institution may allocate the transferred funds between its allocations for initial and continuing grants as it sees fit. Similarly, an institution may transfer up to 10 percent of its allocation for an award year under the SEOG program to its allocation of funds for that award year under the CWS program. Those funds must be used in accordance with the provisions of this part.

(b) Any amount transferred under paragraph (a) of this section must be reported on the annual Institutional Fiscal-Operations Report required by § 175.19(b)(2).

(20 U.S.C.1088e)

§ 175.22 Program eligibility.

(a) (1) *General eligibility of employment.* Work-Study programs conducted under this part may, except in the case of a proprietary institution of higher education, involve work for the institution itself, or work in the public interest for a Federal, State, or local public agency or private nonprofit organization. In the case of a proprietary institution of higher education, the employment may involve only work performed in the public interest for a Federal, State, or local public agency or private nonprofit organization.

For purposes of this paragraph, a proprietary institution of higher education also includes any nonprofit organization owned or controlled by the proprietary institution or by the corporation, association, partnership or individual which owns or controls the proprietary institution.

(2) Work for the institution itself may include work performed in those institutional operations which are typically performed by the institution for its students but which the institution chooses to contract for. These operations include food service, cleaning, maintenance and security. However, the contract between the institution and the private contractor must provide that (i) the contractor will use a specific number of the institution's students in carrying out the contract and (ii) the institution will select the students to be employed and determine each student's rate of pay.

(3) If an institution is engaged in profitmaking activities, such as the operation or rental of athletic fields, auditoriums, theaters, and parking lots, employment in connection with those activities including administrative functions, is not considered work for the institution or work in the public interest unless that employment is connected with events conducted as part of the educational, cul-

tural, or athletic programs of that institution.

(4) *Work in the public interest.* Work in the public interest means work that is devoted to the national or community welfare rather than to a particular interest or group. In no event is work considered in the public interest if (i) it is primarily for the benefit of the members of a limited membership organization (such as a credit union, a fraternal or religious order, or a cooperative), rather than for the public at large, (ii) it is performed for an elected official other than as part of the regular administration of Federal, State, or local government, or (iii) it is work for which the political support or affiliation of the student is taken into consideration.

(b) *General limitations on employment.* Employment provided under this part—

(1) May not result in the displacement of employed workers, the impairment of existing contracts for services, nor the filling of positions that are vacant because the employer's regular employees are on strike;

(2) May not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place of religious worship;

(3) May not involve any partisian or nonpartisan political activity associated with a candidate or with a contending faction or group in an election for public or party office;

(4) May not involve any lobbying on the Federal level;

(5) May not include any employment for the U.S. Office of Education; and

(6) Must be governed by conditions of employment, including compensation, that are appropriate and reasonable in light of such factors as type of work performed, geographical region, proficiency of the employee, and any applicable Federal, State, or local legislation.

(c) (1) *Agreement.* Work for a Federal, State, or local public agency or private nonprofit organization, must be evidenced by a written agreement between the institution and the employing agency or organization containing the conditions for that work. (See Appendix B for a sample agreement.) The institution may enter into such an agreement only with a reliable agency or organization with professional direction and staff.

(2) The institution will be responsible for insuring (i) that any disbursements for work performed under each agreement will be properly documented and (ii) that the work performed by each student will be properly supervised and in accordance with the requirements of this part.

(42 U.S.C. 2754)

§ 175.23 Eligible employment.

(a) *General.* For a position to be considered eligible employment under this part, it must be one for which the employer normally has compensated other persons not employed under this part. If no other person has held or is holding that position for that employer, it is one for which most other employers would normally compensate persons holding that position.

(b) *Work for academic credit.* Work which is otherwise eligible is not made ineligible because it satisfies a requirement of a degree or a certificate.

(42 U.S.C. 2754)

§ 175.24 Establishment of wage rates.

(a) *Wage rates.* Compensation under this part must be computed on an hourly wage rate basis for actual time on the job. Fringe benefits may not be included as part of the wage rate. Students may not be compensated on a salary, commission, or fee arrangement.

(b) (1) *Minimum rate.* Except as provided for in subparagraphs (2) and (3) of this paragraph, the minimum permissible rate for a student employed under the work study program is $2.30 an hour until June 30, 1978; $2.65 an hour from July 1, 1978 through June 30, 1979; $2.90 an hour from July 1, 1979 through June 30, 1980; $3.10 an hour from July 1, 1980 through June 30, 1981; and $3.35 an hour after June 30, 1981; or any higher minimum wage that is required under any applicable Federal, State, or local legislation.

(2)(i) The Commissioner may approve a rate of compensation lower than that established under subparagraph (1) of this paragraph if exceptional circumstances warrant a lower rate and the approval of a lower rate is not precluded by law and is consistent with and promotive of the purposes of this part.

(ii) To receive approval to pay a lower rate, the institution must show that the lower rate is consistent with prevailing wage rates in its locality and on its own campus and otherwise conforms with the requirements of § 175.22(b)(6).

(3) If the Secretary of Labor has established a subminimum wage rate under provisions of the Fair Labor Standards Act for any category of students at an institution, that subminimum wage rate is the minimum permissible wage rate under this part for those students.

(c) The wage rate established for each Work-Study position must meet the requirements of § 175.22(b)(6).

(42 U.S.C. 2754)

§ 175.25 Earnings attributable to cost of education.

(a) *Attribution.*

(1) The amount of CWS compensation earned by a student to be applied to the student's cost of education equals the difference between the student's net earnings and any costs incident to obtaining those earnings. If the student is employed under this part during a summer vacation period or other period when the student is not attending classes, that difference must be applied to the student's cost of education during the next period of regular enrollment, except as provided in paragraph (c) of this section.

(2) A student's net earnings equal the difference between the student's gross earnings and the taxes the student is required to pay on those earnings.

(b) *Incidental costs.*

(1) Costs incident to employment include those costs the student incurs because of his or her job. Examples of those costs include transportation costs to and from the job and uniforms.

(2) If a student is on a 12-month budget only reasonable costs may be deducted from the student's net earnings as costs incident to employment under paragraph (a) of this section.

(3) If a student is not on a 12-month budget, the costs which may be deducted from the student's net earnings as costs incident to employment during a summer vacation or comparable period not included in the student's budget are the lesser of $300 or 20 percent of the student's net earnings.

(4) Notwithstanding subparagraph (3) of this paragraph, if all the jobs reasonably available to a student for the period of employment described in subparagraph (3) require the student's costs incident to employment to exceed the limit set forth in that subparagraph, the institution may allow necessary incidental costs up to the lesser of $600 or 40 percent of the student's net earnings.

(c) *Twelve-month budget.* (1) If the student is employed under this part during a summer vacation period, or other comparable period when the student is not attending classes, the institution may include reasonable and necessary living and transportation costs incurred by the student for that period as part of the student's cost of education if the expected family contribution of the student is calculated on a 12-month basis.

(2) If a student is on a 12-month budget, the student's net earnings for the summer or other vacation period are considered a part of the student's financial aid package for that 12 months.

(42 U.S.C. 2754)

§ 175.26 Limitations on the Federal share of student compensation.

(a)(1) Except as otherwise provided under paragraph (e) of this section, the Federal share of compensation paid to students from CWS funds may not exceed 80 percent. (2) CWS funds may not be used to pay part of a student's earnings after that student has earned $200 more than his or her financial need.

(b) The Federal share of compensation for employment under this part must be calculated on the basis of the hourly rate paid a student for actual time on the job. The following may not be included in determining the Federal share:

(1) Fringe benefits such as paid sick leave, vacation pay, and holiday pay; or

(2) The employer's contribution to social security, workmen's compensation, retirement, or any other welfare or insurance programs which must be paid by the employer on account of a student employed under this part.

(c) If the institution arranges employment for its students with a Federal, State, or local public agency or a private nonprofit organization, the agreement under which that employment is arranged may allow the institution to recover from the agency or organization,

(1) the non-Federal share of student compensation,

(2) any required employer costs such as the employer's share of Social Security or workmen's compensation insurance to the extent that those costs are paid by the institution on account of the employment of its students by the agency or organization under that agreement, and

(3) any costs of administration incurred by the institution in administering the agreement, either directly or through an agent, to the extent that those costs are not covered by payments received by the institution under § 175.18(b).

(d) Any funds an institution receives for a fiscal year under agreements with various employer organizations which exceed the cost the institution incurs in paying the non-Federal share of the compensation paid to its students and in administering the Work-Study Program must,

(1) be used to reduce on a dollar for dollar basis the Federal share of compensation paid to its students,

(2) be held in trust for off-campus student employment in the subsequent fiscal year, or

(3) be refunded to the off-campus organization.

(e)(1) The Commissioner may approve a Federal share of up to 100 percent of the compensation paid to students employed under this part if the institution,

(i) is designated as a "developing institution of higher education" under part 169 of this title (45 CFR part 169), or

(ii) demonstrates that at least 50 percent of its students who are enrolled as at least half-time students have parents whose annual adjusted gross income is less than $7,500 per year.

(2) The Commissioner will pay a Federal share of 100 percent only for that portion of compensation which exceeds,

(i) the amount of compensation paid to students under this part during the 12 months ending on June 30, 1976, or

(ii) for institutions not participating in the College Work-Study Program during the 12 months ending on June 30, 1976, an amount specified by the Commissioner.

(3) In order to receive a Federal share of more than 80 percent for an award year, an institution must indicate its intent to request that waiver as part of its application for funds for that year under § 175.5.

(42 U.S.C. 2754)

§ 175.27 Nature and source of institutional share of student compensation.

(a) An institution may use any source available to it, except Federal funds received under this part, to pay its share of the compensation paid to students employed under this part. The institution's share may be paid in the form of services and equipment (including tuition, room, board, and books). All amounts claimed as noncash contributions must be documented. Documentation may include a copy of a receipt given to the student employee. In no case may a noncash payment consist of remittal of a charge assessed against the student exclusively because of the student's employment under the CWS program.

(b) No institution may solicit or accept or permit any Federal, State, or local public agency or private nonprofit organization, with which it has an agreement, to solicit or accept any fee, commission, or compensation of any kind, or any gift or gratuity as a consideration or a prerequisite for the employment of a particular student under the program.

(42 U.S.C. 2754)

§ 175.28 Multi-institutional arrangements.

(a) *General.* (1) Eligible institutions may enter into a cooperative arrangement with each other (a "consortium") or may designate or create a public or private nonprofit agency, institution, or organization to conduct their College Work-Study Programs.

(2) Those institutions must sign a written agreement,

(i) with all institutions in the consortium, or

(ii) with the public or private nonprofit agency, institution, or organization acting on their behalf.

(3) The agreement specified in subparagraph (2) must:

(i) Contain the terms, conditions, and assignment of responsibilities required under this part (including responsibilities for audits); and

(ii) Designate an administrator as the grantee who will receive each institution's allocation.

(b) *Grantee's agreement.* The grantee designated in accordance with subparagraph (a)(3)(ii) must sign the agreement with the Commissioner required by § 175.8.

(c) *Arrangements among institutions located in more than one State.* (1) Institutions located in more than one State may designate a single administrator for purposes of paragraphs (a) and (b) of this section and may file applications as provided in paragraphs (d) and (e) of this section.

(2) Only those institutions located within a single State will be considered a single institution,

(i) for the purpose of entering into the agreement required by § 175.8, and,

(ii) for the purpose of fund allocation, expenditure, and reporting.

(3) If institutions in a consortium are located in different States, no part of the funds allocated to an institution in one State under §§ 175.3 and 175.4 may be used for the compensation of students enrolled in an institution located in a different State.

(d) *Consortia consisting of institutions which do not participate in the national direct student loan or supplemental educational opportunity grants programs.* The designated grantee of a consortium composed of institutions in any one State may:

(1) Enter into an agreement with the Commissioner under § 175.8 on behalf of all those institutions which do not also participate in the NDSL and/or SEOG programs. The institutions participating in that agreement will be considered a single institution for purposes of fund allocation, expenditure, and reporting;

(2) File a single application under § 175.5 on behalf of those institutions in the consortium which are all located within a single State; and

(3) Comply with the recordkeeping and reporting requirements of § 175.19.

(e) *Consortia which include participants in the national direct student loan or supplemental educational grants programs.* If any institution in a consortium participates in the NDSL and/or SEOG programs, that institution may not be included with any other institution in the agreement required by § 175.8 and must:

(1) Enter into its own agreement with the Commissioner under § 175.8;

(2) File its own application under § 175.5, in which it indicates that its college work-study request is to be administered by its designated grantee, and lists the other institutions in the consortium; and

(3) Comply with all recordkeeping and reporting requirements of § 175.19.

(42 U.S.C. 2753)

Subpart B—Job Location and Development Program

§ 175.31 Purpose.

The purpose of the job location and development program is to expand off-campus employment opportunities for all students, without regard to need, who are enrolled in an eligible institution and who desires to work.

(42 U.S.C. 2756a.)

§ 175.32 Definition.

For purposes of this subpart, "institution" means an eligible institution as defined in § 175.2 or a group of eligible institutions participating in the college work-study program as a single entity in a multi-institutional arrangement pursuant to § 175.28.

(42 U.S.C. 2756a.)

§ 175.33 Federal contribution.

For each award year an institution participating in the CWS program may use up to 10 percent of the Federal funds allocated to it under this part or $15,000, whichever is less, to establish and operate a job location and development program for its students or to expand an existing one.

(42 U.S.C. 2756a.)

§ 175.34 Allowable costs.

(a) Allowable costs are those costs that are reasonably related to carrying out a job location and development program authorized under this subpart.

(b) Allowable costs do not include the purchase, construction, renovation, or alteration of physical facilities, or indirect administrative costs.

(42 U.S.C. 2756a.)

§ 175.35 Federal share of allowable costs.

Funds received by the institution under § 175.33 may be used to pay up to 80 percent of allowable costs.

(42 U.S.C. 2756a.)

§ 175.36 Institutional share of allowable costs.

The institutional share may be cash or in kind. No Federal funds received under subpart A may be used as the institutional share under this subpart. The institution must maintain supporting records to indicate the amount and sources of its matching share.

(42 U.S.C. 2756a.)

§ 175.37 Multi-institutional job location and development programs and contractual arrangements with nonprofit organizations.

(a) Institutions participating in the CWS program may enter into a cooperative arrangement with each other to establish and operate a job location and development program to serve students enrolled in any institution in the cooperative arrangement.

(b) An institution participating in the CSW program may, separately or in combination with other participating institutions, enter into an arrangement with a nonprofit organization under which the nonprofit organization will establish and operate a job location and development program for students enrolled at the institution(s). The institution(s) may enter into that arrangement only with a reliable organization with professional direction and staff.

(c) Each institution must sign a written agreement with (1) all other institutions participating in the cooperative arrangement, or (2) the nonprofit organization acting on its behalf. The agreement must:

(1) Designate the administrator of all job location and development program;

(2) Contain the terms, conditions, and performance standards of the program; and

(3) Provide for the fulfillment of the audit requirement stated in paragraph (d) of this section.

(d) The administrator of a cooperative arrangement or the nonprofit organization operating a program on the institution's behalf must:

(1) Have an audit performed in accordance with § 175.19(d); and

(2) Provide one copy of the audit to each institution participating in the arrangement and one copy to the regional office of the Department of Health, Education, and Welfare Audit Agency in accordance with § 175.19(e).

(e) Each institution retains responsibility for the proper expenditure of Federal funds which it contributes to a cooperative arrangement or which are administered on its behalf by a nonprofit organization.

(42 U.S.C. 2756a.)

§ 175.38 General restrictions.

A job location and development program operated under this subpart may not:

(a) Be used to locate or develop jobs involving work for any eligible institution;

(b) Be used to locate and develop jobs for students to obtain upon graduation; or

(c) Result in the displacement of employed workers or impair existing contracts for services.

(42 U.S.C. 2756a.)

§ 175.39 Agreement.

An institution participating in the CWS program which desires to establish or expand a job location and development program must enter into an agreement with the Commissioner for that purpose. The agreement must provide:

(a) That the Federal share of the cost of any program under this subpart paid from funds allocated to the institution under § 175.4 will not exceed 80 percent;

(b) Satisfactory assurance that funds available under this subpart will not be used to locate or develop jobs at an eligible institution;

(c) Satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this subpart, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

(d) Satisfactory assurance that funds available under this subpart will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at the institution;

(e) Satisfactory assurance that the location or development of jobs by programs assisted under this subpart will not result in the displacement of employed workers or impair existing contracts for services;

(f) Satisfactory assurance that Federal funds used for the purposes of this subpart can realistically be expected to help generate student wages exceeding in the aggregate the amount of those Federal funds;

(g) Satisfactory assurance that if Federal funds are used to contract with another organization, appropriate performance standards are part of that contract; and

(h) That the institution will submit to the Commissioner an annual report on the uses made of funds provided under this subpart and an evaluation of the effectiveness of the program in benefiting the students of the institution.

(42 U.S.C. 2756a.)

§ 175.40 Maintenance of effort.

(a) For each award year in which the institution receives funds allocated under this part to support a job loca-

tion and development program, the institution must continue to spend in its own job location and development program, from sources other than funds received under this part, not less than the average expenditures per year made during the most recent three award years preceding the effective date of its agreement with the Commissioner.

(b) An institution's "own job location and development program" includes any expenditure of institutional funds to create employment opportunities off-campus for enrolled students. Such expenditures include, but are not limited to, staff salaries, related travel costs, printing and mailing costs, telephone charges, and costs of equipment furnished by the institution for use in its job location and development program.

(42 U.S.C. 2756a.)

§ 175.41 Procedures and records.

Procedures and records concerning the administration of a job location and development program established and operated under this subpart are governed by applicable provisions of § 175.19.

(42 U.S.C. 2756a.)

§ 175.42 Termination and suspension.

(a) Any termination or suspension actions taken by the Commissioner under Part 168 of title 45 of the Code of Federal Regulations with regard to an institution's CWS program will apply also to its job location and development program.

(b) If assistance is terminated under this subpart, financial obligations incurred by the institution before the effective date of the termination will be allowable to the extent that they would have been allowable had such assistance not been terminated, except that (1) no obligations incurred during the period in which that assistance was suspended and no obligations incurred in anticipation of suspension or termination will be allowed and (2) the institution must cancel as many outstanding obligations as possible.

(42 U.S.C. 2756a.)

APPENDIX A

ALLOTMENTS OF FUNDS TO STATES FOR FISCAL YEAR 1972

Alabama	$5,802,379
Alaska	222,401
Arizona	2,163,160
Arkansas	3,357,696
California	19,625,311
Colorado	2,643,202
Connecticut	2,537,476
Delaware	520,542
District of Columbia	1,110,472
Florida	6,830,771
Georgia	6,390,308
Hawaii	796,559
Idaho	899,577
Illinois	10,371,320
Indiana	5,396,896
Iowa	3,925,939
Kansas	2,844,022
Kentucky	4,770,515
Louisiana	5,759,805
Maine	1,156,396
Maryland	3,549,625
Massachusetts	5,863,354
Michigan	9,157,777
Minnesota	4,773,195
Mississippi	4,885,174
Missouri	5,420,293
Montana	933,670
Nebraska	2,015,607
Nevada	335,527
New Hampshire	767,114
New Jersey	5,111,397
New Mexico	1,548,112
New York	16,923,121
North Carolina	8,181,440
North Dakota	1,067,895
Ohio	10,424,770
Oklahoma	8,522,127
Oregon	2,401,584
Pennsylvania	12,087,462
Rhode Island	995,991
South Carolina	4,483,023
South Dakota	1,185,126
Tennessee	5,964,544
Texas	14,171,730
Utah	1,532,910
Vermont	613,709
Virginia	5,605,999
Washington	3,641,590
West Virginia	2,934,188
Wisconsin	5,012,671
Wyoming	416,528
Outlying areas[1]	4,748,000
Total	237,400,000

[1]Outlying areas include Puerto Rico, Virgin Islands, Guam, American Samoa, and Trust Territory of the Pacific Islands.

APPENDIX B

MODEL OFF-CAMPUS AGREEMENT

(The paragraphs below are suggested as models for the development of a written agreement between an institution of higher education and a Federal, State, or local public agency or private nonprofit organization which provides for employment of college students participating in the college work-study program. Institutions and agencies or organizations may devise additional or substitute paragraphs which are not inconsistent with the statute or regulations.)

This agreement is entered into between ————————, hereinafter known as the "Institution," and ———— ————, hereinafter known as the "Organization," a (*Federal, State, or local public agency*), (*private nonprofit organization*), (strike one), for the purpose of providing work to students eligible to participate in the college work-study program.

Schedules to be attached to this agreement from time to time must be signed by an authorized official of the institution and of the organization and must set forth brief descriptions of the work to be performed by students under this agreement, the total number of students to be employed, the hourly rates of pay, and the average number of hours per week each student will be used. These schedules will also state the total length of time the project is expected to run, the total percent, if any, of student compensation that the organization will pay to the institution, and the total percent, if any, of the cost of employers' payroll contribution to be borne by the organization. The institution will inform the organization of the maximum number of hours per week a student may work.

Students will be made available to the organization by the institution for performance of specific work assignments. Students may be removed from work on a particular assignment or from the organization by the institution, either on its own initiative or at the request of the organization, the organization agrees that no student will be denied work or subjected to different treatment under this agreement on the grounds of race, color, national origin, or sex, and that it will comply with the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub. L. 92-318) and the Regulations of the Department of Health, Education, and Welfare which implement those Acts.

(*Where appropriate any of the following 3 paragraphs or other provisions may be included.*)

(1) Transportation for students to and from their work assignments will be provided by the organization at its own expense and in a manner acceptable to the institution.

(2) Transportation for students to and from their work assignments will be provided by the institution at its own expense.

(3) Transportation for students to and from their work assignments will not be provided by either the institution or the organization.

(*Whether the institution or the organization will be considered the employer of the students covered under the agreement depends upon the specific arrangement as to the type of supervision exercised by the organization. It is advisable to include some provision to indicate the intent of the parties as to who is considered the employer. As appropriate, one of the following two paragraphs may be included.*)[2]

(1) The institution is considered the employer for purposes of this agreement. It has the ultimate right to control and direct the services of the student for the organization. It also has the responsibility to determine that the students meet the eligibility requirements for employment under the college work-study program, to assign students to work for the organization, and to determine that the students do perform their work in fact. The organization's right is limited to direction of the details and means by which the result is to be accomplished.

(2) The organization is considered the employer for purposes of this agreement. It has the right to control and direct the services of the student, not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. The institution is limited to deter-

[2](It should be noted that although the following paragraphs attempt to fix the identity of the employer, they will not necessarily be determinative if the actual facts indicate otherwise. Additional wording which specifies the employer's responsibility in case of injury on the job may also be advisable, since Federal funds are not available to pay for hospital expenses or claims in case of injury on the job. In this connection it may be of interest that one or more insurance firms in at least one State have in the past been willing to write a workmen's compensation insurance policy which covers a student's injury on the job regardless of whether it is the institution or the organization which is ultimately determined to have been the student's employer when he or she was injured.)

mining that the students meet the eligibility requirements for employment under the college work-study program, to assigning students to work for the organization, and to determining that the students do perform their work in fact.

(*Wording of the following nature may be included, as appropriate, to locate responsibility for payroll disbursements and payment of employers' payroll contributions.*) Compensation of students for work performed on a project under this agreement will be disbursed—and all payments due as an employer's contribution under State or local workmen's compensation laws, under Federal or State social security laws, or under other applicable laws, will be made—by the (organization) (institution) (strike one).

(*Where appropriate any of the following paragraphs may be included.*)

(1) At times agreed upon in writing, the organization will pay to the institution and amount calculated to cover the organization's share of the compensation of students employed under this agreement.

(2) In addition to the payment specified in paragraph (1) above, at times agreed upon in writing, the organization will pay, by way of reimbursement to the institution, or in advance, an amount equal to any and all payments required to be made by the institution under State or local workmen's compensation laws, or under Federal or State social security laws, or under any other applicable laws, on account of students participating in projects under this agreement.

(3) At times agreed upon in writing, the institution will pay to the organization an amount calculated to cover the Federal share of the compensation of students employed under this agreement and paid by the organization. Under this arrangement the organization will furnish to the institution for each payroll period the following records for review and retention:

(a) Time reports indicating the total hours worked each week and containing the supervisor's certification as to the accuracy of the hours reported and of satisfactory performance on the part of the students;

(b) A payroll form identifying the period of work, the name of each student, each student's hourly wage rate, the number of hours each student worked, each student's gross pay, all deductions and net earnings, and the total Federal share applicable to each payroll; [3] and

(c) Documentary evidence that students received payment for their work, such as photographic copies of cancelled checks.

3. Part 176 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Sec.

176.1 Purpose.
176.2 Definitions.
176.3 Apportionment and reapportionment.
176.4 Allocation, reallocation, and payment of funds to institutions.
176.5 Institutional applications.
176.6 Funding procedures.
176.7 Application review and approval of request.
176.8 Institutional agreement.
176.9 Student eligibility.
176.10 Special sessions.
176.11 Cost of education.
176.12 Expected family contribution.
176.13 Approved need analysis systems.
176.14 Coordination of student financial aid programs, grant amount, and overaward.
176.15 Coordination with BIA grants.
176.16 Payment of grant.
176.17 Federal interest in allocated funds.
176.18 Use of funds.
176.19 Fiscal procedures and records.
176.20 Maintenance of effort.
176.21 Transfer of funds.
176.22 Duration of student eligibility.
176.23 Types of grant awards.
176.24 Amount of grant.
Appendix A—Allotment of funds to States for fiscal year 1972.

AUTHORITY: Sec. 131(b)(1) of Title I of Pub. L. 92-318, 86 Stat. 251-255 as amended (20 U.S.C. 1070b), unless otherwise noted.

§ 176.1 Purpose.

The purpose of the Supplemental Educational Opportunity Grants (Supplemental Grants or SEOG) program is to help students with exceptional financial need meet the costs of postsecondary education.

(20 U.S.C. 1070b.)

§ 176.2 Definitions.

For the purposes of this part:

"Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

"Act" means Title IV-Part A Subpart 2 of the Higher Education Act of 1965, as amended.

"Award year" means the period of time between July 1 of one year and June 30 of the next year.

"Basic Educational Opportunity Grants Program," "Basic Grant Program," or "BEOG" means the grant program authorized by Title IV-A, Subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a.)

"Campus-based programs" means the National Direct Student Loan (NDSL) (45 CFR Part 144), the College Work-Study (CWS) (45 CFR Part 175), and the Supplemental Educational Opportunity Grants (SEOG) (45 CFR Part 176) programs.

"Clock hour" means a period of time which is the equivalent of (a) a 50 to 60 minute class, lecture or recitation or (b) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

"College Work-Study Program" or "CWS program" is the federally-supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751-2756.)

"Commissioner" means the United States Commissioner of Education or his or her designee.

(20 U.S.C. 1141(f).)

"Continuing grant" means a Supplemental Grant that does not qualify as an "initial grant."

"Dependent student" means any student who does not qualify as a "self-supporting or independent student."

"Eligible program" in a public or non-profit private college, university, junior college, community college or vocational school, means an undergraduate program of education or training which:

(a) Admits as regular students only (1) Persons having a certificate of graduation from a secondary school (high school graduates), or the recognized equivalent of that Certificate, a General Education Development Certificate (GED), or

(2) Persons beyond the age of compulsory school attendance in the State in which the institution is located who have the ability to benefit from the education or training offered,

(b)(1) Leads to a bachelors, associate, or undergraduate professional degree, or

(2) Is at least a two-year program which is acceptable for full credit toward a bachelors degree, or

(3) Leads to a certificate or degree, is at least one year in length and prepares students for gainful employment in a recognized occupation. A one year program of training is defined in the definition of "institution of higher education:"

"Eligible program" in a proprietary institution of higher education, means a program of training which:

(a) Admits as regular students only high school graduates, or GED recipients,

(b) Leads to a degree or certificate,

(c) Prepares students for gainful employment in a recognized occupation, and

(d) Is at least a 6-month program as defined in the definition of "proprietary institution of higher education."

"Expected family contribution of a dependent student" means the amount which reasonably may be expected from the student and his or her spouse and parents to meet the student's cost of education.

"Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the stu-

[3] (These forms, when accepted, must be countersigned by the institution as to hours worked and satisfactory performance, as well as to the accuracy of the total Federal share which is to be reimbursed to the off-campus organization.)

dent and his or her spouse to meet the student's cost of education.

"Financial need" means the difference between a student's cost of education and his or her expected family contribution.

"Good standing" means the eligibility of a student to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled.

"Guaranteed Student Loan Program" or "GSL program" means the student loan program authorized by title IV, part B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1071-1087-4.)

"Half-time student" means a student who is carrying any combination of courses, research, or special studies which the institution in which the student is enrolled considers at least half-time study. However, the course work and activities must amount to the equivalent of a mimimum of (a) 6 semester hours or 6 quarter hours per academic term for institutions using standard semester, trimester, or quarter hour systems; (b) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not use standard semester, trimester, or quarter systems; or (c) 12 clock hours per week for institutions which use clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week are considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(2).)

"Initial grant" means the first SEOG awarded and paid to a student by any institution for an academic year, or for a portion of an academic year if the student was not enrolled for the entire academic year.

"Institution of higher education" means an educational institution in any State which (a) admits as regular students only persons (1) who have a certificate of graduation from a school providing secondary education, (2) who have the recognized equivalent of that certificate, or (3) who are beyond the age of compulsory school attendance in the State in which the institution is located and have the ability to benefit from the training offered by the institution; (b) is legally authorized within that State to provide a program of education beyond secondary education; (c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward that degree; (d) is a public or other nonprofit institution; and (e)(1) is accredited by a nationally recognized accrediting agency or association, or (2) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (3) is an insititution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the insititution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of a nationally recognized accrediting agency or association within a reasonable time, or (4) is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an accredited institution.

The term "institution of higher education" also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (a), (b), (d), and (e) of this definition. For purposes of this part a 1-year program of training for institutions using a standard semester, trimester, or quarter system means a program of at least 24 semester or trimester hours or 36 quarter hours. For institutions not using standard terms, a 1-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction.

The term "institution of higher education" also includes any proprietary institution of higher education which has an agreement with the Commissioner containing those terms and conditions the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in tuition, fees, or other charges.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a).)

"National Direct Student Loan Program" or "NDSL program" is the student loan program authorized by title IV, part E of the Higher Education Act of 1965.

(20 U.S.C. (1087 aa-ff).)

"National of the United States" means (a) a citizen of the United States, or (b) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a) (22).)

"Nonprofit" as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which benefits, or may lawfully benefit, any private shareholder or individual.

(20 U.S.C. 1141(c).)

"Payment period" means a semester, trimester, or quarter, however, for institutions which do not use those academic periods, it is the period between the beginning and the midpoint or between the midpoint and the end of an academic year.

"Proprietary institution of higher education" means a school which (a) provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (b) admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (c) is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (d) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (e) is not a public or other nonprofit institution, and (f) has been in existence for at least 2 years.

For purposes of this part a 6-month program of training for institutions using a standard semester, trimester, or quarter system means a program of at least 16 semester or trimester hours or 24 quarter hours. For institutions not using those standard terms, a 6-month program of training means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3).)

"Self-supporting or Independent Student" means a student who:

(a) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested;

(b) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested, and

(c) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received or the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a grant and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year in which assistance is requested.

(t) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a).)

"State Student Incentive Grant Program" means the program authorized by title IV-A, subpart 3, of the Higher Education Act of 1965.

(20 U.S.C. 1070c-1070c-4.)

"Undergraduate student" means a student enrolled in an undergraduate course of study in an institution of higher education who;

(a) Has not been awarded a baccalaureate or first professional degree, and

(b) Is in an undergraduate course of study which usually does not exceed 4 years, or is enrolled in a 5-year program designed to lead to a first degree. (A student enrolled in any other length program is considered an undergraduate student for only the first 4 years.)

(20 U.S.C. 1070b unless otherwise noted).

§ 176.3 Apportionment and reapportionment.

(a) *Initial grant—apportionment.*—(1) Ninety percent of the sums appropriated for making initial grants for any fiscal year will be apportioned as set forth in section 413D(a) of the Act.

(2) After making the apportionments of funds specified in paragraph (a)(1) of this section, the Commissioner will apportion the sums remaining for initial grants to those State(s) which received the lowest percentage of approved requests for funds for initial grants as a result of the apportionment under subparagraph (a)(1), so that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(b) *Initial grants—reapportionment.*—The amount of any State's apportionment under subsection (a) which exceeds the total amount of approved requests for funds for initial grants of the institutions of higher education in that State or which has not been transferred to carry out the State student financial assistance training program will be reapportioned among the remaining States in such a manner that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(c) *Continuing grants—apportionment.*—The Commissioner will apportion the sums appropriated for continuing grants among the States in such a manner that each State will receive the same percentage of the total of its approved requests for funds for continuing grants.

(d) *Continuing grants—reapportionment.*—Any funds apportioned under paragraph (c) of this section which are later determined by the Commissioner to be in excess of the total amount required by any State for continuing grants or which have not been transferred to carry out the State student financial assistance training program will be reapportioned among the remaining States in such a manner as the Commissioner determines will best achieve the purpose of the program.

(20 U.S.C. 1070b-3)

(e) *Amounts to be transferred to the State student financial assistance training program.*—(1) The Commissioner may transfer an amount equal to 0.05 percent of each State's initial apportionment, as determined under paragraphs (a) and (c) of this section, or $10,000, whichever is less, to that State under the State student financial assistance training program authorized under section 493C of the Higher Education Act of 1965, if the State has submitted an approved application.

(2) Funds reserved for transfer to the State student financial assistance training program which have not been granted to the appropriate agency by the end of the fiscal year for which appropriated will then be returned to that State's apportionment and may be apportioned on an equitable basis to one or more institutions in that State.

(20 U.S.C. 1088b-3)

§ 176.4 Allocation, reallocation and payment of funds to institutions.

(a) *Allocation of funds to institutions.*—(1) When funds available for distribution among institutions within a State for initial grants are not sufficient to honor all approved requests from institutions within the State, those sums which are available will be distributed on a pro rata basis among all institutional applicants in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State. (2) When funds available for distribution among the institutions within a State for continuing grants are not sufficient to honor all approved requests of institutions within the State, the sums that are available will be distributed on a pro rata basis among all institutional applicants in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State.

(b) *Reallocation of funds.* Funds allocated to an institution for initial grants which the institution anticipates will not be used by the end of the period for which the funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for the funds, they may be reappportioned in accordance with § 176.3 for use in other States. Similarly, funds allocated to an institution for continuing grants which the institution anticipates will not be used by the end of the period for which the funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for those funds, they may be reapportioned in accordance with § 176.3 for use in other States.

(c) *Payment of funds.* Funds will be made available for both initial and continuing grants for a specific period of time as determined by the Commissioner and may be payable in advance or by way of reimbursement on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(20 U.S.C. 1070b-3)

§ 176.5 Institutional Applications.

(a) *Definitions.* For purposes of this section and section 176.6.

(1) "Base year" means the 12-month period ending on the June 30, preceding the closing date for filing the application;

(2) "Prior year" means the 12-month period preceding the base year;

(3) "Current year" means the 12-month period ending on the June 30, immediately following the closing date for filing the application;

(4) "Request year" means the 12-month period beginning on the July 1, immediately following the closing date for filing the application; and

(5) "Enrollment factor" means—

(i) For an institution which typically admits most new students in the fall, the factor obtained by dividing the opening fall enrollment for the current year by the opening fall enrollment for the base year; or

(ii) For an institution which does not typically admit most new students in the fall, the factor obtained by dividing the total enrollment for the base year by the total enrollment for the prior year.

(b)(1) If an institution wishes to participate in any of the campus-based programs, it must file an application with the Commissioner before an annually established closing date. The application must be filed in the form prescribed by the Commissioner and must contain the information needed by the Commissioner to carry out the evaluation specified in § 176.6. The application must also contain the information needed to determine whether the institution is in compliance with the maintenance of effort requirements set forth in § 176.20.

(2) The application must be signed by the official authorized to submit the application and must contain the names of the institution's Director of Student Financial Aid and of the individual or official who will be responsible for the receipt, custody, and disbursement of Federal funds. The application must also contain the following enrollment information:

(i) For an institution which typically admits most new students in the fall, the opening fall enrollment for the current year and for the base year. In addition, if its enrollment factor exceeds 1.20, a projection of the opening fall enrollment for the request year and an explanation of that projection;

(ii) If an institution which typically admits most new students in the fall was not in existence during the base year, its enrollment for the current year plus a projection of its enrollment for the request year and an explanation of that projection;

(iii) For an institution which does not typically admit most new students in the fall, the total enrollment for the base year and the prior year and in addition, if its enrollment factor exceeds 1.20, projections of the total enrollments for the current year and the request year and an explanation of those projections;

(iv) If an institution which typically does not admit most new students in the fall was not in existence during either the base year or the prior year, its actual enrollment for the years, if any, during which it was in existence, plus a projection of its total enrollments for the current and request years and an explanation of that projection.

(c) *Augmentation requests.* If an institution makes an augmentation request as described in § 176.6, it must submit additional narrative information justifying its request.

(d) *Correspondence schools.* An application submitted by an institution offering only a program of study by correspondence (a "correspondence school") must set forth, in addition to the information required by paragraph (b) of this section, (1) the number of students that have expected family contributions which are less than their costs of education in the current year, and (2) the amount of basic grant funds which these students are entitled to receive for the current year. Those expected family contributions must be based on a need analysis of individual students performed in accordance with the standards and procedures used by need analysis systems approved under §176.13.

(20 U.S.C. 1070b-3)

§ 176.6 Funding procedures.

(a) *Definitions.* For purposes of this section—

(1) "Aggregate request" means the sum of the institution's request for the award year for—

(i) Federal funds under the CWS and SEOG programs, and

(ii) An approved level of expenditure ("level of lending") under the NDSL program; and

(2) "Funds available" means—

(i) With respect to the CWS or SEOG program, the amount of Federal funds granted the institution for its expenditure under that program during any award year, and

(ii) With respect to the NDSL program, the sum of the Federal Capital Contribution (FCC) granted the institution for any award year, plus an amount equal to one-ninth of that FCC, plus the amount of funds received by the institution as repayments from borrowers or as other income of its fund for that award year, plus the cash balance in its fund on July 1 of that award year.

(b) *General.* (1) The Commissioner will evaluate an application according to the procedures in paragraphs (c), (d), and (e) of this section to determine whether the institution's aggregate request is reasonably necessary to meet the needs of its students who are eligible for aid under the campus-based programs.

(2) The Commissioner will further review each application to determine whether the institution has made effective provisions to carry out the requirements of each of the campus-based programs for which it applies. In making that determination, the Commissioner will consider—

(i) The institution's previous experience in administering each program,

(ii) The number, experience, and qualifications of the personnel chosen to administer the programs,

(iii) The administrative arrangements the institution has made to comply with the requirements of § 176.14 concerning coordination of programs and § 176.19 concerning separation of functions (and subpart C in the NDSL regulations (45 CFR part 144) concerning due diligence), and

(iv) Whether the institution has spent all the funds available to it under the campus-based programs during the base year and can be expected to spend all the funds available to it under those programs during the current year.

(c) *Institutions not receiving funds in the base year.*

(1) If an institution did not have funds available to it in any of the campus-based programs during the base year, the aggregate of its approved requests for those programs may not exceed the average aggregate expenditure per enrolled student during the base year at comparable institutions in the same area times an inflation factor of 1.12 times the applicant institution's approved projected enrollment as defined in subparagraph (2) or (3) of this paragraph.

(2)(i) If an institution typically admits most of its new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its opening fall enrollment in the current year by its enrollment factor, if that factor does not exceed 1.20.

(ii) If an institution does not typically admit most new students in the fall, the Commissioner will calculate its approved projected enrollment for the request year by multiplying its annual enrollment for the base year by the square of its enrollment factor, if that factor does not exceed 1.20.

(3) If an enrollment factor cannot be calculated for an institution because it was not in existence during one of the years used for calculation, or if an institution's enrollment factor is greater than 1.20, the Commissioner will evaluate the reasonableness of the institution's justification of its projected enrollment.

(20 U.S.C. 1070b-3)

(4) The Commissioner will evaluate whether the methods used by a correspondence school in preparing the information required by § 176.5(c) were soundly conceived and the source materials used were appropriate and sufficiently reliable to support its claims. Based on this evaluation the Commissioner will either approve the institution's request or reduce it accordingly.

(d) Institutions with base-year funds, base amounts. If an institution had funds available to it in the base year, its request for funds will be evaluated in the following manner:

(1) The institution establishes a base amount by choosing its first or second formula limit or an amount less than the lower of those figures.

(2) The institution's first formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.12 times

(ii) The sum of its expenditures for the campus-based programs during the base year.

(3) The institution's second formula limit is the product of its enrollment factor times

(i) An inflation factor of 1.06 times

(ii) The sum of the products obtained by multiplying the amount of funds available to the institution in each of the campus-based programs during the current year by the projection rate for that program.

(4) The projection rate referred to in subparagraph (3) of this paragraph is the rate obtained by dividing the institution's expenditures in the base year in each of the campus-based programs by the total funds available to it in each program for that year. (For the CWS and SEOG programs this is the utilization rate reported on the annual fiscal-operations report for those programs.)

(5) After the institution establishes its base amount, it may distribute that amount among the campus-based programs as it chooses. However, if it allocates to any program an amount greater than 110 percent of that program's share of the base amount, the amount in excess of 110 percent will be evaluated as an augmentation request in accordance with paragraph (e) of this section.

(6) The procedures described in subparagraphs (1) through (5) of this paragraph are represented in the following table.

Example - CALCULATION OF FORMULA LIMIT - for Request year 1978-1979

To be completed by all institutions which participated in one or more of the programs in the 12 months ending June 30, 1977. Enter "NA" for any program in which you did not participate. COMPLETE ALL COLUMNS.

Entries in column (A), "Base Year," must be derived from your Award Period 1976-77 Fiscal Operations Report.
Entries in column (B), "Current Year," are derived from your Award Letters for the 12 months ending June 30, 1978.
In Column (D), Authorization X Projection Rate = Projection. For CWS and SEOG, "projection rate" means the utilization rate reported on the annual fiscal-operations report.

FORMULA LIMIT	"Base Year" AWARD YEAR 1976-77 EXPENDITURES Fiscal Operations Report (A)	AWARD PERIOD 1977-78 PROJECTION				
		"Current Year" Authorization (B)	X	Projection Rate (C)	=	"Current Year" Projection (D)
61 CWS - Federal Funds	$	$		%		$
62 SEOG - Initial Year	$	$		%		$
63 SEOG - Continuing Year	$	$		%		$
64 NDSL - Level of Lending	$	$		%		$
65 TOTAL: Sum of Lines 61 through 64	$	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX				$
66 Inflation Factor	1.12	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX				1.06
67 Enrollment Factor		XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX				
68 FORMULA LIMIT: lines 65 x 66 x 67	$	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX				$

Select Either 68 (A) or 68 (D) as your Formula Limit request and indicatethe selection in the following boxes:

(CHECK ONE) First Formula Limit ☐ 68 (A) Second Formula Limit ☐ 68 (D)

Distribute the Amount selected in the following boxes. The sum of lines 69 through 72 may not exceed the selected Formula Limit.

69. CWS Federal Funds ☐ 70 SEOG Initial Year ☐ 71 SEOG Continuing Year ☐ 72 NDSL Level of Lending ☐

(7) If (i) the institution chooses its first formula limit as its base amount, or (ii) it chooses its second formula limit as its base amount and that amount is not more than 130 percent of its first formula limit, the Commissioner will approve that base amount. However, the Commissioner will not approve that amount if there is evidence in program reviews, audits, fiscal-operations reports, or applications filed by the institution, that the institution has not complied with the requirements of the programs for which it is applying. The institution's failure to file required reports in an acceptable form and in a timely manner may be viewed as a failure to comply with program requirements.

(8) (i) If the institution's base amount exceeds 130 percent of its first formula limit, the Commissioner will review the institution's expenditure and commitment of funds during the current year to determine whether it is reasonable to expect that the institution will spend the amount projected under subparagraph (3)(ii) of this paragraph for each program, (ii) If the Commissioner determines that the projected expeditures are unreasonably large, an appropriate downward adjustment will be made.

(e) *Institutions with base year funds; augmentation requests.*

(1) If the institution's aggregate request exceeds its base amount, or if its request in any program exceeds 110 percent of that program's share of its base amount, the amount in excess of that limit will be considered to be an "augmentation request" and will be evaluated by the Commissioner separately from the institution's base amount. For each program, the Commissioner will approve or disapprove any augmentation request in its entirety.

(2) The Commissioner will approve an augmentation request only if it is based on exceptional circumstances which make an institution's need for additional funding greater than and different from that of other institutions in its State. In deciding whether this condition has been met, the Commissioner will review the request to determine whether (i) the procedures used by the institution to calculate the aggregate amount of funds needed by its students were soundly conceived, (ii) the data used are verifiable, and (iii) the procedure and data justify the request.

(3) The Commissioner will not approve an augmentation request for any program if the projection rate described in paragraph (d)(4) of this section is less than 90 percent, unless the institution can justify the low rate.

(4) The Commissioner will not approve an augmentation request for any program if the institution requests, as part of its base amount, an amount which is less than that program's share of the base amount.

(20 U.S.C. 1070b-3)

§ 176.7 Application review and approval of request.

(a)(1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel will evaluate each institution's request for funds in accordance with the criteria set forth in § 176.6 and recommend an amount which it considers appropriate.

(2) No panelist may review an application from the panelist's own institution or from any other institution which he or she has prepared or assisted in preparing or in which he or she has any personal or financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel. If the amount recommended is less than the institution's request, the reasons for the reduction will be forwarded to the institution. The regional office staff will adjust the recommendation to correct arithmetic or technical errors that are brought to their attention.

(c)(1) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it must submit a written request for review to the regional office within the time specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review the request and will notify the institution in writing of its decision and the reasons therefor.

(2) The institution may reply to the regional office's decision if it believes that the reasons used in arriving at that decision were wrong. The regional office will respond to the institution's reply indicating its agreement or disagreement with the institution's statements.

(d)(1) If an institution wishes a review of the regional office recommendation, it may request a review by a national review panel. The national review panel will consist of institutional student financial aid officers from each of the regions and personnel of the Office of Education.

(2) A request for national review must be submitted in writing by the institution to the regional office within the time specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution will be considered.

(3) The national review panel will review the request and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1070b-3)

§ 176.8 Institutional agreement.

To participate in the SEOG program, an institution of higher education must enter into an agreement with the Commissioner for that purpose. The agreement must include any provisions the Commissioner considers appropriate to carry out the SEOG program. Specifically, the agreement must:

(a) Provide that SEOG funds received by the institution will be used solely for the purposes specified in, and in accordance with, the provisions of this part;

(b) Provide that, in determining whether a student meets the requirements of exceptional financial need, the institution will consider the source of the student's income and that of any individual or individuals upon whom the student relies primarily for support and will make an appropriate review of the assets of the student and of those individuals;

(c) Provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and encourage them to continue their education beyond secondary school through programs and activities such as (1) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating those students to complete secondary school and pursue postsecondary education and (2) making, to the extent feasible, conditional commitments for student financial aid to qualified secondary school students who, but for such grants, would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grades 11 or lower who show evidence of academic or creative promise;

(d) Specify that the institution must make Supplemental Grants reasonably available (to the extent of funds available) to all eligible students; and

(e) Specify that the institution will comply with the provisions of § 176.20 relating to maintenance of effort and § 176.18 relating to costs of administration.

(20 U.S.C. 1070b-2)

§ 176.9 Student eligibility.

(a) *Eligibility.* Except as provided in paragraphs (e) through (h) of this section, a student enrolled in an eligible program is eligible to receive a Supplemental Grant if the student—

(1) is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanemt resident thereof, or is a permanent resident of the Trust Territories of the Pacific Islands;

(2) has been accepted for enrollment as at least a half-time undergraduate student in an eligible program at an institution of higher education or, in the case of an undergraduate student already attending the institution, is enrolled and in good standing as at least a half-time student in an eligible program;

(3) shows evidence of academic or creative promise and capability of maintaining good standing in his or her course of study;

(4) is of exceptional financial need as determined in accordance with paragraph (b) of this section; and

(5) would not, but for a Supplemental Grant, be financially able to pursue a course of study at the institution.

(b) *Exceptional financial need.* (1) A student has exceptional financial need if his or her expected family contribution does not exceed 50 percent of his or her cost of education.

(2) Notwithstanding subparagraph (1) of this paragraph, an institution may determine that a student has exceptional financial need if the student financial aid officer believes it is impracticable for the student with financial need to meet that need from loans, employment, or grants other than a Supplemental Grant.

(3) If an institution determines that a student has exceptional financial need under subparagraph (2), it must include the rationale for that decision as part of its records.

(c) *Member of religious community—financial need.* A member of a religious community, society, or order who (1) by direction of the community, society, or order is pursuing a course of study in an institution of higher education or (2) receives support and maintenance from the community, society, or order is considered not to have financial need.

(d) *Programs of study abroad.* A student participating in a program of study abroad will be considered to be enrolled in his or her "home" institution if—

(1) The program of study abroad is arranged or approved in advance by the home institution; and

(2) The student's academic performance during the program of study abroad becomes a part of the permanent academic record at the home institution in the same manner as if performed at that institution.

(e) No student may receive a supplemental grant under this part unless the institution determines that the student:

(1) Is maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

(2) Is not in default on any national direct or defense student loan made by that institution or on a loan made, insured, or guaranteed under the guaranteed student loan program (title IV-B, HEA) for attendance at that institution; and

(3) Does not owe a refund on grants previously received for attendance at that institution under the basic grant, supplemental grant, or State student incentive grant programs.

(f) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself before the end of that payment period, it may pay that student a grant for the entire period; if the institution reverses itself after the end of that period, it may neither pay the grant to the student for that period, nor make adjustments in subsequent periods, to compensate for the loss of aid for that period.

(g) Students who receive overpayments on grants may continue to receive supplemental grant payments under the following conditions:

(1) *Overpayment of a basic grant.* If a student is overpaid on a basic grant at an institution, that institution may still pay a supplemental grant to that student if (i) the student is otherwise eligible, and (ii) the overpayment can be eliminated in the award year in which it occurred by adjusting subsequent basic grant payments for that award year.

(2) *Overpayment of a basic grant due to institutional error.* If the student is overpaid on a basic grant at an institution as a result of institutional error, and the overpayment cannot be eliminated by adjusting subsequent basic grant payments in that award year, the institution may also pay the student if:

(i) The student is otherwise eligible; and

(ii) The student acknowledges in writing the amount of the basic grant overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment of a supplemental grant.* An institution may continue to pay a supplemental grant to a student who receives an overpayment on a previous supplemental grant if:

(i) The student is otherwise eligible; and

(ii) An adjustment in subsequent fiancial aid payments (other than basic grants) eliminates the overpayment in the same award year in which it occurred.

(4) *Definition of overpayment.* For purposes of this part overpayment of a grant means that a student received grant payments which were greater than the amount he or she was entitled to receive.

(h) (1) In determining whether a student is in default on a guaranteed student loan, the institution may rely on a written statement from the student that he or she is not in default on a guaranteed student loan made for the purpose of attending that institution unless the institution has information to the contrary.

(2) An institution may pay a supplemental grant to a student who is in default on a guaranteed student loan if the Commissioner, for a federally insured loan, or a guarantee agency, for a loan guaranteed by that agency, has determined that the student has made satisfactory arrangements to repay the defaulted loan.

(3) An institution may pay a supplemental grant to a student who is in default on a national direct or defense student loan made by the institution if it determines that the student has made satisfactory arrangements to repay the defaulted loan.

(4) For purposes of this section a national defense or direct student loan or a guaranteed student loan which has been discharged in bankruptcy is considered to be in default.

(20 U.S.C. 1070b; and 1088f.)

§ 176.10 Special sessions.

(a) A student enrolled in an institution of higher education during a period of special enrollment, such as a special summer term, will be eligible for a supplemental grant if he or she

(1) Is otherwise eligible,

(2) Is registered as at least a halftime student at that institution during that session, and

(3) Is either in attendance as at least a halftime student at that institution during the regular term immediately preceding the special session or will be enrolled or has been accepted for enrollment as at least a halftime student during the subsequent regular term at that institution.

A student who is taking all of the courses required to complete his or her certificate or degree meets the requirement of subparagraph (2) of this paragraph.

(b) A student receiving a grant while in attendance during such a special session will be considered to have expended at least one-half of a semester,

trimester, or quarter of grant eligibility.

(20 U.S.C. 1070b-1.)

§ 176.11 Cost of education.

(a) A student's educational costs include tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents.

For independent students, if a family size offset is deducted from the income of the student or the student's spouse in determining the student's expected family contribution, room and board, miscellaneous personal expenses, and expenses related to the maintenance of persons who are dependent on the student or the student's spouse are not considered costs of education.

(b) For a student engaged in a program of study by correspondence only tuition and fees are considered a cost of education. However, travel and room and board costs incurred specifically in fulfilling a required period of residential training will be considered a cost of education.

(c) If a student is enrolled in an eligible program of study outside the United States the student's cost of education for purposes of calculating financial need for the campus-based programs must be considered no greater than the student's cost of education at his or her home campus. For further treatment of study abroad, see §§ 176.9(c) and 176.14(g).

(20 U.S.C. 1070b.)

§ 176.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student and his or her spouse and parents to meet that student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parent may claim an exemption under the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of those dependent children attending institutions of higher education;

(4) Tuition incurred by the dependent children who are attending elementary and secondary schools; and (5) Any other circumstances that may affect the ability of the student and his or her spouse and parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet the student's cost of education, the student financial aid officer must consider:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under the internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of those dependent children attending institutions of higher education;

(4) Tuition incurred by those dependent children who are attending elementary and secondary schools; and

(5) Any other circumstances that may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) The student financial aid officer must determine whether the relationship between a student and his or her parents makes it unreasonable to expect the parents to contribute to that student's cost of education, regardless of their ability to do so, if requested by a student who:

(1) Does not live with his or her parents;

(2) Does not visit them for periods that are longer than those which are typical for adults visiting their parents; and

(3) Does not receive from them gifts which exceed in value gifts typically given by parents as incidental gifts to their adult nondependent offspring.

The student financial aid officer must make the reasons for that determination part of the institution's written records. Before making a finding of that nature, the student financial aid officer must make efforts he or she considers appropriate to determine whether the student's parents are in fact willing to contribute to the student's cost of education.

(d) In determining the expected family contribution of eligible Indian or other Native American students, the institution must not consider as income or as an asset of the student or his or her family (1) funds received pursuant to an award made under the Distribution of Judgment Funds Act (25 U.S.C. 1401 et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), (2) property which may not be sold or encumbered without the consent of the Secretary of the Interior, and (3) any other property held in trust for the student or the student's family by the U.S. Government.

(e) *Annual determinations.* For a student who is enrolled in a program of study by correspondence for which the total cost of education is $1,000 or less, the determination of need may be made only once, at the beginning of the course of study. In all other cases, the institution must make the need determinations at least annually.

(20 U.S.C. 1070b-2.)

§ 176.13 Approved need analysis systems.

(a) To comply with the requirements of § 176.12, an institution must use a need analysis system or method of calculation approved by the Commissioner.

(b) *Preapproved systems for dependent students.* For dependent students, the Commissioner has approved:

(1) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190); and

(2) The income tax system, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. The expected family contribution calculated according to the income tax system is an amount equal to the sum of the amount the student is reasonably able to contribute plus the amount of Federal income tax paid by the parents of the student plus 5 percent of the parents' net assets in excess of $17,000 if those assets do not include farm or business assets and $50,000 if those assets do include farm or business assets. However, no more than $17,000 may be deducted from nonfarm and nonbusiness assets.

(c) *Criteria for approval of other systems for dependent students.* The Commissioner will approve any other need analysis system as satisfying the factors of § 176.12(a), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(1) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (i) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (ii) are equal for families of equal measured financial strength; and

(2) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for those sample cases by the following calculations:

(i) From the sum of the adjusted gross income and nontaxable income of the parents, deduct the amount of Federal income taxes and social securi-

ty taxes, an allowance of 8 percent of total income for State and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(ii) To the remainder obtained in subparagraph (2)(i) add 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve; and

(iii) Apply the following rate schedule of expected contributions to the sum obtained in subparagraph (2)(ii):

If the sum is—		The expected contribution is—
At least—	But less than—	
$0	$4,000	22 percent of the amount over $0.
$4,000	5,000	$880+25 percent of the amount over $4,000.
$5,000	6,000	$1,130+29 percent of the amount over $5,000.
$6,000	7,000	$1,420+34 percent of the amount over $6,000.
$7,000	8,000	$1,760+40 percent of the amount over $7,000.
$8,000		$2,160+47 percent of the amount over $8,000.

(3) In developing the sample cases for the purposes of this paragraph, the Commissioner will select only cases where the main wage earner is 45 years old and where the elements set forth in subparagraph (2) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending postsecondary institutions, social security or veterans' benefits or any unusual family circumstance.

(4) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero will be treated as zero.

(5) The figures for the set of sample cases used for purposes of this paragraph will be revised annually for inflation by adjusting the deductions for family maintenance, the standard deduction from assets and the rates of contribution from income and assets so that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars

(d) *Independent students.* (1) For independent students, the Commissioner has approved:

(i) The method of calculating an expected family contribution used in the basic educational opportunity grants program (45 CFR Part 190);

(ii) The system of need analysis published by the American college testing program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service;

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates; and

(vi) The system of need analysis published by Educational Methods, Inc. of Denver, Colo.

(2) The Commissioner will approve any other need analysis system as meeting the requirements of § 176.12 for independent students, which is submitted in accordance with the procedures set forth in paragraph (e) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which increase in reasonably smooth increments as the family financial strength, measured in real terms, increases and are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (1) of this paragraph.

(e) *Application procedures for system approval.* (1) Any individual or institution that wishes to have its need analysis system approved must submit that system to the Commissioner by June 30.

(2) The Commissioner will publish in the FEDERAL REGISTER a list of all approved need analysis systems by the following September 1.

(3) Applications for need analysis systems for dependent students must include the information necessary for the Commissioner to determine whether that system meets the requirements of paragraph (c) of this section. The application must include the expected family contribution amounts produced by the system for the sample cases.

(4) Applications for need analysis systems for independent students must include the information necessary for the Commissioner to determine whether the system meets the requirements of paragraph (d) of this section.

(f) *Duration of approval.* (1) Need analysis systems approved under paragraphs (b) and (d)(1) of this section are approved without a specified expiration date.

(2) A need analysis system included on the list approved under paragraph (c) of this section and included on the list published by the Commissioner may be used by the institution:

(i) In the application for funds for the campus based programs which is submitted by the closing date immediately following the publication of that list and

(ii) In determining the eligibility of students for assistance and the amount of that assistance under the campus-based programs for any academic year beginning no earlier than the following June 1 or later than 12 months following that date.

(3) A need analysis system approved under paragraph (d)(2) of this section will be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(g) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the approved need analysis systems if the student financial aid officer of the institution believes that the expected family contribution does not realistically reflect the ability of the student and the student's parents to contribute towards the student's cost of education. Those adjustments must be documented in writing, with an accompanying explanation, and made a part of the institution's records.

(20 U.S.C. 1070b-1 and 1070b-2.)

§ 176.14 Coordination of student financial aid programs, grant amount, and overaward.

(a) *Coordinating official.* An institution must appoint an official who will be responsible for coordinating the supplemental grant program with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Overaward prohibited.* (1) *General rule.* Except as provided in subparagraph (2), an institution may not award assistance under this part in an amount which, when combined with the other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need. For purposes of this part, a student's financial need may not exceed the student's cost of education.

(2) *Exceptions.* An institution does not violate the rule of subparagraph (1) of this paragraph even if a student obtains additional resources after the institution awards financial aid to the student if:

(i) The resources made available to the student from Federal and non-Federal sources do not exceed the stu-

dent's financial need by more than $200, or

(ii) The student earns more money from employment than the insitution expected when it awarded the student financial aid and it treats the student's "surplus earnings" in accordance with the requirements of paragraph (d) of this section.

(c) *Resources.* Except as provided in paragraphs (f) and (g) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, (1) the amount of funds a student is entitled to receive under the basic grants program, regardless of whether the student has applied for those funds, (2) any waiver of tuition and fees, (3) any scholarship or grant including supplemental grants and athletic scholarships, (4) any fellowship or assistantship, (5) any loan made under the guaranteed student loan program except in cases in which paragraph (f) of this section applies, (6) any long-term loan made by the institution other than under the guaranteed student loan program including any loan made under the national direct student loan program, and (7) any expected net earnings from employment during periods for which the student receives a grant. For purposes of this section "net earnings" means gross earnings minus required taxes and any costs incidental to employment.

(d) *Prevention of overaward and treatment of surplus earnings.* The institution must take the following steps when it becomes aware that a student who has received an SEOG has earned or will earn more than $200 above the amount if expected when it awarded financial aid:

(1) It must determine if the student needs the surplus earnings to pay reasonable and necessary additional costs of education not anticipated when it awarded financial aid to the student;

(2) If it determines that the resources available to the student from Federal and non-Federal sources still exceed the student's need by more than $200, it must cancel any loan, or grants (other than a basic grant) awarded to the student but not yet disbursed, to avoid exceeding the student's need by more than $200;

(3) If the student will not be enrolled in that institution in the following academic year, it need not take any further action;

(4) If the student will be enrolled in the institution in the following academic year and if the institution can not avoid exceeding the student's need by more than $200, it must treat the student's "surplus earnings" (i) as a resource available to pay the student's cost of education in the following academic year, or (ii) as a substitute for the student's expected family contribution, unless a guaranteed student loan has already been used for that purpose.

(e) *Definition of surplus earnings.* For purposes of this section "surplus earnings" means that amount earned by the student which, when combined with previous earnings and other resources made available to the student from Federal and non-Federal sources, exceeds the student's financial need by more than $200.

(f) *Treatment of guaranteed loans.* (1) Any guaranteed student loan (GSL) for which no Federal interest benefits are payable (a non-subsidized GSL) is not considered a student resource and may be used to replace the expected family contribution, up to the amount of the expected family contribution.

(2) A student may replace his or her expected family contribution with a GSL for which the student qualifies for Federal interest benefits automatically (i.e., on the basis of the borrower's adjusted family income rather than a need test).

(3) A student may not replace his or her expected family contribution with a GSL for which a need test is required for the student to receive Federal interest benefits. A GSL of this nature must be considered a student resource under paragraph (b) of this section.

(4) That part of a GSL which does not qualify to replace the borrower's expected family contribution under subparagraph (1) or (2) of this paragraph is considered a student resource under paragraph (b) of this section.

(5) If a borrower receives a loan under the GSL program which exceeds the amount of the borrower's expected family contribution, the excess is considered a student resource in all cases.

(g) *Study abroad.* A student engaged in an eligible program of study abroad may have additional costs that do not qualify as educational costs under § 175.11. Any funds obtained by the student to pay for those costs will not be considered a resource for the purpose of paragraph (b) of this section if they are obtained from sources other than the basic grant and campus-based programs. This paragraph is effective retroactively to November 3, 1976.

(h) *Administrative responsibility.* (1) The institution's responsibility under paragraph (b) of this section extends only to those resources which it makes available to the student, or about which it knows, or has reason to know, or can reasonably anticipate at the time that Supplemental Grant funds are disbursed to the student.

(2) The institution must take reasonable steps to inform itself about earnings which the student may obtain from any additional employment not provided by the institution.

(3) The institution is considered to know the amount of net earnings to be received by each student it employs when it awards an SEOG to that student.

(20 U.S.C. 10706.)

§ 176.15 Coordination with BIA grants.

(a) (1) An institution, in determining the amount of a Supplemental Grant to be awarded a student who is also eligible for a Bureau of Indian affairs (BIA) education grant, must prepare a package of student assistance for that student from resources other than the BIA grant.

(2) In preparing that package, the institution must not consider any BIA education grant which the student has received or is expected to receive.

(3) The package must be consistent, in both type and amount of aid, with packages prepared for students in similar circumstances who are not eligible for BIA education grants.

(b) (1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements that package.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c) (1) If the total amount of the BIA grant when combined with the package of other assistance, exceeds the institution's determination of the student's need, only the excess may be deducted from the package of other assistance.

(2) Except as provided for in subparagraph (3) of this paragraph, deductions must be made in sequence, so that the excess is first deducted from any awards or proposed awards, in the form of loans; if an excess still remains after all loan awards have been adjusted, deductions must next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all work-study awards have been adjusted, deductions must be made from any award, or proposed award, in the form of a grant, other than a Basic Grant.

(3) If requested by an eligible recipient, the sequence of deductions provided in paragraph (a)(2) of this section may be altered if the institution determines that such an alteration more adequately meets the need of that student.

(d) In determining the financial need of students eligible for BIA education grants, the institution's student financial aid officer is encouraged to consult with BIA area officials who

are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of the students.

(e) Educational grants made to students at an institution under a program administered by the Bureau of Indian Affairs may be considered to be financial aid made available through the institution, if:

(1) The institution reviews the applications for the grants; and

(2) The institution selects the recipients for, and determines the amounts of, the grants.

(20 U.S.C. 1070b-1.)

§ 176.16 Payment of grant.

(a) For institutions which use a semester, trimester or quarter hour system:

(1) If the institution awards a supplemental grant for a full academic year, it must pay part of that grant in each academic term. The amount to be paid in each term is the amount obtained by dividing the amount awarded for the full academic year by the number of semesters, trimesters or quarters in that year;

(2) If the institution awards a supplemental grant for less than a full academic year, it must divide that amount by the number of academic terms remaining in the academic year and pay the student accordingly.

(b) If an institution does not use a semester, trimester or quarter hour system, it must pay the student at least twice during the academic year. One payment must be made at the beginning and the other at the midpoint of that year. However, the institution may not award more than half of the grant before the midpoint payment.

(c) Within each payment period, the institution may pay students at such times and in such installments as it determines will best meet the need of the student for the funds. It may pay the grant by check or by crediting the recipient's account. If it credits the student's account, it must give the student a receipt.

(d) Notwithstanding paragraphs (a) and (b) of this section, if the total amount of funds awarded to a student under the campus-based programs is less than $301, only one payment need be made.

(e) For purposes of this section, a program of training of at least 6 months which prepares students for gainful employment in a recognized occupation equals a full academic year.

(f) Before making the first SEOG payment for any year, the institution must obatin from the student a written acceptance of the grant amount. In addition, it must provide a student with a statement indicating—

(1) That the SEOG may not exceed 50 percent of the student financial aid made available to him or her through the institution,

(2) The nature and source of the other student financial aid made available through the institution, and

(3) That the payment of the SEOG depends on the recipient's—

(i) Maintaining satisfactory progress in the course of study he or she is pursuing according to the regularly prescribed standards and practices of the institution awarding the grant, and

(ii) Carrying an academic workload sufficient to qualify him or her as at least a half-time student.

(g) No supplemental grant payment may be made to a student pursuing a course of study by correspondence before the student completes and submits the first lesson.

(20 U.S.C. 1070b)

(h) *Affidavit.* No supplemental grant may be paid unless the student has filed a notarized affidavit with the institution he or she attends which—

(1) Is on a form approved by the Commissioner,

(2) States that the grant funds will be used solely for educational expenses at the institution, and

(3) Is notarized by someone who does not recruit students for the institution.

(20 U.S.C. 1070b, 1088g)

§ 176.17 Federal interest in allocated funds.

Funds received by an institution under this part are to be held in trust for the intended student beneficiary. These funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(20 U.S.C. 1070b)

§ 176.18 Use of funds.

(a) Federal funds allocated to an institution under this part must be used.

(1) to make grants to eligible students,

(2) to carry out the student consumer information services requirements set forth in section 493A of the act and 45 CFR 178 with funds received under paragraph (b) of this section,

(3) to pay for the cost of administering the student financial aid programs with funds received under paragraph (b) of this section, and

(4) to transfer to the college work-study program under § 176.21.

(b) (1) An institution is entitled to receive an administrative cost allowance for each award year for which it receives an allocation under § 176.4. That allowance equals 4 percent of the supplemental grants it pays to students. However, the administrative cost allowance under this part and the CWS program plus the amount withdrawn for such purposes from the institution's NDSL fund may not in the aggregate exceed $325,000 for any award year.

(2) Any institution which receives an administrative cost allowance for any award year must first use those funds to carry out part 178 of title 45 of the Code of Federal Regulations, "Student Consumer Information Services." If any funds remain, the institution may use those funds only to pay the costs of administering the Federal student financial aid programs.

(20 U.S.C. 1070b; 1088b)

§ 176.19 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution must administer the supplemental grants program in a manner which provides for an adequate system of internal controls. The various administrative procedures must be divided so as to provide for a system of checks and balances. The functions of authorizing payment and disbursing funds must be divided in such a fashion that no office has responsibility for both functions, with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions must give notice to any bank in which they deposit Federal funds of all accounts in that bank in which Federal funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or,

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the insitution's files.

(b) *Records and reporting.* (1) Each institution must establish and maintain on a current basis, adequate records which reflect all program transactions. The institution must establish and maintain general ledger control accounts and related subsidiary accounts which are necessary to identify all program transactions and to separate records of such transactions from all other institutional assets and activities. These records must:

(i) Afford ready identification of each student's account and the status thereof, including separation of initial and continuing grant amounts;

(ii) Be adequate to demonstrate the eligibility of every student aided under the program;

(iii) Indicate the amount of need determined for each student and the way the need has been met; and

(iv) Identify the institutional officer who made the need determination.

(2) An institution must submit an institutional fiscal-operations report annually. It must also submit other reports and information in the form and at the times required by the Commissioner. The institution must comply with the requirements which the Commissioner finds necessary to insure the correctness of the required reports.

(c) *Retention of records.*—(1) *Records.* Each institution must keep intact and accessible records relating to the receipt and expenditure of Federal funds including all accounting records and related original and supporting documents that substantiate costs charged to the award.

(2) *Period of retention.* Except as provided in paragraph (c)(4) of this section, the records specified in paragraph (c)(1) of this section must be retained for 5 years after the date of submission of the annual institutional fiscal-operations report.

(3) *Microfilm copies.* An institution may substitute microfilm copies for original records in meeting the requirements of this section.

(4) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit must be further retained until resolution of any such audit questions. However, records need not be retained if they relate to a grant with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(5) *Audit and examination.* The institution must give the Secretary and the Comptroller General of the United States or any of their duly authorized representatives access to the records specified in paragraph (c)(1) of this section and to any other of the institution's books, documents, papers, and records necessary for purposes of audit and examination.

(d) *Audits—non-Federal.* (1) All of an institution's transactions involving supplemental grant funds must be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether those transactions are in compliance with applicable laws and regulations. Those audits must be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of the audits may vary with the size and complexity of the activity of the program, but an audit must be carried out at least once every 2 years.

(2) Each audit must cover the entire period of time which has elapsed since the last audit.

(3) The required audit reports must be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located for its review.

(4) The institution must provide the Commissioner and the HEW Audit Agency with access to records and other documents necessary to review the results of audits.

(20 U.S.C. 1070b; 20 U.S.C. 1232c)

§ 176.20 Maintenance of effort.

(a) For each award year for which it receives an allocation under this part, the institution must continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the three award years preceding the latest of the following dates or award years:

(1) the effective date of any agreement required by section 443 of the college work-study program (42 U.S.C. 2753) or section 407 of the educational opportunity grants program (20 U.S.C. 1067) which was in effect on June 30, 1973,

(2) The award year for which the institution receives or received its first allocation under the college work-study program,

(3) The award year for which the institution received its first allocation under the educational opportunity grants program (20 U.S.C. 1061–1067, 1069), or

(4) The award year for which the institution receives or received its first allocation under this part if the institution did not participate in the educational opportunity grants program in the award year immediately preceding that award year.

(b)(1) The Commissioner may waive the requirements set forth in paragraph (a) of this section for an award year under special and unusual circumstances. Special and unusual circumstances include:

(i) A withdrawal of funds from outside sources (for public institutions, public appropriations are not considered an outside source), or

(ii) A decline in enrollment where the institution continued to expend in its own scholarship and student aid program on a per-enrolled-student basis, an amount at least equal to the average amount expended per enrolled student during the 3-year base period.

(2) Where an institution fails to meet the requirements set forth in paragraph (a) of this section for a particular award year because it withdrew as a direct lender under the GSL program, the Commissioner may waive that portion of the failure that equals the average amount of loans made by the institution as a direct lender under the GSL program during the 3-year base period if the institution provides financial assistance to its students in an amount equal to the amount it is required to maintain under paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of assistance. However, the amount of alternative sources that is included may not exceed the amount that the Commissioner waives.

(3) Where an institution fails to meet the requirements set forth in paragraph (a) of this section for an award year because the Commissioner withdrew its authority to participate as a direct lender under the GSL program the Commissioner may waive for that year that portion of the failure that equals the average amount of loans made by the institution as a direct lender under the GSL program during the 3-year base period. The Commissioner may also waive that amount for future award years if the institution provides financial assistance to its students in an amount it is required to maintain under paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance. However, the amount of alternative sources that is included may not exceed the amount that the Commissioner waives.

(4) For purposes of this paragraph the Commissioner will consider that the institution has arranged alternative sources of assistance for its students if that assistance is provided to students under a written agreement between the institution and the funding source.

(c) To obtain a waiver of the maintenance of effort requirement set forth in paragraph (a) of this section for a particular award year, an institution must submit to the Commissioner a request for a waiver including a description of the circumstances justifying the waiver.

(d) An institution's "own scholarship and student financial aid program" includes any expenditure of institutional funds for scholarships, grants, loans, tuition and fee waivers or remissions, and any employment given to students enrolled at the institution at both the graduate and undergraduate level, regardless of whether those students are eligible to participate in the SEOG or CWS programs. Funds given to the institution from an outside source to be used for scholarships or other forms of student financial aid, will be considered institutional funds if the institution has the authority to choose the recipients and the amount the recipients will receive. However, funds re-

ceived from Federal sources to be used for student financial aid may not, in any event, be considered as part of an institution's own scholarship and student financial aid program.

(e)(1) An institution may, in accordance with its stated practice, consider scholarships and other student financial assistance given to students who are dependents of faculty members or other employees of the institution as student financial aid or employee benefits.

(2) An institution must count fellowships and assistantships as part of its program of student financial assistance unless it is the stated practice of the institution to consider the holders of fellowships and assistantships as members of the institution's faculty. In that case payments under fellowships and assistantships need not be considered financial aid.

(3) An election of treatment under paragraphs (e) (1) and (2) of this section applies to both the base year period and current year expenditures. A change of treatment will be permitted only with the express written approval of the Commissioner.

(20 U.S.C. 1088c.)

§ 176.21 Transfer of funds.

(a) An institution may transfer up to 10 percent of its allocation for an award year under the SEOG program to its allocation of funds for that year under the CWS program. Those funds must be used in accordance with the provisions of that latter program. Similarly, an institution may transfer up to 10 percent of its allocation for an award year under the CWS program to its allocation for that year under the SEOG program to be used in accordance with the provisions of this part. The transfer of funds from the SEOG program may be made without regard to whether the funds were allocated for initial or continuing grants. Also, funds transferred to the SEOG program may be allocated by the institution between its allocation for initial or continuing grants as the institution sees fit.

(b) Any amount transferred under paragraph (a) of this section must be reported on the annual institutional fiscal operations report required by § 176.19(b)(2).

(20 U.S.C. 1088c.)

§ 176.22 Duration of student eligibility.

A student is eligible to receive a supplemental grant for the period of time required to complete an undergraduate course of study. That period is usually 4 academic years, but may be extended up to 1 additional year if—

(1) The student is pursuing a 5-year course of study designed to lead to a first degree; or

(2) The institution determines that, because of particular circumstances, the student needs an additional year to complete a course of study that normally requires 4 years.

(20 U.S.C. 1070b-1.)

§ 176.23 Types of grant awards.

An institution may award only one initial grant to a student, and the maximum duration of that grant is 1 academic year.

However, if a student receives an initial grant from one institution and transfers to a second institution, any supplemental grant awarded by the second institution to that student is a continuing grant.

(20 U.S.C. 1070b.)

§ 176.24 Amount of grant.

(a) In general, a supplemental grant awarded to a student for an academic year must equal the amount the institution determines is needed by the student to pursue his or her studies at that institution.

(b) Nothwithstanding paragraph (a) of this section, in no event may a grant be awarded for a full academic year which (1) is less than $200 or (2) exceeds the lesser of (i) $1,500 or (ii) one-half of the amount of student financial aid made available to the student through the institution.

(c) A grant awarded to a student for less than a full academic year is limited by a maximum and minimum which bear the same proportion to $1,500 and $200 respectively as the length of the period of attendance bears to the length of the full academic year.

(d) Payments under the basic grants, CWS, and NDSL programs and under this part and any assistance provided to a student under any scholarship program established by a State or a private institution or organization are considered to be student financial aid made available through the institution.

(e) *General rule.* (1) To qualify as financial aid made available to the student through the institution, in general, the institution must disburse the aid to the student before the end of the academic year for which the student received a supplemental grant.

(2) In the case of financial aid in the form of compensation for work performed for the institution, or for an employer other than the institution under an agreement with the institution, the compensation must be earned by the student before the academic year ends and must be paid to the student no later than the next regular payday following the end of the last eligible payroll period.

(f) Notwithstanding paragraph (e) of this section, scholarship aid from sources outside the institution may be considered as being made available through the institution even if disbursed after the end of the academic year if the institution does not control the disbursement of those funds.

(g) No student may be awarded more than $4,000, except that a student whose eligibility is extended for a fifth year under § 176.22 may receive up to $5,000.

(20 U.S.C. 1070b-1.)

APPENDIX A

ALLOTMENT OF FUNDS TO STATES FOR FISCAL YEAR 1972

Alabama	$1,136,295
Alaska	37,532
Arizona	794,102
Arkansas	645,033
California	8,125,711
Colorado	1,092,555
Connecticut	994,752
Delaware	174,114
District of Columbia	568,864
Florida	2,066,032
Georgia	1,291,155
Hawaii	298,396
Idaho	320,388
Illinois	3,743,393
Indiana	1,967,198
Iowa	1,331,999
Kansas	1,082,749
Kentucky	1,080,641
Louisiana	1,276,332
Maine	308,431
Maryland	1,168,652
Massachusetts	2,758,217
Michigan	3,339,267
Minnesota	1,663,842
Mississippi	863,948
Missouri	1,754,719
Montana	323,599
Nebraska	713,689
Nevada	116,425
New Hampshire	322,323
New Jersey	1,321,749
New Mexico	412,226
New York	6,234,166
North Carolina	1,783,607
North Dakota	351,555
Ohio	3,568,791
Oklahoma	1,178,300
Oregon	1,035,037
Pennsylvania	3,751,149
Rhode Island	393,990
South Carolina	690,479
South Dakota	347,053
Tennessee	1,398,807
Texas	4,038,448
Utah	781,127
Vermont	236,506
Virginia	1,293,349
Washington	1,525,138
West Virginia	707,338
Wisconsin	1,916,003
Wyoming	151,836
Guam	13,218
Puerto Rico	555,030
Virgin Islands	4,745
Total	75,050,000

[FR Doc. 78-23252 Filed 8-23-78; 8:45 am]

federal register

THURSDAY, AUGUST 24, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

OPERATIONS REVIEW PROGRAM

Proposed Airworthiness, Equipment, Certification, and Operating Amendments

[4910-13]

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

[14 CFR Parts 25, 121, 127, and 137]

[Docket No. 18247; Notice No. 78-12]

OPERATIONS REVIEW PROGRAM NOTICE NO. 10

Airworthiness, Equipment, Certification, and Operating Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice describes the FAA's disposition of certain proposals discussed at the Operations Review Conference. After consideration of these proposals, the FAA has determined that certain amendments to the rules applicable to aircraft and certificated operators are needed to expand, clarify or simplify these rules and to provide a level of safety commensurate with the development and expansion of the aviation system. Certain other proposals were withdrawn by their proponents. Other proposals are being removed from further consideration after review by the FAA. The proposals, withdrawals and removals are contained in this notice.

DATES: Comments must be received on or before November 24, 1978.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 18247, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

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. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communication should identify the regulatory docket or notice number and be submitted in duplicate to the address above: All communications received on or before November 24, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the 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 substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers and by the sections to which they relate.

AVAILABILITY OF THIS NOTICE

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular No. 11-2 which describes the application procedures.

BACKGROUND

The aviation industry in the United States and abroad has grown substantially during the last 10 years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies, and aircraft operators function.

To enable the FAA to become more responsive to the needs of the general public and the aviation community in fulfilling the agency's aviation safety responsibilities, the FAA issued notice 75-9 (40 FR 8585; February 28, 1975), inviting all interested persons to submit proposals for consideration during the operations review program.

In response to that invitation, the FAA received more than 5,000 individual comments contained in 123 submissions. Based on those comments and on the compilation of proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, VA. on December 1-5, 1975. The FAA distributed those documents to each person who participated in the operations review program and to all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all scheduled agenda items during the conference. Summaries were given by the FAA committee chairmen at the close of the discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited, and combined with an attendee list and transcripts of certain plenary session speeches, and distributed to all attendees and to other interested persons.

THE PROPOSALS

This notice deals with selected proposals concerning parts 25, 121, 127, and 137 contained in the following Operations Review Committee workbooks.

Committee No. and title:
1—Aircraft Equipment and Requirements.
2—Aircraft Maintenance.
3—Aircraft Operating Rules.
6—Certificated Operators and Agencies.

A number of the proposals contained in both the compilation and the working documents are not included in this notice. The proposals listed in appendices I and II fall into two categories as follows. Appendix I—Proposals withdrawn by proponent; Appendix II—Proposals removed from further consideration.

DRAFTING INFORMATION

The principal authors of this document are Thomas G. Walenta, Flight Standard Service, and Richard B. Elwell, Office of the Chief Counsel.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend parts 25, 121, 127, and 137 of the Federal Aviation Regulations (14 CFR parts 25, 121, 127, and 137) as follows:

PARTS 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By amending § 25.772(a) by adding a new sentence to read as follows:

§ 25.772 Pilot compartment doors.

(a) * * * However, means must be provided to enable flight crewmembers to directly enter the passenger compartment from the pilot compartment if the cockpit door becomes jammed.

* * * * *

Explanation. The National Transportation Safety Board Recommendation A-74-102 cites cases where, in an emergency situation, flight crewmembers had to exit through cockpit sliding windows because the pilot compartment to passenger compartment door was jammed. As a result, the flight crew was not in a position to assist in the evacuation of the passengers from the airplane. This proposal would require a means to enable flight crewmembers to enter the passenger compartment from the pilot compartment if the cockpit door becomes jammed.

Ref. Proposal No. 1; § 25.772(a); Committee 1; agenda item A.

2. By revising § 25.809(f)(1)(iii) to read as follows:

§ 25.809 Emergency exit arrangement.

* * * * *

(f) * * *

(l) * * *

(iii) It must be of such length after full deployment to enable safe evacuation of occupants to the ground when the airplane is in its normal ground attitude and when any one or more legs of the landing gear are collapsed.

* * * * *

Explanation. This proposed revision is made in response to National Transportation Safety Board Recommendation A-74-107. The recommendation was based on a finding that the nose-high or tail-high attitude of wide-bodied airplanes may render some exits unusable, because of the nearly vertical position of the slides. The proposal would require the emergency evacuation slide to be of sufficient length that the slide is safe and useable when the airplane is in its normal ground attitude and after collapse of one or more legs of the landing gear.

Ref. Proposal No. 3; § 25.809(f)(1)(iii); Committee 1; agenda item A.

3. By amending § 25.812(g) by deleting paragraph (g)(1) and marking it "[Reserved]" and by revising the introductory language of paragraph (g)(2) to read as follows:

§ 25.812 Emergency lighting.

* * * * *

(g) * * *

(1) [Reserved]

(2) The emergency lighting system illuminating the assist means must be independent of the airplane's main emergency lighting system, and must activate automatically when the assist means is erected. The lighting system—

* * * * *

Explanation. Current regulations provide for external emergency lights which are either activated automatically by the airplane's main emergency lighting system or by deployment of the assist means. In addition, an alternative means for manual operation of lights exists within the cabin and flight station which is dependent upon the airplane's main emergency lighting system. The National Transportation Safety Board's Special Study, NTSB-AAS-74-3, revealed deficiencies in the systems to activate external lighting during evacuations. Present systems require interruption of main aircraft electrical power with the system "armed" to activate the emergency lights. According to the study, during two night accidents, the exterior lighting systems were not activated because the aircraft engines were operating during the evacuations and some passengers were injured as a result. This proposal would require that the present assist emergency lights be independent of the airplane's main emergency lighting system and be activated automatically by deployment of the slide instead of being activated by the airplane's main emergency lighting system.

Re. Proposal No. 4; § 25.812(g); Committee 1; agenda item A.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

4. By amending § 121.310(h)(1) by adding a new paragraph (iii) to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(h) * * *

(l) * * *

(iii) Without regard to paragraphs (h)(1)(i) and (h)(1)(ii) of this paragraph, after (a date three years after the effective date of this amendment), the emergency lighting system must activate automatically and illuminate the assist means in accordance with the requirements of § 25.812(g) of this chapter in effect on (the effective date of this amendment).

* * * * *

Explanation. This proposal would require the emergency assist means on current airplanes to be retrofitted with an exterior emergency lighting system that is activated automatically when the assist means is erected. See explanation for Item 10-3.

Ref. Proposal Nos. 434 and 437; § 121.310(h)(iii); Committee 1; agenda item C-2.

5. By amending § 121.313(f) by adding a new sentence to read as follows:

§ 121.313 Miscellaneous equipment.

* * * * *

(f) * * * After (a date two years after the effective date of this amendment), a means must be provided to enable flight crewmembers to enter the passenger compartment from the pilot compartment if the cockpit door is jammed.

* * * * *

Explanation. This proposal would require retrofit of current airplanes to equip them with a means that will enable flight crewmembers to enter the passenger compartment from the pilot compartment if the cockpit door is jammed. See explanation for Item 10-1.

Ref. Proposal No. 444; § 121.313(f); Committee 1; agenda item C-3.

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

6. By revising § 127.103(b) to read as follows:

§ 127.103 Flight and navigational equipment.

* * * * *

(b) An altimeter that meets the Performance and environmental standards of § 37.120 of this chapter, or equivalent.

* * * * *

Explanation. Current § 127.103(b) requires the use of a sensitive altimeter for helicopters operating under Part 127 of the chapter. Presently "sensitive" altimeter is not defined. This proposed revision to § 127.103(b) would require the use of an altimeter approved under § 37.120 of this chapter, or equivalent. Part 37 contains the minimum performance standards for aircraft altimeters.

Ref. Proposal No. 685; § 127.103(b); Committee 1; agenda item D.

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7. By amending § 127.305 by adding a new paragraph (a)(6) to read as follows:

§ 127.305 Load manifest.

(a) * * *

(6) Name and home address of passengers unless the certificate holder maintains that information by other means.

* * * * *

Explanation. The present delay in determining the passenger list in crashes could be greatly reduced by requiring names and home addresses of all passengers. This proposal adds a requirement for names and addresses of all passengers to be added to the load manifest unless the certificate holder maintains that information by other means.

Ref. Proposal No. 695; § 127.305; Committee 6A; agenda item L.

8. By revising § 127.307(a) to read as follows:

§ 127.307 Disposition of load manifest and flight release.

(a) The pilot in command of a helicopter shall carry in the helicopter to its destination, a copy of the completed load manifest (or information from it except with respect to cargo, passenger distribution, and the passenger list) and the flight release.

* * * * *

Explanation. This proposal excepts the passenger list from those items of the load manifest which must be carried aboard the helicopter, and reduces the delay in determining the passenger list in the event of an accident or other requirements. The carrier will still be able to accommodate late arriv-

ing passengers by updating the passenger list and giving the necessary load corrections to the pilot in command by radio as they do now.

Ref. Proposal No. 696; § 127.307(a); Committee 6A; agenda item L.

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

9. By amending the heading to § 137.15 and by revising § 137.15 to read as follows:

§ 137.15 Application for certificate issuance or renewal.

Application for an original certificate or renewal of a certificate issued under this part is made on a form, and in a manner, prescribed by the Administrator, and filed with the FAA Flight Standards District Office that has jurisdiction over the area in which the applicant's home base of operations is located.

Explanation; The FAA proposes to amend part 137 by making an agricultural aircraft operator certificate expire at the end of the twenty-fourth month after the month in which it is issued or renewed. A review of the operating history of part 137 and the attendant requirements for initial approval of an agricultural aircraft operator certificate and the subsequent monitoring of it reveals certain problems. Once an operator is certificated as a agricultural aircraft operator under part 137, the FAA Flight Standards District Office, charged with the over-all inspection of the agricultural operator's operations, often finds it difficult to maintain the necessary contacts with the certificate holder. As a result, the activities of these certificate holders are not adequately monitored to assure understanding of and compliance with applicable rules. The FAA believes that limiting the duration of a part 137 certificate to twenty-four calendar months with attendant renewal requirements will enable district offices to exercise the appropriate surveillance of certificate holders and enhance safety. The proposal would allow a certificate issued before the effective date this amendment (which now has no expiration date) to remain in effect for two years after the effective date of the amendment.

Ref. Proposal Nos. 825 and 826; §§ 137.15 and 137.21; Committee 6; agenda item B.

10. By amending § 137.19 by adding a new paragraph (f) to read as follows:

§ 137.19 Certification requirements.

* * * * *

(f) Compliance with paragraph (e) of this section need not be shown for the renewal of a certificate if the Administrator finds, on the basis of the applicant's or the applicant's designated chief supervisor's previous experience and safety record in agricultural aircraft operations, that knowledge and skills are adequate.

Explanation. This proposed amendment to § 137.19 would allow renewal certification without requiring the applicant to show compliance with the knowledge and skill tests in § 137.19(e) if the Administrator finds the applicant's or applicant's designated chief supervisor's knowledge and skills are adequate. The FAA believes the knowledge and skill tests required by § 137.19(e) are unnecessary for renewal certification, if these persons' previous experience and safety record in agricultural aircraft operations warrant eliminating the tests.

Ref. Proposal No. 825; § 137.19; Committee 6; agenda item B.

10–11. By revising § 137.21 to read as follows:

§ 137.21 Duration of certificate.

(a) Unless sooner surrendered, suspended, or revoked, an agricultural aircraft operator certificate expires at the end of the twenty-fourth month after the month in which it is issued or renewed, except that a certificate issued before (the effective date of this amendment) expires (a date two years after the effective date of this amendment).

(b) The holder of an agricultural aircraft operator certificate that is suspended, revoked or otherwise terminated shall return it to the Administrator.

Explanation. See explanation for Item 10-10.

Ref. Proposal Nos. 825 and 826; §§ 137.15, 137.19 and 137.21; Committee 6; agenda item B.

12. By adding a new § 137.42 to read as follows:

§ 137.42 Fastening of safety belts and shoulder harnesses.

No person may operate an aircraft used in agricultural operations without a safety belt and shoulder harness properly secured about that person.

Explanation. Current regulations require each aircraft used in Part 137 operations to have a shoulder harness installed, however, there is no rule which requires the pilot to use it. Part 91 currently provides for the use of a safety belt during takeoffs and landings. The proposed rule would improve safety by requiring that the safety belt and shoulder harness be used at all times by the operator of an aircraft engaged in agricultural operations.

Ref. Proposal No. 829; § 137.41(d); Committee 3; agenda item L.

[24] 2014

APPENDIX I—*Proposals Withdrawn by Proponent.*

The proposals listed below were withdrawn by the FAA during or after the conference. The withdrawal of these proposals does not commit the FAA to any future course of action.

14 CFR (FAR)	Proposal No.	Committee No.	Agenda item	Proponent
25.791	2	1	A	Federal Aviation Administration.
137.31	827	2	R	Do.
137.75	837	6B	B	Do.
137.77	838	6B	B	Do.

[24]2015

APPENDIX II—*Proposals Removed From Further Consideration*

Based on the FAA's review of the discussions at the Operations Review Conference and the information submitted by interested persons, the following proposals are removed from consideration for the reasons listed:

14 CFR (FAR)	Proposal No.	Committee No.	Agenda item	Proponent
25.1431	5	1	A	Air Line Pilot's Association.
25.1583(c)	6	1	A	Air Transport Association.
121.6(a)	356	10	E	S.G.A.C./France.
121.310(a)	429	1	C-2	National Transportation Safety Board.
123.21(b)(5)	674	6A	K	Sam J. Corso.
121.37	676	6A	C-2	National Transportation Safety Board.
123.35(a)	678	6A	K	Sam J. Corso.
123.45	680	2	O	Do.
127.6	683	10	E	S.G.A.C./France.
127.127(d)	689	3	L	National Transportation Safety Board.
127 subpart I	690	2	G	Sam J. Corso.
137.5	821	10	E	S.G.A.C./France.
137.53	833	2	R	Sam J. Corso.

Proposal No. 5. This proposal would have amended § 25.1431 to require retroactive relocation of glide slope antenna to conform to International Civil Aviation Organization recommendation. The FAA believes the present operational procedures and glide slope antenna certification criteria are adequate to assure a safe aircraft clearance over the runway threshold.

Proposal No. 6. A proposed change to part 25 to provide the pilot in command with the option to land an aircraft in excess of its designed landing weight was substituted by a counter proposal from the same proponent. This counter proposal would have amended part 121 by requiring a report on any hard landing or landing at a weight in excess of the maximum landing weight. The FAA be-

lieves the reporting of such landings are adequately covered in part 121 and that sufficient justification was not presented to warrant a rule change.

Proposal Nos. 356, 676, 683, and 821. These proposals would have allowed U.S. operators to use aircraft of foreign registry under leasing and interchange agreements in operations conducted under parts 121, 123, 127, and 137. Under section 501 of the Federal Aviation Act of 1958, as amended, U.S. operators are required to use aircraft of U.S. registry exclusively. This amendment can be changed only by an act of Congress. Accordingly, these proposals are removed from consideration.

Proposal No. 429. This proposed amendment to § 121.310(a) would have required the length of the emergency evacuation slides on all airplanes operating under part 121 to be such that the angle with the ground renders the slide safe and usable, after collapse of one or more legs of the landing gear. After review, the FAA believes that requiring the retrofit of existing airplanes that do not comply is unwarranted because the burdens associated with making these changes are not commensurate with the anticipated increase in safety.

Proposal Nos. 674, 678, 680, 690, and 833. These proposals would have consolidated the aricraft maintenance performance requirements under parts 123, 127, and 137 into parts 43 and 91. The FAA does not support the proposal since this is an extensive recodification process with no commensurate benefit to aviation safety.

Proposal No. 689. This proposal would have amended § 127.127(d) by requiring the pilot in command to be responsible for insuring the preservation of recored information on the cockpit voice recorder (CVR). The FAA believes this responsibility should remain with the certificate holder since during and following an emergency, the crew should give higher priority to passenger evacuation and emergency procedures rather than deactivating the CVR.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430 and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C. on August 15, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-23466 Filed 8-23-78; 8:45 am]

federal register

THURSDAY, AUGUST 24, 1978
PART IV



DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

■

INCENTIVE FUND PROGRAMS

Draft Program Announcement; Request for Public Comment

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

INCENTIVE FUND PROGRAM DRAFT ANNOUNCEMENT

Request for Public Comment

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Request for public comment.

SUMMARY: The Law Enforcement Assistance Administration (LEAA) is publishing the draft program announcement for incentive fund programs in order to obtain public comment on the concept of incentive fund programs and requirements for participation. Incentive fund programs are a new concept in grant-making for LEAA. They implement, in part, recommendations for the restructuring of LEAA made by the Attorney General and a concept included in the President's proposed Justice System Improvement Act of 1978.

DATE: Comments are due on or before October 23, 1978.

ADDRESS: Send comments to: James M. H. Gregg, Acting Administrator, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT:

David L. Dougherty, Office of Planning and Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3930.

A. Introduction

This program announcement provides information about LEAA's incentive fund programs: Their overall purpose and conceptual design, how to apply, how they are managed, and how to obtain additional information.

The major objectives of the incentive fund are:

1. To promote and market improved programs and methods in law enforcement and criminal and juvenile justice;

2. To encourage States and local governments to implement major improvements in their criminal and juvenile justice systems by adopting innovations which have been found to be effective; and

3. To identify criminal and juvenile justice improvements and innovations among States and local governments which have been found to be effective and which should be considered for replication by other States and local governments.

Incentive fund programs are supported by grant funds from LEAA categorical funds shared with State and local general funds and LEAA formula funds. LEAA provides up to 50 percent of program costs from its categorical funds. LEAA also provides extensive technical assistance and training in support of programs.

The major broad criteria governing the award of incentive fund grants are that proposed programs have been found to be effective, that they have broad impact, and that they are of high priority.

B. Background

LEAA has, since its inception, conducted and supported research, tests, demonstrations, and evaluations for the development of innovations and advanced practices in law enforcement and criminal and juvenile justice. Training and technical assistance have been provided to States, local governments, regional combinations of governments, and non-profit organizations in support of the development and implementation of criminal justice innovations and improvements.

LEAA has supported the development of such programs as PROMIS, which has provided modern case management and control to prosecutors' offices; career criminal programs, which have organized and structured prosecution efforts to focus on serious offenders; integrated criminal apprehension programs, which have restructured police patrol and investigation practices; treatment alternatives to street crime (TASC) which has provided for diversion of drug and alcohol abusers from the criminal justice system to treatment programs; neighborhood justice centers, which have provided alternatives to the traditional justice system for interpersonal disputes; victim and witness assistance programs, which have focused attention on and provided help to crime victims who have traditionally been given relatively little attention by the criminal justice system; standards and goals programs, which have developed at national, State, and local levels standards for the operation of criminal justice and juvenile justice systems; and a broad range of other programs to improve the operations of criminal justice systems. LEAA has awarded direct grants and provided training and technical assistance through National Institute of Law Enforcement and Criminal Justice research and training funds and through discretionary funds, system development funds, and juvenile justice special emphasis funds.

The product of these efforts is a broad range of knowledge and experience about criminal and juvenile justice systems, about what works and what doesn't, and about how to more effectively manage criminal justice systems and their components.

States and local governments, while participating in the development and implementation of innovations, have also gained experience with new approaches for planning and managing criminal and juvenile justice. State criminal justice planning agencies and commissions and local and regional planning bodies are engaged in analyzing problems, setting priorities, and developing and managing improvements. Planning for the criminal justice system, virtually unknown 10 years ago, is now conducted to some extent in every State and major local jurisdiction in the Nation.

The incentive fund concept builds on and is an important next step in these developments in criminal and juvenile justice programs and State and local criminal justice planning.

C. Scope of Program Design

Incentive fund programs are criminal justice improvements or advanced practices which have been shown to be effective either through LEAA's experience with research, testing, and validation in its action program development process or through State and local experience. LEAA's research, testing, and evaluation findings will be documented and that documentation, along with technical assistance and training, provided to grantees. Programs for which effectiveness has been demonstrated by States or localities rather than by LEAA will also be documented and that documentation validated by LEAA and provided to grantees.

Incentive programs are not considered to be experimental for participating jurisdictions but to be improvements which will be adopted and supported by the jurisdictions after initial Federal assistance ends. The development of programs must include a feasible plan for continuing or maintaining the improvement following Federal assistance. Federal support for incentive fund programs may not be used to diminish support for the same or similar efforts underway or planned for in participating jurisdictions but is to supplement current and planned for efforts in order to permit wider or more complete implementation. Incentive fund programs are to be improvements which are expected to bring about major change within participating jurisdictions. They should have major impact on the jurisdiction's criminal justice system or population.

Incentive fund programs are closely related to State comprehensive plans and to States' planning. Problems addressed by incentive fund programs

must be thoroughly documented in the State comprehensive plan and the plan must show that the needs addressed by proposed incentive fund programs are of high priority and merit the attention of the criminal justice system.

Incentive fund programs may be financed, in part, with block grant funds awarded for State plan implementation. Initially, up to 40 percent of the program costs may be met with block grant funds. (LEAA is seeking legislation to permit 50 percent of the costs of incentive fund programs to be from block grant funds with the other 50 percent directly from LEAA.)

LEAA support for incentive models is limited to a maximum of $2 million in any one State in a year. Most awards will be for less than $1 million.

LEAA support of incentive programs will usually be for a period of 2 or 3 years. The anticipated period of support will be specified in initial awards. Grant awards will be for periods of up to 18 months.

D. Criteria for Selection of Program Models

The major element of the incentive fund concept is the transfer of program models which have been developed through a process of research, testing, and evaluation and have been thoroughly documented for transfer. In order to be designated as an incentive program model, a program must have met the following criteria:

1. Program has a design with measurable objectives for projects and clearly identifiable minimum elements or project activities to be performed.
2. Program design is based on research and testing or extensive experience.
3. Program has been conducted in a number of sites with success.
4. Program has been evaluated and found to be of high quality.
5. Program is replicable to other sites.
6. Program is cost-effective.
7. Program addresses national or statewide objectives.
8. There is strong interest in the program concept among State and local jurisdictions.

E. Process for National Level Program Development and Selection

In many instances, the programs meeting these criteria will have emerged through LEAA's action program development process. APDP is a formalized set of policies and procedures which LEAA has adopted to ensure that research knowledge forms the basis for programs and action funding. It is an iterative process of planning, testing, and refining a program prior to implementation on a large scale. The process begins with LEAA's identification of those problems of major concern to State and local criminal justice systems, together with possible response strategies. Such strategies may include conducting new research or synthesizing existing research findings, operational experience, and expert opinion into a program model for controlled field testing in a limited number of settings. Once tested, the program design undergoes modifications in an effort to improve performance and to eliminate unintended or undesired effects and incorporates those features which have proven their value. The refined model or "Validated Program Design" is then available for transfer on a widespread basis.

F. Process for State and Local Program Model Nomination

In addition to the process of LEAA program development and selection described above, incentive program models may come about through nominations by States or local units of government of programs which have proven successful in reducing crime or improving criminal justice system operations. To be considered as incentive program models, such programs must meet the criteria specified in section D, above, criteria for selection of program models.

Programs may be nominated at any time for LEAA review and validation. Programs which are found to meet the criteria for incentive program models will then be made available for incentive funding in the next funding cycle.

State and local nominations must include complete documentation of the development of the program, its testing, and its evaluation.

G. Incentive Program Models Available

Incentive program models currently available include the following: (NB: These are general descriptions; detailed descriptions, including strategies, minimum program elements, recommended funding levels and other requirements are available from the office indicated following each program title).

1. MANAGING CRIMINAL INVESTIGATIONS (OCJP)

LEAA-sponsored research and development have disclosed a number of ways in which improvements can be made in managing criminal investigations, a critical police function. Successful tests at five sites have been conducted, upon which this program is based. The program has the following objectives:

To increase the percentage of convictions for target crimes and offenders;

To reduce the number of cases not prosecuted or dismissed because of faulty case preparation;

To decrease the time and resources devoted by investigator units on cases which are potentially "unsolvable," and;

To improve the effective allocation of investigative resources.

The program has six major elements designed to structure the criminal investigation process to achieve the objectives:

(1) Organizational structure;
(2) Preliminary investigation;
(3) Case screening;
(4) Managing continuing investigation;
(5) Investigative monitoring system.

Although there will be variations in costs because of local differences, the typical 18-month project will require approximately $180,000 for each site.

2. CAREER CRIMINAL PROSECUTION PROGRAM

A disproportionate amount of a jurisdiction's serious and violent crime is committed by a relatively few habitual offenders who utilize familiarity with the criminal justice system to avoid apprehension, identification, full prosecution and appropriate punishment. This program seeks to identify offenders who frequently commit robbery, aggravated assault, forceable sexual offenses, burglary, and recidivistic homicide, and to expedite the thorough preparation and presentments of those cases to court.

The program emphasizes these concepts and strategies:

Early screening and evaluation of all felony cases to identify career criminal cases according to predetermined and even-handedly applied selection criteria;

Senior prosecutors assigned to career criminal cases;

Individualized and thorough case preparation (vertical handling);

A policy of no plea or sentence bargaining;

Witness coordination.

The program may be implemented by agencies having statewide prosecutorial representation and authority to implement and supervise subgrants in local prosecutors' offices. Participating prosecutor offices must have a minimum of six (6) full-time assistant prosecutors.

3. JUROR UTILIZATION AND MANAGEMENT (OCJP)

This program is a set of operating procedures and measurements for juror utilization and management designed to reduce costs to the community, minimize income loss for jurors, insure selection methods that are proper and can withstand legal challenge, and increase citizen participa-

tion and interest by making productive use of jurors' time. LEAA-sponsored demonstrations have been implemented in 18 jurisdictions and are showing considerable cost and time savings.

The program design is based on proven methods for qualifying the optimum number of jurors, and summoning and utilizing jurors, and will enable state and local court administrators to apply and transfer these methods.

The program strategy focuses on statewide implementation of proven juror management procedures, tailoring the required financial and technical assistance to the needs of each State.

4. TREATMENT ALTERNATIVES TO STREET CRIME (TASC) (OCJP)

The treatment alternatives to street crime (TASC) program is designed to reduce substance abuse and its related criminal activity by providing community-based treatment services for substance abusing offenders. The TASC model has been demonstrated in over 50 cities and counties since 1972 and has expanded in concept from a pretrial diversion mechanism for heroin abusers to a comprehensive criminal justice/health care linkage mechanism for drug and alcohol abusing offenders.

The major elements of the model include:

A screening unit to identify and recruit potential clients as soon as possible after their arrest.

A diagnostic/evaluation unit to determine the nature and extent of drug use and provide appropriate referral to community-based treatment.

A monitoring or tracking unit to continuously monitor the progress of clients in treatment, to include weekly urinalysis reports, as well as serve as a liaison to the court or other criminal justice agent.

The TASC incentive program strategy focuses on statewide implementation of TASC models in all major urban centers and regional rural areas where such services are needed. Each state will be required to establish a small central coordinating unit to plan and administer the statewide effort.

Costs will vary greatly from State to State, but it is expected that incentive fund grants will provide up to $1,000,000 for each 18-month grant period.

5. HEALTH CARE IN CORRECTIONAL INSTITUTIONS (OCJP)

This program will provide support to improve the medical care and health services in correctional facilities. The model is based upon research and standards developed by the American Medical Association with LEAA support and has been tested in six States. The program includes implementation and cost effective management of improved administrative, diagnostic and treatment methods.

The incentive fund program strategy provides for adoption of statewide coordination and oversight of projects, including site selection, project monitoring and evaluation of the progress of the program.

The projected cost of a single statewide program ranges from $100,000 to $250,000.

6. COMMUNITY RAPE RESPONSE (OCJP)

Only 1 in 4 rape complaints result in an arrest and only 1 in 60 in a conviction. Victims of rape suffer physically and psychologically, and in many communities they do not receive the quick specialized treatment that is needed. The purpose of this program is to provide public understanding, coordination, training, and technical assistance for comprehensive community programs to treat victims appropriately, and to increase apprehension and convition of offenders.

Victim support services will require improved reporting procedures and specialized emergency treatment by prosecutors, police, medical personnel and diesignated medical facilities. Police operations will include use of female officers and specialized investigative procedures. Special training for prosecutor is also included. Legislative reform may be required to: (1) Eliminate the need for corroboration, (2) limit the scope and relevancy of testimony regarding previous sexual conduct, (3) clarify instructions to the jury, and (4) develop appropriate sentences.

The anticipated costs of program operation depend on the extent of the services to be provided in addition to technical assistance, but are generally limited to support of program coordination and assistance.

7. PROSECUTOR MANAGEMENT INFORMATION SYSTEM (PROMIS) (NCJISS)

This program will support the implementation of PROMIS on a multijurisdictional basis. PROMIS was developed as a prosecutor's management information system in 1971 for the Washington, D.C., U.S. Attorneys Office. The Institute for Law and Social Research (INSLAW), with LEAA support, has refined the system so that it can be operated on either a full-size or a mini-computer. the system is machine independent and can be operated on a variety of different manufacturer's hardware. A manual adaptation has also been developed for offices not requiring an automated system. PROMIS is presently being implemented in approximately 45 jurisdictions and been successfully adapted for use by State and local court systems.

The focus of this program is prosecutor offices; consideration may also be given to utilization of the system for trial court purposes. Objectives should be consistent with a State's criminal justice information planning. Statewide implementation is to be conducted on a phased basis in 3-5 jurisdiction increments. Counties may choose whether to install PROMIS, mini-PROMIS, or manual PROMIS, based upon their particular office workload requirements.

The cost of statewide implementation of PROMIS depends on the number of jurisdictions being automated, their caseloads, and the availability of other resources included computer support.

H. APPLICATION PROCEDURES

1. ELIGIBILITY

States, units of local government, combinations of units of local government and nonprofit organizations are eligible to receive incentive fund program awards.

For Statewide programs, State planning agencies will normally be applicants; applications for statewide programs from agencies or organizations other than State planning agencies must indicate why the State planning agency is not considered to be the appropriate grantee for the program.

For programs in local jurisdictions, local criminal justice planning agencies will normally be applicants; applications from other local agencies or organizations must indicate why the local planning agency is not considered to be the apropriate grantee for the program. Programs limited to a single or to few local jurisdictions within a State will be less likely to receive funding than statewide efforts.

2. APPLICATIONS

Applications must be made on standard form 424, Application for Federal assistance, following the instructions provided with that form (Appendixes 5 and 6 of the guide for discretionary grant programs (M4500.1F)).

Applications must specify the amount and source of funds to be used for the program. Incentive funds can be used for up to 50 percent of the total program costs. Ten percent of the total program costs must be "hard match" as defined by LEAA financial guidelines; 40 percent may be LEAA block grant funds. Inkind contributions to the program are not considered as part of the nonFederal share.

Applications must contain references to the sections of the State comprehensive plan(s) which describe and analyze the problem to be addressed by the proposed program and indicate

the priority given to the problem. At a minimum, the information required by paragraphs 34 through 39 of the guide for State planning agency grants (M4100.1F) which applies to the proposed incentive fund program should be referenced.

If necessary, an amendment to the current State comprehensive plan or to the State comprehensive plans of the previous 2 years may be submitted with the application to account for block grant funds to be used for incentive programs. As Incentive fund programs are more fully integrated with the comprehensive planning cycle, block grant funds to be used for incentive fund programs can be identified in annual and multiyear plans when they are developed and submitted.

Applications for incentive fund programs for fiscal year 1979 may be submitted at any time prior to April 2, 1979, as determined by planning, budget, and implementation cycles of applicant jurisdictions. Since funds are limited, early applications are encouraged.

Developing incentive fund programs, obtaining necessary commitments of funds and personnel, and arranging legislative, regulatory, or organizational authority is likely to be time-consuming and expensive. Applicants are therefore encouraged to submit concept papers to LEAA in advance of formal applications. On the basis of such concept papers, LEAA will advise applicants of the feasibility and likely funding levels.

3. JUDGING APPLICATIONS

Sections D and E establish the criteria for selection of Incentive models. All applications will be judged by LEAA according to the following criteria:

1. Evidence in the State plan that a detailed needs analysis specific to the program being proposed has been undertaken, that it is a priority, and that, wherever possible, the program is tied to past plans where some aspect of the problem has been addressed.

2. Evidence that State or local funds can complete and maintain program after initial period of Federal funding.

3. Implementation plan in application is feasible and likely to be successful.

4. Proposed program will have potentially major impact by:

a. Affecting large number of people;

b. Affecting large number of jurisdictions;

c. Having significant economic impact (e.g., providing improved services at lower costs);

d. Having significant equity impact (e.g., improving fairness and due process); or

e. Having significant crime control impact (e.g., reducing and preventing crime)

5. Proposed program addresses and plans for impact on other elements of the criminal justice system.

6. Financial assistance (incentive) is clearly needed to implement program; i.e., program objectives are not likely to be met solely with technical assistance or training.

7. Proposed program contributes directly to organizational and operational change within applicant's criminal justice system.

8. Program is designed so that it can be evaluated and its impact measured.

9. Program encourages cooperative efforts among different levels of governments, e.g., city/county, multicounty.

10. Jurisdiction is willing to use appropriated funds or other Federal grant funds for program.

11. There are existing or pending State or local appropriations for program or pending legislation authorizing or mandating programs.

All applications will be screened initially against these criteria and a determination made on that basis to reject the application or consider it for funding. Applicants considered for funding after the initial screening may be visited to validate the extent to which the proposed program meets the criteria and to determine later technical assistance and training needs.

G. LEAA MANAGEMENT OF THE PROGRAM

Programs will be managed by Program Divisions of the Office of Criminal Justice Programs (OCJP), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the national Criminal Justice Information and Statistics Service (NCJISS). Support and technical financial assistance will be provided by the Office of the Comptroller.

Development of LEAA program models is normally the responsibility of the National Institute of Law Enforcement and Criminal Justice (NILECJ), in close coordination with the Office of Criminal Justice Programs. OCJP will propose areas for program development based on identified needs of States and local governments and will work closely with NILECJ during program tests and in the development of program designs for incentive program models.

OCJP, OJJDP and NCJISS program division will review, award, and monitor incentive fund grants and will arrange for and provide technical assistance and training to grantees. Other offices which had been involved in program development may assist program offices, as needed, in these activities.

All incentive fund program concept papers and applications will be reviewed initially by OCJP. Based on that review, applications will be referred to the appropriate program division or office for further processing, or be rejected. Applications which are recommended for referral to program divisions will be reviewed in detail, and processed according to LEAA categorical grant processing requirements.

JAMES M. H. GREGG,
Acting Administrator.

[FR Doc. 78-23594 Filed 8-23-78; 8:45 am]

federal register

THURSDAY, AUGUST 24, 1978
PART V



ENVIRONMENTAL PROTECTION AGENCY

■

GASOLINE-FUELED LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS

Evaporative Emission Regulations

[6560-01]

Title 40—Protection of the Environment

CHAPTER I— ENVIRONMENTAL PROTECTION AGENCY

[FRL 915-3]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Evaporative Emission Regulations for Light-Duty Vehicles and Trucks

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking increases the stringency of the fuel evaporative hydrocarbon (HC) emission standard for gasoline-fueled light-duty vehicles and light-duty trucks. Beginning with the 1981 model year the allowable level of evaporative HC emissions will be reduced from the current 6.0 grams per test standard to a 2.0 grams per test standard when measured via the sealed housing technique for evaporative determination (SHED) procedure. For certain Air Quality Control Regions which are expected to have difficulty meeting ambient air quality standards for oxidants, this action will reduce total hydrocarbon emissions by 3 to 10 percent in the year 1990.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Smith, Regulatory Management Staff, Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, phone: 202-755-0596.

SUPPLEMENTARY INFORMATION: Fuel evaporative hydrocarbon emissions have been studied and measured since 1958. Federal control of evaporative emission levels was first proposed in the FEDERAL REGISTER (32 FR 2448) in 1967 when a novel and relatively untried measurement procedure, use of a vehicle enclosure, was proposed. These rules would have become effective for the 1969 model year. When the final rulemaking was published in 1968 (33 FR 8304), the novel measurement procedure was abandoned in favor of a better known procedure (carbon trap method) which utilizes the absorption of hydrocarbon on activated charcoal. The activated charcoal container is weighed before and after the test to determine the mass of hydrocarbon absorbed. Because of manufacturing lead time requirements, the implementation of the standards was delayed until the 1971 model year, and the emission level was set at 6.0 grams/test (g/test). The evaporative emission standard was reduced to 2.0 g/test for 1972 and subsequent model years.

The carbon trap method for measuring evaporative emissions has been found, through testing with a more accurate measurement method, to greatly underestimate actual evaporative emissions. The more accurate testing method was the Society of Automotive Engineers (SAE) recommended procedure for measuring evaporative emissions (SAE J171a) and involved collecting the evaporative emissions in a large sealed enclosure containing the test vehicle. Results from the 1972 EPA surveillance test program (as reported in Supplement No. 5 of AP-42) of "controlled" in-use vehicles indicated an average emission level of about 24 g/test by the vehicle enclosure method, 12 times the standard established for the carbon trap method. Thus, the amount of control thought to exist for evaporative emissions tested by the carbon trap method was not in actuality obtained.

On January 13, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 2022), setting forth proposed amendments to Subparts A and B of Part 86 of the Code of Federal Regulations (CFR) to become effective with 1978 model year light-duty vehicles and light-duty trucks. The NPRM announced the Agency's intention to revise the evaporative emission test procedures (adopt the SHED procedure) and establish standards of 6.0 g/test for 1978 and 2.0 g/test for 1979 and subsequent model years.

Since publication of the NPRM, the proposed standards for 1978 and 1979 have been separated into two regulatory packages. This was done because lead-time for the 1978 regulations was critical; and the real risk of not being able to implement a 6.0 g/test standard for 1978, in order to analyze issues related to the 2.0 g/test standard, was not justified. Consequently, the final rulemaking published August 23, 1976 (41 FR 35626), contained the revised test procedure and a 6.0 g/test standard for the 1978 model year. It is expected that implementation of that standard, along with the new test procedure, will reduce evaporative hydrocarbon emissions from the equivalent of 1.76 g/mile to 0.60 g/mile. (Gram per mile equivalents for in-use vehicles were determined by calculating average gram per day values and dividing by the average travel per day. The gram per day value is the sum of diurnal and total hot soak emissions, as estimated in AP-42, Compilation of Air Pollution Emissions Factors.)

A more stringent evaporative standard of 2.0 g/test is now being promulgated for the 1981 model year for light-duty vehicles and light-duty trucks (0-8,500 pounds Gross Vehicle Weight Rating). The test procedures are unchanged from the 1978-80 model year regulations. The 2.0 g/test standard is expected to reduce evaporative hydrocarbon emissions of in-use vehicles from the equivalent of 0.60 g/mile to 0.15 g/mile. This action will reduce total nationwide mobile source hydrocarbon emissions by as much as 25 percent by the year 1990. For certain Air Quality Control Regions that are expected or have difficulty meeting the ambient air quality standards for oxidants, this action will reduce hydrocarbon emissions from all sources by about 0.9 million tons, or an average of about 6 percent in the year 1990. Oxidant air quality will be improved by about 2 percent in these regions.

It is estimated that this regulation will cost purchasers of new light-duty vehicles or trucks between $1 and $5.50. The expense is primarily incurred as higher vehicle costs to pay for installation or modification of control system components necessary to meet the new evaporative emission standard. The impact of the vehicle cost increase, however, is anticipated to have a negligible adverse effect on sales of the manufacturers (less than 0.15 percent). No costs due to increased fuel consumption or maintenance are expected. Nor is the cost of certification that the government and the manufacturers must bear expected to increase significantly. Over a 5 year period (1981-1985), the aggregate cost of compliance is expected to be $79 million to $400 million.

This action will provide improved air quality at a cost of between $20 and $100 per ton of hydrocarbon removed. As a comparison, the cost-effectiveness of reducing automotive exhaust emissions from the current standard (1.5 g/mile) to the statutory standard (0.41 g/mile) is between $500 and $1,400 per ton of hydrocarbon removed. This additional control of evaporative emissions is one of the more cost effective means available for reducing hydrocarbon emissions.

Comments in regard to a 2.0 g/test standard were received from many motor vehicle manufacturers and from several other interested parties as part of their comments to the NPRM which proposed a change to the SHED test procedure and the implementation of a 6.0 g/test standard in 1978 and a 2.0 g/test standard in 1979. The major issues concerning a 2.0 g/test standard have been summarized here. A complete analysis of comments on

all issues related to the 2.0 g/test standard has been prepared and is available for public review. Comments which pertain to the test procedure have already been summarized in regulations for the 1978 model year.

Major Issues

Feasibility and lead time requirements of a 2.0 g/test standard

No automotive manufacturer stated that it could meet the 2.0 g/test standard for the 1979 model year. In fact, nearly all manufacturers stated that a 2.0 g/test standard in 1979 as originally proposed was infeasible. Several manufacturers requested that more than 1 year be allowed between implementation of a 6.0 g/test and a 2.0 g/test standard.

The manufacturers identified four major problem areas connected with the implementation of a 2.0 g/test standard. These problem areas are (1) test variability, (2) vehicle background (i.e., nonfuel) emissions, (3) technical ability to reduce emissions from vehicles with stabilized background to a level required for certification, and (4) lead time for equipment definition, development and production.

In regard to test variability, an evaporative emissions crosscheck test program between the EPA and the four major U.S. automobile manufacturers showed that test variability at the 2 g/test level is no greater than variability of exhaust emission testing. Data supplied by manufacturers at the waiver hearing for the State of California's 2.0 g/test standard also support this conclusion. Therefore, variability is not a serious problem associated with certifying vehicles to a 2.0 g/test SHED evaporative standard.

The issue of background emissions has already been discussed in the preamble to the August 23, 1976 final rulemaking referred to earlier. EPA will use the same test procedure for the 2.0 g/test standard. Manufacturers will be allowed to minimize background emissions from test vehicles in any way (e.g., accelerated aging, sand blasting, removing upholstery, etc.) which does not violate provisions of the regulations. The emission measurements will include any remaining vehicle background level. The manufacturer is also allowed to conduct repeat testing (and additional background lowering procedures) to gain assurance that the evaporative emissions have stabilized before bringing the vehicle to EPA for certification testing.

The options available to manufacturers for reducing background emissions on certification test vehicles may not be available or viable when testing in-use or assembly line vehicles. Assembly line vehicles would require analytical procedures, yet to be specified, to enable fuel evaporative emissions to be distinguished from the high background emissions from nonfuel sources. In-use vehicles would not normally be tested before they are a year or more older, thus their background emissions can reasonably be expected to have stabilized and should properly be the responsibility of the manufacturer. The only additional preconditioning for these vehicles would be the removal of spilled or leaked oil, and miscellaneous deposits of road oils.

In regard to the third problem area identified above, the manufacturers have stated that it has not been demonstrated that all vehicles can be produced to meet a 2.0 g/test standard. They stated that, due to test variability, the design goal must be 1.4 g/test or less. However, the test-to-test and lab-to-lab variability obtained in an EPA-manufacturer crosscheck program indicates that a vehicle with a true mean level of 1.9 g/test (assuming no deterioration) would pass a 2.0 g/test standard with a 90 percent confidence level, and several production and modified vehicles have given test results of 1.9 g/test and less. EPA agrees that the ability to reduce evaporative emissions to less than 2.0 g/test has not been demonstrated on all vehicles. However, enough data (mainly from automotive manufacturers, a test program conducted by Exxon Research & Engineering Co., and emission certification vehicles tested using the SHED procedure) have been generated to demonstrate that it is technically feasible, and additional industry effort should be able to define the required equipment for essentially all vehicles by the 1981 model year. Perhaps the strongest indicator or technical feasibility of a 2.0 g/test standard is the number of 1978 certification emission data vehicles which have given evaporative emission results of 2.0 g/test or less. As of September 27, 1977, 597 valid evaporative emission tests had been conducted on 1978 model year certification vehicles at the EPA testing laboratory. Of the 597 tests, 225 (or 38 percent) were less than 2.0 grams. These are the evaporative emission levels from vehicles which were designed to comply with a 6.0 g/test standard.

Late in the development of this final rule, General Motors filed a petition with the Agency recommending that the EPA establish for light-duty trucks with gross vehicle weight ratings (GVWR) between 0 and 6,000 pounds the same standard as is set for passenger cars, and that a standard 1 gram higher be established for trucks with GVWR's between 6,000 and 8,500 pounds. In their petition, GM claimed they have not yet developed the requisite technology to certify at the 2.0 g/test level the heavier light-duty trucks (GVWR's between 6,000 and 8,500 pounds) and particulary those trucks equipped with optional large capacity fuel tanks (40 as opposed to the nominal 20 gallon tank).

The Agency disagrees that a 2.0 g/test standard is not achievable for trucks up to 8,500 pounds GVWR. Recent data from the 1979 certification program indicate that 37 evaporative emission tests were performed on light-duty trucks 6,000-8,500 pounds GVWR and of these 11 were below the 2.0 g/test level. As with the 1978 certification data referred to earlier, the light-duty trucks tested were designed to meet a 6.0 g/test standard, and yet a sizable portion achieved the 2.0 g/test level. In addition, a representative of GM's major competition in the light truck market, the Ford Motor Co., has indicated that if a 2.0 g/test standard were to be promulgated for the 1981 model year, Ford would be able to certify its light-duty trucks to the standard. This includes those equipped with the optional large capacity fuel tanks which GM has claimed they might not be able to offer as optional equipment if this standard were promulgated (currently installed on approximately 25 percent of trucks under 8,500 pounds GVWR sold by GM.)

As part of its petition to the Agency to consider their alternative to a 2.0 g/test standard for all light-duty trucks, GM submitted technical arguments to support their contention that they have encountered several problems inherent to light-truck design and operation which they have not yet resolved and which make it difficult to achieve the 2.0 g/test level. GM has attributed the cause of these technical difficulties to large fuel tanks, high fuel system temperatures, and background emissions. The issue of background emissions also was a concern raised about the 6.0 g/test standard. Other manufacturers discussed it in their comments on the 2.0 g/test standard. A summary of these concerns and the Agency's response to them can be found in the "Summary and Analysis of Comments to the NPRM—Revised Evaporative Emission Regulations for Light-Duty Vehicles and Light-Duty Trucks (2 gram/test standard)." A separate document was prepared to discuss the other issues raised by GM and is entitled "Comments on 'General Motors Commentary to the Environmental Protection Agency on Evaporative Emission Standards for Trucks' ", dated May 10, 1978. GM technical representatives also met with EPA staff on May 12, 1978 to discuss evaporative emission control for light-duty trucks. A summary of this meeting can be found in a memo entitled "Meeting with General Motors in Regard to Evaporative Emission

Standard for Trucks", dated May 18, 1978. Copies of all these documents are on file at the EPA Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C.

In light of GM's concern about evaporative emission control capabilities for light-duty trucks, the Agency has reexamined its own data on evaporative emissions from light-duty trucks, the new information submitted by GM, and the comments from other manufacturers on this subject. Based on its review of the information available to it at this time, the Agency is unable to agree that the technical concerns posed by GM represent such a unique and significant problem for controlling evaporative emissions from light-duty trucks that manufacturers will be unable to overcome them and achieve a level of control sufficient to certify a 2.0 g/test standard. Therefore, the Agency sees no benefit to granting the GM petition to establish the same standard for light-duty vehicles and light-duty trucks up to 6,000 pounds GVWR, and a standard 1 g/test higher than that level for those trucks in the 6,000 pound to 8,500 pound GVWR category.

Since it appears that some manufacturers still require additional time for equipment definition, design, development, tooling and production, the originally proposed 1979 implementation date is impossible. A 1980 model year implementation date also appears to be unachievable for some manufacturers. While a few manufacturers (e.g., Ford Motor Co.) have made substantial progress in developing evaporative emission control systems capable of meeting a 2.0 g/test standard, others have not effectively used the time since publication of the NPRM to develop such systems. For example, at the May 12, 1978 meeting with EPA staff, GM representatives stated that they had not yet defined an adequate control system for their large fuel capacity light-duty trucks. For such manufacturers to equip their vehicles in an attempt to meet a 2.0 g/test standard by 1980, would now require an all-out crash project effort. Not only might this effort fail, many of the resulting systems may not be optimized in regards to cost and performance. A later implementation date should allow manufacturers to optimize their systems by, for example, developing hot soak control measures which will not require the use of equipment needing periodic replacement, such as engine air filters. In view of these factors, the 2.0 g/test standard is being promulgated for the 1981 model year.

Cost of a 2.0 g/test standard. In their comment to the NPRM, only three vehicle manufacturers gave cost estimates for control systems which would allow current production vehicles to meet a 2.0 g/test standard. These three manufacturers were Chrysler, Nissan and Toyota and their estimates were $50, $30.30 and $18-$23 respectively.

The increase in vehicle retail price estimated by Chrysler ($50) was much higher than what will be necessary to control SHED evaporative emissions to 2.0 g/test. Tests have been conducted under EPA contract on a vehicle equipped with the engine (440 CID) which this manufacturer indicated is its most difficult to control. The evaporative emissions from this vehicle (including vehicle background) were controlled to an average level of 1.9 g/test for an EPA-estimated retail price increase of $6. It is also believed that more than the necessary amount of equipment has been included in the estimated price from Nissan; however, definitive test information on modifications to Nissan vehicles is not available. Toyota estimated the total cost to comply with the 6.0 g/test standard for 1978 at $13 per vehicle and the 2 g/test standard as $18-$23. Therefore, its estimated cost of going from the 6.0 g/test system to a 2.0 g/test system is $5-$10. As of September 27, 1977, 24 valid certification tests had been conducted on 1978 Toyota certification vehicles. Of these 24, 20 gave results of less than 1.8 g/test, so it appears that most Toyota vehicles will not require further modification to comply with the 2.0 g/test standard.

In a test program conducted by Exxon Research & Engineering Co., six typical production vehicles manufactured by six different manufacturers were modified to give total SHED evaporative emission levels of below 2.0 g/test. The EPA estimated cost of modifying the individual vehicles ranged from $1.60 on a Ford to $25 on a Mazda (1976 dollars). From this work the estimated U.S. sales-weighted increase in vehicle retail price is $1 over vehicles designed to meet the 6.0 g/test standard in 1978. Based on the estimated costs of manufacturer-developed and tested systems which have given SHED evaporative results of less than 2.0 g/test, the U.S. sales-weighted increase in vehicle retail price is $5 over vehicles designed to meet a 6.0 g/test standard for 1978. It is expected that the actual increase in retail price of 1981 model vehicles due to implementation of the 2.0 g/test standard will be between these two values, i.e., between $1 and $5 per vehicle. In 1978 dollars the estimated range of costs is between $1 and $5.50 per vehicle.

Durability requirement. Durability procedures for the current 6.0 g/test standard require that manufacturers determine system durability using test methodologies which they have established. Manufacturers submit durability test plans in their part I applications for certification, and provide the data from the test programs and resultant deterioration factors for each evaporative emission family in the part II application. A study is currently planned which would thoroughly review and analyze the deterioration determination methodologies which the manufacturers have used. The study would also consider other methods of establishing system durability. The purpose of this work is to develop a viable durability test procedure which could be required of all manufacturers. It is likely, however, that this study will not begin during this fiscal year; and therefore, will not be completed in time for its results to be used in specifying a durability test procedure for the 1981 model year. Consequently, the current requirements for durability testing will remain in effect for the 1981 model year and until such time that an appropriate standardized test procedure can be specified.

Comments which were received in response to the NPRM, EPA's Summary and Analysis of Comments Received to the NPRM, and the final environmental impact statement are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library) 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 86 is amended as follows.

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

1. A new § 86.081-8 is added to read as follows:

§ 86.081-8 Emission standards for 1981 light-duty vehicles.

(a)(1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 gram per vehicle mile;

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1981 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1981 and later model year gasoline-fueled light-duty vehicle.

2. A new § 86.081-9 is added to read as follows:

§ 86.081-9 Emission standards for 1981 light-duty trucks.

(a)(1) Exhaust emissions from 1981 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 1.7 grams per vehicle mile;

(ii) *Carbon monoxide.* 1.8 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Evaporative emissions from 1981 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1981 and later model year gasoline-fueled light-duty truck.

(Secs. 202, 301(a), Clean Air Act, as amended (42 U.S.C. 7521 and 7601, formerly 42 U.S.C. 1857f-1 and 1857g(a) which was reclassified by 91 Stat. 685 (August 7, 1977)).)

[FR Doc. 78-23788 Filed 8-23-78; 8:45 am]

federal register

THURSDAY, AUGUST 24, 1978
PART VI



FEDERAL COMMUNICATIONS COMMISSION

■

THE LAW OF POLITICAL BROADCASTING AND CABLECASTING

Editorial Amendments and Corrections

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FEDERAL COMMUNICATIONS COMMISSION

THE LAW OF POLITICAL BROADCASTING AND CABLECASTING

Editorial Amendment; Order

Adopted: August 18, 1978.

Released: August 18, 1978.

In the matter of editorial amendment of the Commission's public notice concerning the law of political broadcasting and cablecasting.

1. On July 20, 1978, the Commission adopted a Public Notice restating and summarizing the statutes, Commission rules and policies and decisions of the courts and the Commission relating to broadcasts and cablecasts by and about candidates for public office. In the text of the Public Notice (43 FR 36342, August 16, 1978) the Commission inadvertently made an error in one legal citation and an error in reproducing one paragraph of § 73.1940 of the Commission's rules and regulations in the appendix.

2. The error in the legal citation was in footnote 28 to Paragraph 19, Section A, Part III, of the Public Notice. The second citation relating to Lar Daly in this footnote, coming at the end of the footnote, should have read:

Lar Daly, 40 FCC 317 (1960)

instead of "*Lar Daly*, 40 FCC 244 (1952)".

3. The error in the appendix consisted of omitting a number of words in reproducing § 73.1940(d) of the Political Broadcasting Rules.

4. In order to insure timely correction of these errors, *It is ordered*, That the captioned Public Notice is amended as set forth in the appendix effective August 18, 1978.

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

APPENDIX

The Commission's Public Notice titled "The Law of Political Broadcasting and Cablecasting," adopted on July 20, 1978, 43 FR 36342 (August 16, 1978), is amended as follows:

1. On p. 36358 of the FEDERAL REGISTER, footnote 28 to Paragraph 19, Section A, Part III, is amended to read as follows:

[28] *Lar Daly*, 40 FCC 273 (1956), aff'd by order dismissing appeal entered March 7, 1957, *Lar Daly* v. *U.S.A. and FCC*, Case No. 11946 (7th Cir. 1957), rehearing denied by order entered April 2, 1957, cert. den. 355 U.S. 826, rehearing denied, 355 U.S. 885 (1957), *Lar Daly*, 40 FCC 317 (1960).

2. On p. 36395 of the FEDERAL REGISTER, the quotation of Paragraph (d) of § 73.1940 of the Commission's rules and regulations is amended to conform with the correct text of the rule as follows:

(d) *Records, inspection.* Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. When free time is provided for use by or on behalf of such candidates, a record of the free time provided shall be placed in the political file. All records required by this paragraph shall be placed in the political file as soon as possible and shall be retained for a period of 2 years. See §§ 1.526 and 1.527 of this chapter.

[FR Doc. 78-23938 Filed 8-23-78; 8:45 am]

[1505-01]

THE LAW OF POLITICAL BROADCASTING AND CABLECASTING

Correction

In FEDERAL REGISTER Doc. 78-21434 appearing at page 36342 in the issue for Wednesday, August 16, 1978, make the following corrections:

(1) On page 36345, under the heading "A.—Equal Time? * * *", in the first paragraph, in the third line, between the words "fairness" and "applies", insert the word "doctrine".

(2) On page 36347, under the heading "E.—Laws Apply Only to Appearances by Candidates", in the second paragraph, in the fourth line, the word "rapid" should be changed to "paid".

(3) On page 36350, under the heading "K.—Political Editorials", in the sixth line, the phrase after the comma should read "* * *, it will be considered to fall".

(4) On page 36361, in the paragraph in small print which follows paragraph (e), in the second line, the word "they" should be corrected to read "that".

(5) On page 36361, in the footnotes in the right margin, in footnote 17, the number in parentheses now reading "(19709)" should read "(1970)".

(6) Also on page 36361, in footnote 18, immediately before "F.C.C.", insert "23".

(7) On page 36364, under the heading "NEWS INTERVIEW PROGRAMS RULED EXEMPT", in paragraph (c) "*Phone In*" * * *, in the next to last line, the word "as" should be "was".

(8) On page 36382, in paragraph "(1)", in the second line, the first "$1" should be "$2".

(9) On page 36390, under "FAIRNESS DOCTRINE EXAMPLES", in paragraph (b), in the 10th line, the phrase at the end of the line now reading "* * * and on the basis to decide" should read "* * * and on this basis to decide".

(10) On page 36391, in the first line, the word "precious" should be "previous".

(11) On page 36391, after "L.—Identifying Sponsor of Broadcast", in footnote 3 in the right margin, "45 FCC 2d 210", should be corrected to read "45 FCC 2d 201".

(12) Also on page 36391, in footnote 4 at the bottom of the right margin, "Station KOOLS-TV" should be corrected to read "Station KOOL-TV".

(13) On page 36394, the heading "DISPUTES OVER TERMS OR PERMANCE OF CONTRACT", should be corrected to read "DISPUTES OVER TERMS OR PERFORMANCE OF CONTRACT".

(14) On page 36396, in the fourth paragraph from the top, "(ii) has publicly * * *", in the first line, the last word now reading "written-in", should read "write-in".

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