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federal register

THURSDAY, JULY 21, 1977

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

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

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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Title 3—The President

PROCLAMATION 4513

Captive Nations Week, 1977

By the President of the United States of America

A Proclamation

Since 1959 the Congress, by joint resolution (73 Stat. 212), has authorized and requested the President to designate the third week in July as Captive Nations Week.

Our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights.

In recognition of this commitment, NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 17, 1977, as Captive Nations Week.

I call upon the people of the United States to observe this week with appropriate ceremonies and activities, demonstrating America's support for those who seek national independence, liberty, and human rights.

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

Jimmy Carter

[FR Doc.77-21262 Filed 7-20-77;11:38 am]

rules and regulations

Title 7—Agriculture

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

[Valencia Orange Reg. 565]

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 California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 22–28, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of of California, effective under the applicable provisions of 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 the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is strong.

Average f.o.b. price was $3.93 per carton on 613 cars for the week ended July 14, as compared with $3.80 per carton on 509 cars the previous week.

Track and rolling supplies at 382 cars were up 53 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consder supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on July 19, 1977.

§ 908.865 Valencia Orange Regulation 565.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period July 22, 1977, through July 28, 1977, are hereby fixed as follows:

(i) District 1: 244,000 cartons;

(ii) District 2: 381,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

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

Dated: July 20, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-21258 Filed 7-20-77;11:30 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule announces the loan rate, availability and maturity dates applicable to 1977 crop Flue-cured tobacco stored on farms. Under this rule, price support loans will be made available to eligible producers of farm stored Flue-cured tobacco. This rule is necessary because market facilities for Flue-cured tobacco at times become congested delaying the producers' opportunity to sell such tobacco or to obtain price support through their cooperative marketing association.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS) 202–447–9224, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Wednesday, April 20, 1977, there was published in the FEDERAL REGISTER (42 FR 20476) a notice of proposed rulemaking stating that the Secretary of Agriculture was preparing to establish the support level for the 1977 crop of each eligible kind of tobacco and that no substantive changes were contemplated in the method of supporting tobacco or in the price support regulations appearing at 7 CFR Part 1464. The public was invited to comment on the proposed rule, 66 comments were received.

DISCUSSION OF COMMENTS

Five commenters favored continuation of the tobacco price support program

without substantive change; 61 commenters opposed the program because of health related factors associated with the use of tobacco products. In that regard, the Secretary of Agriculture is required to make price support available to producers of tobacco in the manner prescribed by Federal law.

After considering all responses, it has been determined that the farm stored Flue-cured loan program will be continued at approximately 75 percent of the average level of support for Flue-cured tobacco. Other provisions of the regulations are without substantive change.

FINAL RULE

Therefore, the General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and the Subpart—1972 and Subsequent Crops Flue-Cured Tobacco Farm-Stored Loan Program Regulations, published at 37 FR 16930, are further supplemented for the 1977 crop of Flue-cured tobacco by revising the regulations contained in 7 CFR, §§ 1421.420 through 1421.425 and the title of the subpart to read as follows:

Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement

Sec.
1421.420 Availability.
1421.421 Farm storage interim loan rate.
1421.422 Rate of interest.
1421.423 Liquidation of loans.
1421.424 Delivery charge.
1421.425 Maturity of loans.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6, (7 U.S.C. 1441, 1445, 1421, and 1423)

Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement

§ 1421.420 Availability.

A producer desiring a farm storage loan on his eligible Flue-cured tobacco stored in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia must request a loan at the county ASCS office not later than November 1, 1977.

§ 1421.421 Farm storage interim loan rate.

The loan will be made at a rate of 85 cents per pound for regular varieties or 43 cents per pound for discount varieties on the quantity of eligible tobacco tendered as security for a loan under this subpart if the producer certifies the grade composition of such tobacco to be equal to or better than the average grade composition of a normal crop. If the producer certifies the grade composition to be below such average quality, the rate of loan shall be 15 cents less than the loan rate which would otherwise be applicable.

§ 1421.422 Rate of interest.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1421.423 Liquidation of loans.

(a) Section 1421.19 of the general regulations shall not apply to this program. Loans shall be liquidated by one of the following methods, at the producer's option: (1) Repayment of the amount loaned, plus interest, on or before maturity to the county office which approved the loan. Repayment may be made by the producer, by the buyer, or by the Marketing Recorder upon sale of tobacco securing the loan. (2) Delivery, as directed by CCC, during a period of approximately 1 week beginning immediately after the close of the 1977 auction marketing season to a cooperative association designated by CCC of a quantity of Flue-cured tobacco eligible for price support having a settlement value equal to the outstanding principal balance of the loan.

(b) Notwithstanding the provisions of § 1421.23 of the general regulations, no deduction for storage charges will be made if the tobacco is delivered during this period. The association will advise producers of the time and place at which the tobacco is to be delivered in liquidation of farm storage loans and will determine the settlement value of the tobacco delivered on the basis of the grade and quality thereof as determined by the inspection service of the Agricultural Marketing Service, USDA.

§ 1421.424 Delivery charge.

Notwithstanding the provisions of § 1421.11 of the general regulations, there shall be no delivery charge on the tobacco delivered to the association.

§ 1421.425 Maturity of loans.

Unless demand is made earlier, farm storage loans on Flue-cured tobacco will mature on December 1, 1977.

Signed at Washington, D.C., on July 12, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-20926 Filed 7-20-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Termination Date for Water Projects

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide water projects with a new termination date. This action is brought about by the need for more time so that more projects may be completed.

EFFECTIVE DATE: July 21, 1977. Comments must be received on or before August 22, 1977.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Dwight O. Calhoun 202-447-7287.

SUPPLEMENTAL INFORMATION: Part 1888 of Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter G, "Miscellaneous Regulations," is amended. The purpose of this amendment is to extend the time limit set on water projects by providing a new eligibility and termination date for completion of projects where there are severe problems resulting from water shortages due to the drought. It is the policy of this department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553. This amendment however, is not published for proposed rulemaking since it extends needed financial assistance to communities in rural areas which may have suffered losses and extreme privation as a result of abnormal drought conditions, and any delay in administering this assistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. Accordingly, paragraph (c) of § 1888.13 and paragraphs (a) and (b) of § 1888.17 are amended to read as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

* * * * *

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused problems. Such assistance may include, but not be limited to, deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Additionally, assistance may be provided for short term measures necessary to augment community water supplies where there are severe problems resulting from water shortages due to the drought, including initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities

attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be completed by April 30, 1978. Under special circumstances or hardships, an extension of completion time may be granted by the FmHA Administrator.

* * * * *

§ 1888.17 Termination provisions.

(a) Any assistance provided under this Instruction must be for an applicant with an application on file and funds obligated on or before September 30, 1977.

(b) Projects should be completed no later than April 30, 1978. Under special circumstances or hardship situations an extension of completion time may be granted by the FmHA Administrator.

* * * * *

(7 U.S.C. 1980; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

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

Dated: July 13, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-20927 Filed 7-20-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-82; Amdt. 39-2976]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires an inspection and alteration where necessary of the elevator torque tube on Canadair CL-215 type airplanes. The inspection will determine whether parts of the assembly need to be replaced and shimmed so as to remove the possibility of lateral movement of the shaft. This movement was revealed during factory inspection.

EFFECTIVE DATE: July 27, 1977. Compliance prior to application for U.S. Airworthiness Certification.

ADDRESSES: Canadair Service Information Circular 115-CL-215 may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been a report that factory inspection during the jigging of the aircraft revealed inadequate bearing engagement at the shoulders of the elevator shaft quadrants. This would cause lateral movement of the shaft resulting in an unsafe condition. The rule (AD) will require measurement of the face of the shoulder of the input quadrant and the face of the inner race. If the measurement fails to meet required specifications, the bearing housings are to be replaced and adjustable packers (shims) added. Since there are no U.S. registered CL-215 type airplanes, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are I. Mankuta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding a new airworthiness directive, as follows:

CANADAIR: Applies to Canadair CL-215-1A10 airplanes, Serial Number 1001 thru 1040, and 1046, certificated in all categories.

Compliance is required prior to U.S. Airworthiness Certification.

To ensure correct engagement of shoulders of input quadrant P/N 215-90252 in left and right outboard bearing assemblies P/N 215-90255 or 215-90291, accomplish the following:

On both ends of the elevator torque tube, measure the dimensions between the face of the shoulder of the input quadrant and the face of the bearing inner race. The two dimensions are to be added and their total compared to the following:

(a) Aircraft 1001 thru 1015 and 1021 thru 1030, using bearing P/N 215-90255:

If greater than 0.200 inches, alter assembly in accordance with the Modification and Procedure paragraph of Canadair Service Bulletin CL-215-201, dated 1/13/76, or approved equivalent alteration.

(b) Aircraft 1016 thru 1020 and 1031 thru 1040, and 1046, using bearing P/N 215-90291.

If greater than 0.100 inches, alter assembly in accordance with the Modification and Procedure paragraph of Canadair Service Bulletin CL-215-201, dated 1/13/76, or approved equivalent alteration.

Equivalent alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Canadair Service Information Circular 115-CL-215 pertains to this subject.

Effective date: This amendment is effective July 27, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 313(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 does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 13, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-20766 Filed 7-20-77;8:45 am]

[Docket No. 17032; Amdt. 39-2974]

PART 39—AIRWORTHINESS DIRECTIVES

Let N.P. Blanik 13 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which requires repetitive inspections of the fin top rib and central stiffener, repair, as necessary, and replacement of the fin top rib and central stiffener on certain Let N.P. Blanik 13 gliders. This amendment incorporates additional information to assist in dismantling of the rudder.

DATES: Effective August 4, 1977. Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished within the last 90 hours time in service, and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

ADDRESSES: The applicable service bulletin may be obtained from Omnipol FTC, Washington Street 11, 110 00 Prague I, Czechoslovakia.

A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513-38-30.

SUPPLEMENTARY INFORMATION: Amendment 39-2333 (40 FR 33007), AD 75-17-28, as amended by Amendments 39-2379 (40 FR 45802) and 39-2498 (41 FR 2375), requires repetitive inspections of the fin top rib and central stiffener, repair, as necessary, and replacement of the fin top rib and central stiffener on certain Let N.P. Blanik 13 gliders. After issuing Amendment 39-2498, the FAA determined that the referenced service bulletin should be supplemented with additional rudder dismantling information provided by the manufacturer to assist in replacement of fin top rib and central stiffener. Therefore, the AD is being superseded by a new AD that includes this information.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary

and the amendment may be made effective in less than 30 days.

The principal authors of this document are R. J. Huhn and N.S. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and 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 airworthiness directive:

LET N. P. Applies to Blanik 13 gliders, certificated in all categories, with serial numbers 173205 through 174230, inclusive.

Compliance is required as indicated.

To prevent structural failure of the fin top rib, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished within the last 90 hours time in service, and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection, visually inspect the fin top rib and central stiffener (fuselage stiffener) with a 5 power magnifying glass in accordance with the accomplishment instructions set forth in paragraph A of LET N. P. UH HRADTSTE-KUNOVICE (LET N. P.) Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent.

(b) If cracks are found in the fin top rib of less than 5 mm in length, or of any length in the central stiffener, before further flight, either—

(1) Repair the fin top rib or central stiffener as necessary, in accordance with the accomplishment instructions set forth in paragraph B of LET N. P. Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent; or

(2) Comply with paragraph (e) of this AD.

(c) If any cracks are found in the fin top rib which exceed 5 mm in length, before further flight, comply with paragraph (e) of this AD.

(d) If no cracks are found, within the next 200 hours time in service after the effective date of this AD, comply with paragraph (e) of this AD.

(e) Replace both the fin top rib and central stiffener in accordance with the accomplishment instructions set forth in paragraphs C and D of LET N. P. Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent.

NOTE.—To assist in the dismantling of the rudder the following information is provided:

(1) It is recommended that, in loosening the split pin securing the slotted nut in the bottom rudder hinge, the bent ends of the split pin be straightened first using a suitable pointed tool and then the pin be removed.

(2) The rudder dismantling procedures are as follows:

(i) The nut of the bottom rudder hinge accessible through the mounting opening on the fuselage part should be released and unscrewed.

(ii) The cloth blinds on the rudder edge curve and leading edge should be removed. The top rudder hinge stud bolt should be released and unscrewed.

(iii) The rudder should be lifted slightly and its top edge should be pulled slightly backwards to be released from the top hinge.

(iv) The rudder should be held in the inclined position and carefully lifted from the step ball bearing.

(3) The bottom rivets of the intermediate stiffener supporting the rudder bearing should be routed by an extended drill rod through the 60 mm. diameter opening in the rear fuselage partition as recommended by the Note in paragraph D of LET N.P. Mandatory Bulletin L 13/040. Routing of the rear fuselage part in position 14 of the partition is not recommended.

(4) A modified shank should be used for riveting a new fin rib. For this purpose, a 35 mm. diameter opening should be made in the fin spar (See LET N.P. Mandatory Bulletin L 13/040, paragraph C).

(f) The inspections required by paragraph (a) of this AD may be discontinued when the fin top rib and central stiffener have been replaced in accordance with paragraph (e) of this AD.

This amendment supersedes Amendment 39-2333 (40 FR 33007), AD 75-17-28, as amended by Amendments 39-2379 (40 FR 45802) and 39-2498 (41 FR 2375).

This amendment becomes effective August 4, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document 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 July 8, 1977.

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

[FR Doc.77-20581 Filed 7-20-77;8:45 am]

[Docket No. 17033; Amdt. 39-3975]

PART 39—AIRWORTHINESS DIRECTIVES

Morane Saulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T, and RALLYE 150ST Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, repair as necessary, and modification of certain engine mount brackets on Morane Saulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes to detect cracks that could result in failure of the engine mounts and loss of the engine.

DATES: Effective August 22, 1977. Compliance required within the next 100 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time in service.

ADDRESSES: The applicable service bulletin may be obtained from Morane Saulnier (SOCATA), B. P. 38, 65001, Tarbes, France.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certificaton Staff, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, APO New York, N.Y. 09667.

SUPPLEMENTARY INFORMATION: There have been reports of cracks of the engine mounts on certain Morane Saulnier (SOCATA) Model MS 892A150 and MS 893A airplanes that could result in failure of the engine mounts and subsequent loss of the engine from the airplane.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection, repair as necessary, and modification of certain engine mounts on Morane Soulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes.

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

DRAFTING INFORMATION

The principal authors of this document are R. V. Huhn, Europe, Africa, and Middle East Region, J. Kiselica, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

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

MORANE SAULNIER (SOCATA). Applies to Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes, certificated in categories.

Compliance is required as indicated.

To prevent failure of engine mounts, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 50 hours time in service from the last inspection, visually inspect the engine mounts for cracks using dye penetrant in accordance with paragraphs 111-1-1 and 111-1-2 of SOCATA Service Bulletin No. 98/2, dated April 1976, or an FAA-approved equivalent.

(b) If one or more cracks are detected as a result of any inspection required by paragraph (a) of this AD, repair as necessary in accordance with paragraph 111-1-3 of SOCATA Service Bulletin No. 98/2, dated April 1976, or an FAA-approved equivalent.

(c) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, on airplanes with right angle engine mount brackets, modify the brackets in accordance with paragraph 111-2 of SOCATA Service Bulletin No.

98/2, dated April 1976, or an FAA-approved equivalent.

This amendment becomes effective August 22, 1977.

(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 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 July 11, 1977.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77-20582 Filed 7-20-77;8:45 am]

[Docket No. 77-GL-16; Amdt. 39-2973]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom Helicopter Corp. Models F28C & 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment comprising a new Airworthiness Directive (AD) was adopted effective immediately on June 15, 1977 and concurrently copies were air mailed to all known operators of Enstrom F28C and 280C helicopters with wide chord (4.4 inch) tail rotors. The AD requires a dye penetrant inspection of the wide chord tail rotor pitch link retainer assembly before further flight and requires replacement of this part within 10 hours time in service with a new pitch link retainer assembly. Failure of the pitch link retainer assembly has caused abnormal vibration and may result in loss of directional control of the helicopter.

DATES: Effective date, July 26, 1977.

Compliance schedule.—Before further flight perform a dye penetrant inspection and replace the pitch link retainer assembly and associated guide bolts within the next 10 hours unless already accomplished.

FOR FURTHER INFORMATION CONTACT:

J. Snitkoff, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 424.

SUPPLEMENTARY INFORMATION: After 145 hours operation a crack appeared in the base of the arm of the pitch link retainer assembly Part Number 28-16320 on a helicopter with a wide chord (4.4 inch) tail rotor blade assembly which resulted in abnormal vibration. Complete failure of the pitch link retainer assembly would result in loss of helicopter directional control. Since this condition was likely to exist or develop on other model F28C 28OC with wide chord (4.4 inch) tail rotor blade assemblies, an airworthiness directive was issued to inspect and replace the pitch link retainer assembly Part Number 28-16320.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately to all known United States operators of Enstrom Models F28C and 28OC by individual airmail letters dated June 15, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.17 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final rule is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Snitkoff, Flight Standards Division, Great Lakes Region, and J. T. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Pursuant to the authority of the Federal Aviation Act of 1958 delegated to me by the Administrator, and airworthiness directive was adopted on June 15, 1977, and made effective immediately.

Enstrom. Applies to Enstrom Models F28C and 280C helicopters with wide chord (4.4 inch) tail rotor blades certificated in all categories. Before further flight perform a dye penetrant inspection around the circular hub including the arm base of the pitch link retainer assembly P/N 28-16320 unless already accomplished in the last ten hours time in service. Within ten (10) hours time in service after the receipt of this airmail letter, unless already accomplished, replace the wide chord tail rotor pitch link assembly P/N 28-16320 and two (2) guide bolts P/N 28-16307 with a new wide chord tail rotor pitch link retainer assembly P/N 28-16325 and two (2) guide bolts P/N 28-16324. Enstrom Service Directive Bulletin Number 0040 pertains to this same subject.

This amendment is effective July 26, 1977, and was effective immediately for all recipients of airmail letters dated June 15, 1977 which contained this amendment.

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

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 Des Plaines, Ill., on July 8, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-20919 Filed 7-20-77;8:45 am]

[Docket No. 16390, Amdt. 39-2980]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Viscount Model 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, reworking, and replacement, as necessary, of the aileron control rods on British Aircraft Corporation Viscount Model 744, 745D, and 810 airplanes. The AD is needed to prevent cracks in the aileron control rod tube sleeve and possible aileron failure which could result in the loss of control of the airplane.

DATES: Effective August 22, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable technical leaflets may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202. Telephone 703-979-1400.

A copy of each of the technical leaflets is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection, reworking, and replacement, as necessary, of the aileron control rods on British Aircraft Corporation Viscount Model 744, 745D, and 810 airplanes was published in the FEDERAL REGISTER at 42 FR 1268. The proposal was prompted by reports of corrosion in the bore of the aileron control rod tubes, and corrosion between the aileron control rod tubes and their steel guide sleeves and stop sleeves, which could result in aileron failure with loss of control of the airplane.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and determined that it should be adopted. Accordingly, the proposal is adopted without change.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and

Middle East Region, C. Birkenholz, Flight Standards Service, and S. Hauselt, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

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

BRITISH AIRCRAFT CORPORATION. Applies to Viscount Models 744, 745D, and 810 airplanes with aileron control rods, P/N 60903, sheets 185 and 187 and P/N 70103, sheets 329, 445, 447, 449, 451, 453, 457, and 459, certified in all categories.

Compliance is required as indicated, unless already accomplished.

To detect corrosion of the aileron control rods and prevent possible aileron failure, accomplish the following:

(a) Within the next 30 days after the effective date of this AD or 18 months from the date of the last overhaul of the specified aileron control rods, whichever occurs later, and thereafter at intervals not to exceed 6 months from the last inspection, inspect the aileron control rods for corrosion in accordance with paragraph 2.2 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(b) If, during an inspection required by paragraph (a) of this AD, corrosion is found, before further flight, replace the corroded parts with new parts of the same part number.

(c) If, during an inspection required by paragraph (a) of this AD, no corrosion is found, rework the aileron control rods in accordance with paragraph 2.2.1 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(d) The repetitive inspections required by paragraph (a) of this AD may be discontinued upon compliance with paragraph (e) of this AD.

(e) Within the next 2 years after the effective date of this AD or at the next aileron control rod overhaul, whichever occurs sooner, remove the affected aileron control rods, disassemble the external sleeves where fitted, and conduct a radiographic inspection of the aileron control rod tubes and a visual inspection of the external sleeves in accordance with paragraph 2.4 "Accomplishment Instructions" and paragraph entitled "Radiographic Technique" of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(f) If, during the inspection required by paragraph (e) of this AD, corrosion is found, before further flight, replace the corroded parts with new parts of the same part number.

(g) If, during the inspection required by paragraph (e) of this AD, no corrosion is found, rework the aileron control rods in accordance with paragraph 2.4 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

This amendment becomes effective August 22, 1977.

(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 Washington, D.C. on July 13, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-20921 Filed 7-20-77;8:45 am]

[Docket No. 17040, Amdt. 39-2982]

PART 39—AIRWORTHINESS DIRECTIVES

Filotecnica Salmoiraghi (Aeritalia S.p.A.) Airspeed Indicators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection for proper airspeed indicator calibration and scrapping, if necessary, of certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. This amendment is directed at the prevention of erroneous airspeed indications on aircraft equipped with certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. Such erroneous indications have occurred in the past as a result of internal distortion of the instrument casing and misalignment of mechanisms within the airspeed indicator.

DATES: Effective August 4, 1977.

Compliance is required within the next 25 hours time in service after the effective date of this AD.

ADDRESSES: A copy of SAE Aeronautical Standard AS-391B referenced in this AD may be obtained from the Society of Automotive Engineers, 485 Lexington Avenue, New York, New York 10017.

A copy of SAE Aeronautical Standard AS-391B is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There have been reports of occurrences of airspeed indicators being out of calibration as a result of internal distortion of the instrument casing and misalignment of mechanisms within the instrument which could result in erroneous airspeed indications on aircraft equipped with certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. Since this condition is likely to exist or develop in other products of the same type design, an airworthiness directive is being issued which requires an inspection for proper airspeed indicator calibration and scrapping, if necessary, of certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators.

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.

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, N. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

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

FILOTECNICA SALMOIRAGHI (AERITALIA S.p.A.) Applies to airspeed indicators, serial numbers 3800 and below, with part numbers—

P/N 8.039.003	P/N 8.039.608.1
8.039.008	8.039.703
8.039.008.1	8.039.708
8.039.503	8.039.708.1
8.039. 508	8.039.808
8.039.508.1	8.039.808.1
8.039.603	8.039.408
8.039.608	8.039.408.1

Compliance is required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

To prevent the possibility of erroneous airspeed indications, accomplish the following:

(a) Inspect the affected airspeed indicators for proper calibration by ensuring that the differential pressure values and tolerances for the indicator's airspeed range conform to those set forth in Tables I and II of SAE Aeronautical Standard AS-391B "Airspeed Indicator (Pitot Static)," dated December 15 1954, or an FAA-approved equivalent.

(b) If an airspeed indicator inspected in accordance with Paragraph (a) of this AD is found not be in proper calibration, scrap it.

This amendment becomes effective August 4, 1977.

(Secs. 313(a), 601, 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 Washington, D.C., on July 13, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-20922 Filed 7-20-77;8:45 am]

[Docket No. 15460, Amdt. 39-2981]

PART 39—AIRWORTHINESS DIRECTIVES

Avions-Marcel Dassault-Breguet Aviation Model Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the pilot and copilot seat rails on certain AMD–BA Model Falcon 10 airplanes. The AD is needed to prevent distortion of these seat rails which could allow unwanted movement of the pilot or copilot seat during flight and could result in loss of control of the airplane.

DATES: Effective August 22, 1977. Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Falcon Jet Corporation, Teterboro Airport, New Jersey 07608, telephone 201–288–5300. A copy of each of the service bulletins is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW. Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require modification and reidentification of the pilot and copilot seat rails on certain Avions Marcel Dassault-Breguet Aviation (AMD–BA) Model Falcon 10 airplanes was published in the FEDERAL REGISTER at 41 FR 11323. The proposal was prompted by the fact that distortion of the pilot and copilot seat rails could allow unwanted movement of the seats during flight and could result in loss of control of the aircraft.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received as to the need for the modification, the manufacturer of the airplane requested that the proposal be withdrawn since all affected aircraft in the U.S. have had the modification incorporated. The FAA has reevaluated the need for the proposed amendment and determined that it should still be adopted to preclude the possibility of reverting to the original, unsafe seat installation when an aircraft of this model is refurbished or has the seating structure replaced without incorporating the necessary modification. Furthermore, for the same reason, the proposed AD has been revised by removing the Falcon 10 S/Ns specified and expanding the effectivity of the AD to include all affected Falcon 10 aircraft.

Since this situation requires the immediate adoption of this regulation with respect to the additional Falcon 10 airplanes, it is found that notice and public procedure hereon are impracticable and good cause exists for including the additional Falcon 10 airplanes in this amendment.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, C. Birkenholz, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

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

AVIONS MARCEL DASSAULT-BREGUET AVIATION (AMD–BA). Applies to Model Falcon 10 airplanes, certificated in all categories, incorporating SICMA AERO–SEAT pilot seat, P/N 376–2, or copilot seat, P/N 376–3.

Compliance is required within the next 100 hours time in service after the effective date of this AD unless already accomplished.

To prevent possible unwanted movement of a pilot or copilot seat when operating in turbulence or when performing high-g maneuvers, for SICMA AERO-SEAT pilot seats, P/N 376–2, and copilot seats, P/N 376–3, modify the seat rails and reidentify the seats in accordance with SICMA AERO-SEAT Service Bulletin 376/F10/BS 01, dated June 5, 1975, including Revision "A", dated July 1975, or an FAA-approved equivalent. (AMD–BA Service Bulletin No. F10/0093 (ATA No. F10/25/007), dated July 18, 1975, pertains to this subject.)

This amendment becomes effective August 22, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 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 Washington, D.C., on July 13, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-20923 Filed 7-20-77;8:45 am]

[Airspace Docket No. 77-EA-28]

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

Alteration of Control Zone and Transition Area: Aberdeen, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides additional airspace (control zone, transition area) to protect aircraft executing approach and departure procedures for Phillips Army Air Field, Aberdeen Proving Ground, Maryland. A new VOR–B instrument approach has been developed for the air field.

EFFECTIVE DATE: 0901 G.m.t. August 11, 1977.

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, New York 11430, Telephone 212–995–3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Aberdeen, Md., Control Zone, and Transition Area. The NPRM was published in the FEDERAL REGISTER on May 12, 1977 (42 FR 24066). The proposal resulted from a change to the instrument approach procedure.

Interested parties were given 30 days in which to reply but no objections were received to the proposal.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. August 11, 1977, as published.

(Secs. 30(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the 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 Jamaica, New York, on July 1, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

§ 71.171 [Amended]

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations by amending the description of the Aberdeen, Md. Control Zone as follows:

After the words, "northeast of the RBN" insert, "; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR."

§ 71.181 [Amended]

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by

adding the following to the description of the Aberdeen, Md., Transition Area: "; within 5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 13 miles northeast of the VOR."

[FR Doc.77-20585 Filed 7-20-77;8:45 am]

[Airspace Docket No. 77-WE-8]

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

Madera, California; Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Madera, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Madera Municipal Airport.

EFFECTIVE DATE: September 8, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Madera, California.

On June 2, 1977, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 28149) stating that the Federal Aviation Administration proposed to designate a transition area at Madera, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Madera Municipal Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 8, 1977.

§ 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

MADERA, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a 4.5 mile radius of Madera Municipal Airport (latitude 36°59'15" N., longitude 120°06'40" W.); and within 4.5 miles each side of the Fresno VORTAC 291° radial, extending from the 4.5 mile radius area to seven miles west of the VORTAC.

This amendment is issued under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and 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 Los Angeles, California, on July 11, 1977.

FRANK HAPPY,
Acting Deputy Director,
Western Region.

[FR Doc.77-20767 Filed 7-20-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17031; Amdt. No. 95-273]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditons in the affected areas.

EFFECTIVE DATE: August 11, 1977.

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 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COP's) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment 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 and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: August 11, 1977.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 24 FR 5662 and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment 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 July 11, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

§95.101 AMBER FEDERAL AIRWAY 1
is amended to read in part:

FROM	TO	MEA
Ocean Cape, Alas. NDB	Capes INT, Alas.	2000
Capes INT, Alas.	Corva INT, Alas.	5000

§95.1001 DIRECT ROUTES–U.S.
is amended by adding:

FROM	TO	MEA
Ralls INT, Okla.	INT 143 M rad Gage VOR & 076 M rad Sayre VOR	*6000
*3900–MOCA		

DIRECT ROUTES–U.S.–cont'd.

FROM	TO	MEA
Carlsbad, N.M. VOR	*Carpa INT, N.M.	**8000
*9000–MRA		
**7300–MOCA		
Carlsbad, N.M. VOR	Midland, Tex. VOR	*7000
Via CNM 086 / MAF 268		
*5000–MOCA		
St. Jean, Que. Can. VORTAC	Lebanon, N.H. VOR	#18000
Via YJN 160 / LEB 360		MAA–26000
#For that airspace over U.S. territory.		
Lebanon, N.H. VOR	Pease AFB, N.H. VOR	10000
Via LEB 135 / PSM 317		MAA–26000
Pease AFB, N.H. VOR	Korky INT, Me.	10000
Via PSM 164		MAA–16000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J804R is amended to read:						
Darbs, Fla. W/P	170.6	130.6	Dorbs	332/152 to COP	18000	45000
Amour, Ga. W/P				331/151 to Amour		
Amour, Ga. W/P	145.5	40.0	Amour	342/162 to COP	18000	45000
La Grange, Ga. W/P				340/160 to La Grange		
J812R is amended to read:						
Hight, Fla. W/P	149.0			334/154 to COP	18000	45000
Aport, Fla. W/P				334/154 to Aport		
Aport, Fla. W/P	76.0			335/155 to COP	18000	45000
Archi, Fla. W/P				335/155 to Archi		
Archi, Fla. W/P	117.0	70.0	Archi	001/181 to COP	18000	45000
Alma, Ga. W/P				002/182 to Alma		
Almo, Ga. W/P	108.0			331/151 to COP	18000	45000
Corni, Ga. W/P				330/150 to Corni		
Corni, Ga. W/P	85.0			333/153 to COP	18000	45000
Conte, Ga. W/P				330/150 to Conte		
Conte, Ga. W/P	181.0			344/164 to COP	18000	45000
Shuto, Ky. W/P				347/167 to Shuto		
Shuto, Ky. W/P	88.0	16.0	Shuto	341/161 to COP	18000	45000
Borde, Ind. W/P				335/155 to Borde		

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE	CHANGEOVER POINT FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
Borde, Ind. W/P Fores, Ind. W/P	144.0	52.0	Borde	335/155 to COP 339/159 to Fores	18000	45000
Fores, Ind. W/P Chicago Heights, Ill. W/P	43.0			338/158 to Chicago Heights	18000	45000
J814R is amended to delete:						
Montgomery, Ala. VORTAC Taxii, Ga. W/P	74.8			46/226 to Taxii	18000	45000
J814R is amended by adding:						
Montgomery, Ala. VORTAC La Grange, Ga. W/P	75.1			045/225 to La Grange	18000	45000
J815R is amended to read:						
Casanovo, Va. W/P Coppa, Va. W/P	167.0	105	Casanova	237/057 to COP 233/053 to Coppa	18000	45000
Coppa, Va. W/P Shine, S.C. W/P	152.0			236/056 to COP 234/054 to Shine	18000	45000
Shine, S.C. W/P Macey, Ga. W/P	67.0			212/032 to Macey	18000	45000
J837 is amended to read in part:						
Fores, Ind. W/P Chicago Heights, Ill. W/P	43.0			338/158 to Chicago Heights	18000	45000
J839R is amended to read:						
Kicks, Ga. W/P Corni, Ga. W/P	170			327/147 to COP 327/147 to Corni	18000	45000
J842R is amended to read in part:						
Dallas-Fort Worth, Tex. VORTAC Texarkana, Ark. W/P	154			067/247 to COP 067/247 to Texarkana	18000	45000
J843R is amended to read in part:						
Horeb, Ark. W/P Dallas-Fort Worth, Tex. VORTAC	150			237/057 to COP 235/055 to Dallas-Fort Worth	18000	45000
J863R is amended to read:						
Coyle, N.J. VORTAC Gordonsville, Va. W/P	205.0			249/069 to COP 244/064 to Gordonsville	18000	45000
Gordonsville, Va. W/P Galax, Va. W/P	148.0			239/059 to COP 234/054 to Galax	18000	45000
Galax, Va. W/P Macey, Ga. W/P	150.0	50.0	Galax	234/054 to COP 232/052 to Macey	18000	45000

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J869R is amended to read:						
Corni, Ga. W/P	80.0			071/251 to COP	18000	45000
Augusta, Ga. W/P				072/252 to Augusta		
Augusta, Ga. W/P	40.0				18000	45000
Zolly, S.C. W/P				071/251 to Zolly		
J877R is amended to read:						
Olive, Ga. W/P	118.0				18000	45000
Corni, Ga. W/P				293/113 to Corni		
J879R is amended to read:						
Appleton, Ohio W/P	105				18000	45000
Prins, W. Va. W/P				188/008 to Prins		
Prins, W. Va. W/P	138.0			188/008 to COP	18000	45000
Roder, Tenn. W/P				185/005 to Rader		
Roder, Tenn. W/P	113.0			199/019 to COP	18000	45000
Mocey, Ga. W/P				201/021 to Mocey		
J881R is amended to read:						
Carleton, Mich. W/P	109.0			193/013 to COP	18000	45000
Rosewood, Ohio VORTAC				195/015 t Rosewood		
Rosewood, Ohio VORTAC	95.0			177/357 to COP	18000	45000
Miner, Ky. W/P				174/354 to Miner		
Miner, Ky. W/P	263.0	142.0	Miner	175/355 to COP	18000	45000
Mocey, Ga. W/P				180/000 to Mocey		

§95.5500 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J912R is amended to read in part:						
Dallas-Fort Worth, Tex. W/P	164	114	Dallas-Fort Worth	027/207 to COP	18000	45000
Stick, Okla. W/P				027/207 to Stick		
J914R is amended to read in part:						
Dallas-Fort Worth, Tex. VORTAC	154			104/284 to COP	18000	45000
Tenno, Tex. W/P				107/287 to Tenno		

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE	CHANGEOVER POINT FROM	TRACK ANGLE	MEA	MAA
J934R is amended to read in part:						
Dallas-Fort Worth, Tex. VORTAC	154			067/247 to COP	18000	45000
Texarkana, Ark. W/P				067/247 to Texarkana		
J941R is amended to read in part:						
Dallas-Fort Worth, Tex. VORTAC	44			293/113 to COP	18000	45000
Bridgeport, Tex. W/P				292/112 to Bridgeport		
J942R is amended to read in part:						
Dallas-Fort Worth, Tex. W/P	44			293/113 to COP	18000	45000
Bridgeport, Tex. W/P				292/112 to Bridgeport		
J949R is amended to read in part:						
Kayes, Okla. W/P	150			156/336 to COP	18000	45000
Dallas-Fort Worth, Tex. VORTAC				158/338 to Dallas-Fort Worth		
Dallas-Fort Worth, Tex. VORTAC	162			154/334 to COP	18000	45000
Navasota, Tex. W/P				154/334 to Navasota		
J950R is amended to read in part:						
Refix, Tex. W/P	140			331/151 to COP	18000	45000
Scurry, Tex. W/P				330/150 to Scurry		
Scurry, Tex. W/P	172			332/152 to COP	18000	45000
Dibbs, Okla. W/P				330/150 to Dibbs		
J952R is amended to read in part:						
Coyle, N.J. VORTAC	205.0			249/069 to COP	18000	45000
Gordonsville, Va. W/P				244/064 to Gordonsville		
J991R is amended to read in part:						
Dallas-Fort Worth, Tex. VORTAC	209			009/189 to COP	18000	45000
Tulsa, Okla. VORTAC				009/189 to Tulsa		
J992R is amended to read in part:						
Refix, Tex. W/P	157			348/168 to COP	18000	45000
Yanti, Tex. W/P				348/168 to Yanti		
Yanti, Tex. W/P	197	95	Yanti	348/168 to COP	18000	45000
Tulsa, Okla. VORTAC				348/168 to Tulsa		

§95.6006 VOR FEDERAL AIRWAY 6
is amended by adding:

FROM	TO	MEA
Allentown, Pa. VOR	Broadway, N.J. VOR/DME	2700

§95.6007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Green Bay, Wis. VOR	Menominee, Mich. VOR	2500

§95.6009 VOR FEDERAL AIRWAY 9
is amended to read in part:

FROM	TO	MEA
Green Bay, Wis. VOR	Menominee, Mich. VOR	
Via E alter.	Via E alter.	2500

§95.6010 VOR FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Emporia, Kans. VOR	Napalean, Ma. VOR	*3000
*2500–MOCA		

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Emporia, Kans. VOR	Napalean, Ma. VOR	*3000
*2500–MOCA		

§95.6016 VOR FEDERAL AIRWAY 16
is amended to read in part:

FROM	TO	MEA
Sterl INT, R.I.	Foster INT, R.I.	*2500
*2000–MOCA		
Woonsocket INT, R.I.	Millis INT, Mass.	*2300
*1800–MOCA		

§95.6018 VOR FEDERAL AIRWAY 18
is amended to read in part:

FROM	TO	MEA
Millsap, Tex. VOR	Dallas-Fort Worth, Tex. VOR	2900
Dallas-Fort Worth, Tex. VOR	Quitman, Tex. VOR	*3000
*2200–MOCA		

§95.6023 VOR FEDERAL AIRWAY 23
is amended to read in part:

FROM	TO	MEA
*Mendota INT, Calif.	Panoche, Calif. VOR	
Via W alter.	Via W alter.	4500
*3000–MCA Mendota INT, SW-bound		
Panoche, Calif. VOR	Volta INT, Calif.	
Via W alter.	Via W alter.	5000

§95.6032 VOR FEDERAL AIRWAY 32
is amended to read in part:

FROM	TO	MEA
Spats INT, Nev.	Bonneville, Utah VOR	*11000
*10000–MOCA		

§95.6035 VOR FEDERAL AIRWAY 35
is amended to delete:

FROM	TO	MEA
INT 262 M rad Biscayne Bay VOR & 147 M rad Miami VOR	Famin INT, Fla.	
Via W alter.	Via W alter.	2000

§95.6035 VOR FEDERAL AIRWAY 35
is amended by adding

FROM	TO	MEA
Biscayne Bay, Fla. VOR	Famin INT, Fla.	
Via W alter.	Via W alter.	2000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
Weaverville INT, N.C.	Unica INT, N.C.	
Via W alter.	Via W alter.	7500
Unica INT, N.C.	Holston Mountain, Tenn. VOR	
Via W alter.	Via W alter.	7000
Morgantown, W. Va. VOR	Uniontown INT, Pa.	
Via W alter.	Via W alter.	5000
Uniontown INT, Pa.	Newton INT, Pa.	
Via W alter.	Via W alter.	4000

§95.6050 VOR FEDERAL AIRWAY 50
is amended by adding:

FROM	TO	MEA
Hastings, Neb. VOR	Pawnee City, Neb. VOR	4000

§95.6061 VOR FEDERAL AIRWAY 61
is added to read:

FROM	TO	MEA
Grand Island, Neb. VOR	Pawnee City, Neb. VOR	*4000
*3100–MOCA		

§95.6073 VOR FEDERAL AIRWAY 73
is amended by adding:

FROM	TO	MEA
Wichita, Kans. VOR	Fraks INT, Okla.	*3500
*2900–MOCA		
Fraks INT, Okla.	Tulsa, Okla. VOR	*3000
*2500–MOCA		

§95.6074 VOR FEDERAL AIRWAY 74
is amended to delete:

FROM	TO	MEA
Anthony, Kans. VOR	INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR	
Via N alter.	Via N alter.	3000
INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR	Pioneer, Okla. VOR	
Via N alter.	Via N alter	2800

§95.6079 VOR FEDERAL AIRWAY 79
is added to read:

FROM	TO	MEA
Hastings, Neb. VOR	Lincoln, Neb. VOR	4000

§95.6097 VOR FEDERAL AIRWAY 97
is amended by adding:

FROM	TO	MEA
Miami, Fla. VOR	LaBelle, Fla. VOR	
Via E alter.	Via E alter.	*2000
*1300–MOCA		

§95.6107 VOR FEDERAL AIRWAY 107
is amended to delete:

FROM	TO	MEA
Los Banos, Calif. VOR	*Sunal INT, Calif.	
Via E alter.	Via E alter.	6500
*6500–MCA Sunal INT, SE-bound		

§95.6107 VOR FEDERAL AIRWAY 107
is amended by adding:

FROM	TO	MEA
Panoche, Calif. VOR	*Sunal INT, Calif.	
Via E alter	Via E alter.	6500
*6500–MCA Sunal INT, SE-bound		

§95.6107 VOR FEDERAL AIRWAY 107
is amended to read in part:

FROM	TO	MEA
Avenal, Calif. VOR	*Panoche, Calif. VOR	7000
*5500–MCA Panoche VOR, SE-bound		
Panoche, Calif. VOR	*Cathedral INT, Calif.	**7000
*7000–MCA Cathedral INT, NW-bound		
**5700–MOCA		

§95.6109 VDR FEDERAL AIRWAY 109
is amended to delete:

FROM	TO	MEA
Los Banos, Calif. VOR	Volta INT, Calif.	5000

§95.6109 VDR FEDERAL AIRWAY 109
is amended by adding:

FROM	TO	MEA
Panoche, Calif. VOR	Volta INT, Calif.	5000

§95.6113 VOR FEDERAL AIRWAY 113
is amended by adding:

FROM	TO	MEA
Priest, Calif. VOR	Panoche, Calif. VOR	7000
*Panoche, Calif. VOR	Volta INT, Calif.	5000
*5500–MCA Panoche VOR, SE-bound		

§95.6152 VDR FEDERAL AIRWAY 152
is amended to delete:

FROM	TO	MEA
St. Petersburg, Fla. VOR	Orlando, Fla. VOR	
Via N alter.	Via N alter.	2000

§95.6157 VOR FEDERAL AIRWAY 157
is amended to read in part:

FROM	TO	MEA
*Vegie INT, Fla.	Swaggs INT, Fla.	
Via W alter.	Via W alter.	**3100
*3100–MRA		
**1500–MOCA		
Swaggs INT, Fla.	La Belle, Fla. VOR	
Via W alter.	Via W alter.	*2000
*1300–MOCA		

§95.6230 VDR FEDERAL AIRWAY 230
is amended to read in part:

FROM	TO	MEA
*Salinas, Calif. VOR	Sambe INT, Calif.	**6500
*6000–MCA Salinas VOR, E-bound		
**5500–MOCA		
Sambe INT, Calif.	*Panos INT, Calif.	**7000
*8000–MCA Panos INT, E-bound		
**5500–MOCA		
Panos INT, Calif.	Fido INT, Calif.	*9000
*5700–MOCA		
*Fido INT, Calif.	Panoche, Calif. VOR	7000
*9000–MCA Fido INT, W-bound		
**5700–MOCA		
Salinas, Calif. VOR	Panoche, Calif. VOR	
Via S alter.	Via S alter.	6000
Panoche, Calif. VOR	*Mendota INT, Calif.	4500
*3000–MCA Mendota INT, SW-bound		

§95.6232 VDR FEDERAL AIRWAY 232
is amended to delete:

FROM	TO	MEA
Milton, Pa. VOR	Freeland INT, Pa.	*4000
*3500–MOCA		
Freeland INT, Pa.	Pennwell INT, N.J.	*7000
*4000–MOCA		
Penwell INT, N.J.	Broadway INT, N.J.	*7000
*2700–MOCA		

§95.6232 VOR FEDERAL AIRWAY 232
is amended by adding:

FROM	TO	MEA
Milton, Pa. VOR	Penns INT, N.J.	*4000
*3200–MOCA		
Penns INT, N.J.	Broadway, N.J. VOR/DME	*4000
*2700–MOCA		
Broadway, N.J. VOR/DME	LaGuardia, N.Y. VOR	2700

§95.6236 VDR FEDERAL AIRWAY 236
is amended to read in part:

FROM	TO	MEA
Emont INT, Utah	Ogden, Utah VOR	
	NE-bound	7000
	SW-bound	9000

§95.6284 VDR FEDERAL AIRWAY 284
is added to read:

FROM	TO	MEA
Sea Isle, N.J. VOR	Millville, N.J. VOR	1800

§95.6334 VOR FEDERAL AIRWAY 334
is amended by adding:

FROM	TO	MEA
Augey DME Fix, Alas.	Clams INT, Alas.	*7000
*2000–MOCA		
Clams INT, Alas.	Kenai, Alas. VOR	2000
Kenai, Alas. VOR	Anchorage, Alas. VOR	*2000

§95.6348 VDR FEDERAL AIRWAY 348
is added to read:

FROM	TO	MEA
U.S. Canadian Border	Sault Ste Marie, Mich. VOR	*2300
*2000–MOCA		
Sault Ste Marie, Mich. VOR	U.S. Canadian Border	2600

§95.6350 VOR FEDERAL AIRWAY 350
is added to read:

FROM	TO	MEA
Wichita, Kans. VOR	Chanute, Kans. VOR	*3500
*2800–MOCA		

§95.6354 VDR FEDERAL AIRWAY 354
is added to read:

FROM	TO	MEA
Pioneer, Okla. VOR	Emporia, Kans. VOR	*3500
*2800–MOCA		

§95.6358 VOR FEDERAL AIRWAY 358
is amended to read in part:

FROM	TO	MEA
Dallas-Fort Worth, Tex. VOR	Ardmore, Okla. VOR	2700

§95.6436 VOR FEDERAL AIRWAY 436
is amended to delete:

FROM	TO	MEA
Augey DME Fix, Alas.	Clams INT, Alas.	*7000
*2000–MOCA		
Clams INT, Alas.	Kenai, Alas. VOR	2000
Kenai, Alas. VOR	Anchorage, Alas. VOR	2000

§95.6474 VOR FEDERAL AIRWAY 474
is amended to read in part:

FROM	TO	MEA
Newton INT, Pa.	Pleez INT, Pa.	*4000
*3100–MOCA		
Pleez INT, Pa.	Indian Head, Pa. VOR	5000

§95.7121 JET ROUTE NO. 121 is amended to delete:

FROM	TO	MEA	MAA
Norfolk, Va. VORTAC	Sea Isle, N.J. VORTAC	18000	45000

§95.7121 JET ROUTE NO. 121 is amended by adding:

FROM	TO	MEA	MAA
Norfolk, Va. VORTAC	Snow Hill, Md. VORTAC	18000	40000
Snow Hill, Md. VORTAC	Sea Isle, N.J. VORTAC	18000	40000

By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
J-501 is amended to read in part:			
Sparrevoln, Alas. NBB	Bethel, Alas. VORTAC	135	Bethel
J-121 is amended by adding:			
Snow Hill, Md. VORTAC	Sea Isle, N.J. VORTAC	20	Snow Hill

[FR Doc.77-20583 Filed 7-20-77;8:45 am]

[Docket No. 17037; Amdt. No. 1082]

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 (SIAPs) 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 SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

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 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). 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 (FARs). 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 SIAPs, 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 SIAPs 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 SIAPs. 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 SIAPs 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 SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs 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 SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Madera, CA—Madera Municipal, VOR Rwy 30, Original
Neosho, MO—Neosho Memorial, VOR-A, Amdt. 4
Ardmore, OK—Ardmore Municipal, VOR Rwy 4, Amdt. 13

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, VOR-A, Amdt. 3
Ahoskie, NC—Tri County, VOR/DME-A, Amdt. 3
Greenville, NC—Pitt-Greenville, VOR/DME-A, Amdt. 1
Rocky Mount, NC—Rocky Mount Downtown, VOR-A, Amdt. 9
Rocky Mount, NC—Rocky Mount Downtown, VOR/DME-B, Amdt. 6
Rocky Mount, NC—Rocky Mount-Wilson, VOR/DME Rwy 22, Amdt. 6
Williamston, NC—Martin County, VOR-A, Amdt. 2
Bucyrus, OH—Port Bucyrus-Crawford County, VOR Rwy 22, Original
Columbia, SC—Columbia Metropolitan, VOR-A, Amdt. 12

* * * *Effective August 25, 1977.*

Lahaina, Maui, HI—Kaanapali, VOR-A, Amdt. 2, cancelled
Lahaina, Maui, HI—Kaanapali, VOR/DME-B, Original, cancelled
El Campo, TX—El Campo Air Park, VORTAC Rwy 17, Original, cancelled

* * * *Effective July 8, 1977.*

Scappoose, OR—Scappoose Industrial Airpark, VOR/DME-A, Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, LOC(BC) Rwy 11, Amdt. 1
Greenville, NC—Pitt-Greenville, SDF Rwy 19, Amdt. 2

* * * *Effective July 11, 1977.*

Wrangell, AK—Wrangell, LDA/DME-C, Amdt. 3

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Ardmore, OK—Ardmore Municipal, NDB Rwy 8, Amdt. 12

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, NDB Rwy 17R, Amdt. 5
Alton, IL—Civic Memorial, NDB Rwy 29, Amdt. 3
Greenville, NC—Pitt-Greenville, NDB Rwy 19, Amdt. 8
Roanoke Rapids, NC—Halifax County, NDB Rwy 5, Amdt. 1
Rocky Mount, NC—Rocky Mount-Wilson, NDB Rwy 4, Amdt. 1
Williamston, NC—Martin County, NDB Rwy 21, Amdt. 1
Wilson, NC—Wilson Municipal, NDB Rwy 3, Amdt. 1

* * * *Effective August 11, 1977.*

Hudson, NY—Columbia County, NDB-A, Amdt. 1

* * * *Effective July 28, 1977.*

Buffalo, OK—Buffalo Municipal, NDB-A, Original

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, ILS Rwy 29, Amdt. 3
Rocky Mount, NC—Rocky Mount-Wilson ILS Rwy 4, Amdt. 6
Columbia, SC—Columbia Metropolitan, ILS Rwy 29, Amdt. 2

* * * *Effective August 11, 1977.*

St. Louis, MO—Lambert-St. Louis International, ILS Rwy 12R, Amdt. 10

5. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Neosho, MO—Neosho Memorial, RNAV Rwy 18, Original
Tulsa, OK—Tulsa International, RNAV Rwy 17L, Amdt. 3
Tulsa, OK—Tulsa International, RNAV Rwy 17R, Amdt. 1, cancelled
Tulsa, OK—Tulsa International, RNAV Rwy 35L, Amdt. 1, cancelled
Tulsa, OK—Tulsa International, RNAV Rwy 35R, Amdt. 2

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, RNAV, Rwy 29, Amdt. 2
Columbia, SC—Columbia Metropolitan, RNAV Rwy 5, Amdt. 4
Greenville, NC—Pitt-Greenville, RNAV Rwy 25, Amdt. 1

* * * *Effective August 25, 1977.*

San Antonio, TX—San Antonio International, RNAV Rwy 21L, Amdt. 1, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 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 July 15, 1977.

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.77-20920 Filed 7-20-77;8:45 am]

Title 22—Foreign Relations

CHAPTER X—INTER-AMERICAN FOUNDATION

PART 1003—RULES SAFEGUARDING PERSONAL INFORMATION IN IAF RECORDS

Adoption of Rules; Correction

AGENCY: Inter-American Foundation.

ACTION: Correction.

SUMMARY: The Inter-American Foundation is correcting § 1003.3(d) as it appeared in the FEDERAL REGISTER on May 11, 1976, on page 19212.

EFFECTIVE DATE: July 21, 1977.

ADDRESS: Inter-American Foundation, 1515 Wilson Blvd., Rossyln, Va. 22209.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Veatch, 703-841-3864.

SUPPLEMENTARY INFORMATION: The May 11, 1976 publication left off a sentence in § 1003.3(d).

In FR Doc. 76-13625 appearing at page 19211 in the issue of May 11, 1976, on page 19212 in the third column add the following to § 1003.3(d).

WILLIAM M. DYAL, Jr.,
President.

§ 1003.3 Access to records.

* * * * *

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (c) of this section, the Inter-American Foundation will clearly note any part of the record which is disputed and provide copies of the statement (and, if the Inter-American Foundation deems it appropriate, copies also of a concise statement of the Inter-American Foundation's reasons for not making the amendments requested) to persons or other agencies to whom the disputed record has been disclosed.

* * * * *

[FR Doc.77-20981 Filed 7-20-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-45]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Area, Monterey Harbor, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the width and orientation of the fairway passing through the special anchorage in Monterey Harbor, California. The need for this amendment has developed over the years as a result of increased boat traffic and an increase in the number of vessels regularly using the moorings in the harbor. In special anchorage areas,

vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective August 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: On December 20, 1976 the Coast Guard published a proposed rule (41 FR 55366) concerning this amendment. Interested persons were given until February 3, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: LCDR H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by revising § 110.126 to read as follows:

§ 110.126 Monterey Harbor, California.

The waters of Monterey Harbor between the shoreline and the following coordinates: Beginning at a point on the Coast Guard Wharf at latitude 36°36'-33.2'' N., longitude 121°53'29.8'' W.; thence to latitude 36°36'32.4'' N., longitude 121°53'31'' W.; thence in an easterly direction to latitude 36°36'27.8'' N., longitude 121°53'16'' W.; thence to latitude 36°36'20'' N.; longitude 121°52'58'' W.; thence to the shoreline at latitude 36°36'04'' N.; longitude 121°52'54'' W.; excluding from this area a fairway 125 feet wide whose centerline begins at latitude 36°36'27.8'' N.; longitude 121°53'-16'' W.; and extends 205°, approximately 405 feet to latitude 36°36'24'' N.; longitude 121°53'18.3'' W.; thence 225° approximately 850 feet to the Monterey Marina entrance. Also excluded are the waters between this fairway and the north end of Municipal Wharf No. 2 and the eastern part of Municipal Wharf No. 1.

(Sec. 1, 30 Stat. 98, as amended, (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2).)

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

Dated: July 14, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-20999 Filed 7-20-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21007; RM-2736]

PART 73—FM BROADCAST STATIONS: CHANGES IN TABLE OF ASSIGNMENTS

Fort Myers Beach, Fla.; Report and Order, Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Fort Myers Beach, Florida. Petitioner, Stoner Broadcasting Systems, Inc., states that substantial growth of the community over the past few years established a need for a local broadcast outlet in Fort Myers Beach.

DATE: Effective August 23, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: July 5, 1977.

Released: July 13, 1977.

By the Chief, Broadcast Bureau.

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Fort Myers Beach, Florida) (Docket No. 21007, RM-2736).

1. The Commission has before it the Notice of Proposed Rulemaking, adopted November 29, 1976, 41 FR 54203, proposing the assignment of Channel 257A to Fort Myers Beach, Florida, as its first FM assignment. The proceeding was instituted on the basis of a petition filed by Stoner Broadcasting Systems, Inc. ("petitioner"). Supporting comments were filed by petitioner, Laurinburg Broadcasting Company and Kelan Corporation. Opposing comments were filed by Lee County FM, Inc., licensee of Station WAK-FM, Lehigh Acres, Florida.

2. Fort Myers Beach (pop. 4,305), an unincorporated community consisting of two islands (Estero and San Carlos) in Lee County (pop. 105,216),[1] is located just off the west coast of Florida, approximately 193 kilometers (120 miles) northwest of Miami. It has no local broadcast service. However, due to its close proximity to the community of Fort Myers, it does receive a number of AM and FM services.

3. Petitioner states that the economy of Fort Myers Beach consists principally of tourism and commercial fishing, and that the area's population was 75% greater in 1970 than it was in 1960. It describes a strong sense of community identity (in part attributable to its character as two islands with definite boundaries) on the part of its residents and notes substantial growth over the past few years which it alleges establishes a need for a local broadcast outlet in Fort Myers Beach.

4. Petitioner's study indicates preclusion would occur on Channels 257A and 258 for small areas with low population density. It also indicates that, consistent with spacing requirements, the transmitter may be located on Estero Island or on the nearby mainland and from either site would be able to provide the required 70 dBu signal over the entire community.

5. In opposing comments, Lee County FM, Inc. ("Lee"), argues that Fort Myers Beach is not a community within the contemplation of the Commission's rules and that the proposed assignment really looks toward the establishment of an FM station to program for and derive revenues from the larger nearby community of Fort Myers. It contends that Fort Myers Beach is dependent upon and derives the bulk of its services and facilities from Lee County in which it is located. Lee asserts that the increase in population of some 1,842 persons over a ten-year period in Fort Myers Beach is clearly not substantial and does not suggest there will be significant, further growth. It contends that Fort Myers Beach's proximity, its satellite-like reliance upon Fort Myers and Lee County in general, and the plethora of nearby radio stations, make it inconceivable that a station operating as proposed could realistically look toward serving and/or deriving its sustenance mainly from Fort Myers Beach.

6. In reply, petitioner states that the Commission has authorized many stations in communities the size of Fort Myers Beach, or even smaller. It asserts that its proposal to assign an FM channel to Fort Myers Beach is entirely consistent with Section 307(b) of the Communications Act of 1934, as amended, and is amply supported by precedent.[2]

7. Although it is unincorporated we believe that Fort Myers Beach is a community within the meaning of our rules. It has definable boundaries and a sense of common need as evidenced by its fire department, school, churches, library, medical clinic, shopping centers, social organizations, and a weekly newspaper. The principal test is whether the residents function as and conceive of themselves as residents of a community around which their interests coalesce.[3] In this case, we believe the test has been met.

8. Lee questions the need for local service in Fort Myers Beach, alleging that it is virtually inundated with radio service. However, such coverage is not a substitute for a local transmission service to address the particular needs of the

[1] Population figures are taken from the 1970 U.S. Census.

[2] Denton, Maryland, 38 R.R. 2d 581 (1976); Baldwyn, Mississippi, 37 R.R. 2d 841 (1976); Blair, Nebraska and Harlan, Iowa, 60 F.C.C. 2d 511 (1976); Sun Valley, Idaho, 37 R.R. 2d 843 (1976); Saegertown, Pennsylvania, 38 R.R. 2d 913 (1976); LaBelle, Florida, 37 R.R. 2d 728 (1976).

[3] Yorktown, Va., Notice, 38 FR 26203 (1973).

community. Although located near Fort Myers, Fort Myers Beach is separate from it with its own needs. The proposal is for a Class A station appropriate to serve those needs and we note petitioner is not the licensee of a station at Fort Myers. The record is sufficient to resolve any concern that the intent is to serve Fort Myers rather than Fort Myers Beach. Finally, Lee questions the ability of Fort Myers Beach to support a station unless it derived revenues from the larger nearby community of Fort Myers. However, we have no evidence before us to establish that Fort Myers Beach could not provide enough advertising support to sustain a station, but even if it could not there is nothing improper about obtaining advertising from outside the principal community.

9. In view of the foregoing, *it is ordered,* That effective August 23, 1977, the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules) is amended to read as follows:

City	*Channel No.*
Fort Myers Beach, Fla	257A

10. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

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

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

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

[FR Doc.77-20985 Filed 7-20-77;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Amdt. No. 76-4]

PART 391—QUALIFICATION OF DRIVERS

Retention Time for Periodically Obtained Records

AGENCY: Federal Highway Administration.

ACTION: Final rule.

SUMMARY: This rule establishes a minimum retention period of 3 years for periodic records obtained in accordance with the Federal Motor Carrier Safety Regulations (FMCSR). Driver qualification files presently maintained by a motor carrier may contain outdated periodic documents of little value. This rule will permit a motor carrier to remove and dispose of a periodically obtained document at the end of the retention period.

EFFECTIVE DATE: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Contact—Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-9767).

Principal Lawyer—Francis J. Mulcahy, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-0834).

SUPPLEMENTARY INFORMATION: A petition was filed by Suburban Propane, Whippany, New Jersey, requesting that a reasonable retention period be established for those periodic records obtained under section 391.51 of the FMCSR. The petitioner contends that qualification files for drivers who have been employed for many years are filled with outdated records of little or no value.

As the Regulations now stand, a driver's qualification file, including all documents contained within, "shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter."

A 3-year retention period of the medical examiner's certificate, the notation relating to the annual review of a driver's driving record, the list of certificate relating to violations of motor vehicle traffic laws, the letter granting the physical disqualification waiver, and other safety-related matters is considered adequate for safety purposes.

This amendment will reduce the paperwork burden upon businesses.

It has been determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, 49 CFR Chapter III is amended as follows:

1. By revising § 391.51(f) and adding a new (h) to read as follows:

§ 391.51 Driver qualification files.

* * * * *

(f) Except as provided in paragraphs (g) and (h) of this section, each driver's qualification file shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter.

* * * * *

(h) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or the photographic copy of the certificate as required by § 391.43 (d).

(2) The note relating to the annual review of his driving record as required by § 391.25.

(3) The list or certificate relating to violations of motor vehicle laws and ordinances as required by § 391.27.

(4) The letter issued under § 391.49 granting a waiver of a physical disqualification.

2. By revising § 391.49(g) to read as follows:

§ 391.49 Waiver of certain physical defects.

* * * * *

(g) If the Director grants a waiver, he will notify each applicant by a letter, which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter (or a legible copy of it) in its files. The individual applicant shall have the letter (or a legible copy of it) in his possession whenever he drives a motor vehicle or is otherwise on duty.

(Sec. 204, Interstate Commerce Act, as amended, (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 301.60, respectively)).

Issued on July 12, 1977.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.77-20898 Filed 7-20-77;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 74-25; Notice 05]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Passenger Car Tires; Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Correction.

SUMMARY: This notice corrects an error published in the FEDERAL REGISTER on March 7, 1977, in an amendment of Standard No. 109, New Pneumatic Tires—Passenger Cars. In that notice, an incorrect load value was listed for Table I-KK.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the NHTSA published a final rule amending Standard No. 109, New Pneumatic Tires—Passenger Cars (42 FR 12869). That amendment added to Appendix A a new table, Table I-KK. The Rubber Manufacturers Association has indicated that the load value specified in the column under 160 kPa should be changed from 660 kilograms to 665 kilograms.

Accordingly, Volume 49, Code of Federal Regulations, § 571.109, Appendix A, Table I–KK is amended to read:

§ 571.109 [Amended]

* * * * *

P255/60R15 575 620 655 * * *

* * * * *

The principal authors of this notice are Arturo Casanova of the Office of Crash Avoidance and Roger Tilton of the Office of Chief Counsel.

(Sec. 103, 112, 114, 119, 201, 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407, 1421, 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: July 15, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-21013 Filed 7-20-77;8:45 am]

[Docket No. 73-31; Notice 03]

PART 567—CERTIFICATION

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

Combined Axle Weight Ratings, Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Correction to Final Rule.

SUMMARY: In an amendment of agency regulations on June 20, 1977, an incorrect format was published for the listing of tire information. This notice corrects that error by the replacement of the symbol "×" wherever it occurs, with the symbol "—".

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Motor Vehicle Program, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2817).

SUPPLEMENTARY INFORMATION: On June 20, 1977 (42 FR 31161), the NHTSA published an amendment to Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, permitting the use of the "all axles" designation on the certification label where tire and rim information is identical for all axles. In that amendment, the agency erroneously listed a tire size example that used the symbol "×" to separate tire width from diameter. Current agency regulations use the symbol "—" instead of "×". The agency by this notice corrects the June 20 notice to reflect current agency practice.

Accordingly, Volume 49 of the Code of Federal Regulations, Part 567.4(g)(4) and 567.5(a)(6) and Part 568.4(a)(5) are corrected by substituting the symbol "—" for the symbol "×" wherever it occurs in the examples listed thereunder.

The principal authors of this notice are David Fay of the Office of Motor Vehicle Programs and Roger Tilton of the Office of Chief Counsel.

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

Issued on July 15, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-21012 Filed 7-20-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, BARTER, PURCHASE, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Final Endangered Status and Critical Habitat for the Giant Anole

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service issues a rulemaking pursuant to the Endangered Species Act of 1973 which determines the giant anole (*Anolis roosevelti*) to be an endangered species and determines critical habitat for this species.

DATES: This final rulemaking becomes effective on August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 10, 1977, the U.S. Fish and Wildlife Service (hereinafter the Service) published a proposed rulemaking in the FEDERAL REGISTER (42 FR 2101–2102) advising that sufficient evidence was on file to support a determination that the giant anole was an endangered species as provided for by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act). The proposal summarized the factors thought to be contributing to the likelihood that this lizard could become extinct within the foreseeable future; specified the prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a threatened species or an endangered species. A letter was sent to Governor Hernandez-Colon of Puerto Rico on January 25, 1977, notifying him of the proposed rulemaking for the giant anole. A similar letter on the same date, was sent to Mr. Pedro Ramos of the Department of Natural Resources of Puerto Rico. On January 25, 1977, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

No official comments were received from the Governor of Puerto Rico. However, comments were received from the Secretary of the Department of Natural Resources.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the list of endangered and threatened wildlife.

In the January 10, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 2101–2102) and the associated January 14, 1977, news release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period January 10, 1977, to April 7, 1977, were considered.

Letters were received from 7 individuals, including representatives of the American Society of Ichthyologists and Herpetologists, the Department of Natural Resources of Puerto Rico, and the New York Zoological Society.

The only comment to add information to that contained in the proposed rulemaking was that from the Puerto Rico Department of Natural Resources. While supporting the listing of this lizard as endangered, they supplied a more precise outline of critical habitat based on remaining vegetation on Culebra. Accordingly, their recommendations have been incorporated into this final rulemaking.

Letters from the New York Zoological Society and one individual supported the proposed endangered status and critcal habitat designation for the giant anole and commented on its extreme rarity. Letters from the American Society of Ichthyologists and Herpetologists and one individual supported the proposed rulemaking on this species but made no additional comments.

Two letters, one from a private individual and the other from the International Union for the Conservation of Nature and Natural Resources, did not comment on the proposed rulemaking but offered the names of additional persons who might have information on this species.

CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the giant anole is in danger of extinction throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (42 FR 2101–2102). Those factors were described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The giant anole is a rare lizard which may survive only in the canopy of mountain forest on Mt. Resaca. The fan-leafed palm is the tallest tree in such forest, and, as with the semi-moist forest in general is quickly disappearing because of man's activities. Unless the remaining forest on the slopes of Mt. Resaca is preserved, the specialized habitat of this lizard is threatened with destruction.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* Unknown.

(4) *The inadequacy of existing regulatory mechanisms.* There are no existing regulatory measures to protect this species.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

The Director has considered all comments and data submitted in response to the proposed determination of critical habitat for the giant anole (42 FR 2101–2102).

Based on this review, and incorporating the suggestions received by the Puerto Rico Department of Natural Resources, critical habitat for the giant anole, *Anolis roosevelti*, is determined to include the following area (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species):

(1) An area on Culebra Island as outlined on the map at the end of this final rulemaking (because there are no physical landmarks on which to base a verbal description, reference should be made to this map).

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ *17.21 Prohibitions.*

(a) Except as provided in subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientic study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take endangered species, for conservation programs in accordance with the cooperative agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in this final rulemaking also makes the giant anole eligible for the consideration provided by section 7 of the Act. That section reads as follows:

INTERAGENCY COOPERATION

SEC. 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of section 7 of the act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with section 7.

Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances.

EFFECT INTERNATIONALLY

In addition to the protection provided by the act, the Service will review the giant anole to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix(ices) to that Convention or whether it should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the giant anole. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of

the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 5, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly § 17.11 of Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the giant anole to the list under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion of range where threatened or endangered			
Reptiles: Anole, Giant	*Anolis roosevelti*	NA	Culebra Island	Entire	E	.....	NA

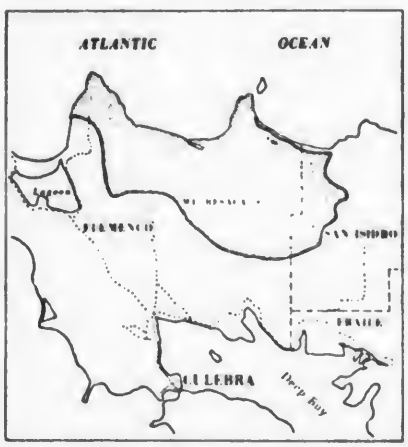
50 CFR Part 17 is further amended to read:

§ 17.95 Critical habitat—fish and wildlife.

(c) Reptiles. * * *

(4) *Giant anole.* (i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is critical habitat for the giant anole.

(A) An area on Culebra Island as outlined by the shaded area on the following map:



CRITICAL HABITAT FOR THE GIANT ANOLE ON CULEBRA ISLAND

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the critical habitat area.

* * * * *

[FR Doc.77-20889 Filed 7-20-77;8:45 am]

PART 32—HUNTING

Opening of Big Stone National Wildlife Refuge, Minnesota, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

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

DATES: October 1, 1977 through November 28, 1977

FOR FURTHER INFORMATION CONTACT:

Charles W. Gibbons, Refuge Manager, 25 NW 2nd Street, Ortonville, Minnesota 56278. Phone 612–839–3700.

SUPPLEMENTARY INFORMATION:

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

Big game hunting is permitted on the Big Stone National Wildlife Refuge, Minnesota, only on the area designated by signs as being open to hunting. This area comprising approximately 4,000 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Big game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. Legal species include white-tailed deer only.

2. Public use of the hunting area shall be during daylight hours only.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

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

NOTE.—The U.S. 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.

JULY 15, 1977.

CHARLES W. GIBBONS,
Refuge Manager.

[FR Doc.77-20905 Filed 7-20-77;8:45 am]

PART 32—HUNTING

Opening of Big Stone National Wildlife Refuge, Minnesota to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Big Stone 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 17, 1977, through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles W. Gibbons, Refuge Manager, 25 NW 2nd Street, Ortonville, Minnesota 56278 Phone 612–839–3700.

SUPPLEMENTARY INFORMATION:

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

Upland game hunting is permitted on the Big Stone National Wildlife Refuge, Minnesota, only on the area designated by signs as being open to hunting. This area comprising approximately 4,000 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Upland game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. All seasons close at sunset, November 30, 1977.

2. Public use of the hunting area shall be during daylight hours only.

3. Legal species include Hungarian partridge, cottontail rabbit, gray and fox squirrel, and ring-necked pheasant only.

The provisions of this special regulation supplement the regulations which

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

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

CHARLES W. GIBBONS,
Refuge Manager.

JULY 15, 1977.

[FR Doc.77-20906 Filed 7-20-77;8:45 am]

PART 32—HUNTING

Certain National Wildlife Refuges in California

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

ACTION: Special regulations.

SUMMARY: These special regulations describe the conditions under which public hunting will be permitted on portions of certain National Wildlife Refuges in California.

EFFECTIVE DATES: August 27, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

SUPPLEMENTARY INFORMATION:

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 the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.

Salton Sea Na'ional Wildlife Refuge, P.O. Box 247, Calipatria, California 92233, Telephone Number (714) 348-2323.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215, Telephone Number (805) 725-2767.

Merced National Wildlife Refuge, (Headquarters: San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93215, Telephone Number (805) 725-2767).

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

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Kesterson National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

Clear Lake National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

2. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

3. No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasant.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. Bow hunters must follow the same regulations as firearm hunters, the use of long bow is permitted.

6. Legal waterfowl shooting hours end at 1 p.m., daily on all California portions of the refuge.

7. No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasants.

Tule Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. In designated spaced-blind areas, hunters may not possess any loaded firearm further than 100 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each day's hunt. Hunters may shoot only from within their assigned blind sites.

6. No person may possess any weapon or ammunition that may not be legally used for taking waterfowl or pheasants. Certain assigned blinds will be limited to possession and use of designated steel or shot loads in conjunction with a scientific study.

7. The use of long bow is permitted. Bow hunters must follow the same regulations as firearm hunters.

8. Legal waterfowl shooting hours end at 1 p.m., daily.

Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, California 96101, Telephone Number (916) 233-3572.

Special Conditions: 1. First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age.

2. After first weekend, hunting permitted on Tuesdays, Thursdays, and Saturdays during authorized seasons.

3. Hunters are required to enter hunting area via designated parking sites.

4. Hunting area is open for access from 90 minutes prior to legal shooting hours until 90 minutes after sunset on days hunting is permitted.

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

Ring-necked pheasant only may be hunted on the following refuge areas:

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934-4090.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215, Telephone Number (805) 725-2767.

Merced National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667–2231).

Special Conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

3. Daily limit is two male pheasants during The Special Hunt.

Tule Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667–2231).

Special Conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

3. Daily limit is two male pheasants during The Special Hunt.

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

Clear Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667–2231).

Special Conditions: 1. Antelope only may be hunted and only during the period of August 27 through September 5, 1977.

2. Only five hunters shall be allowed on the Peninsula "U" section at any one time, on a first-come first-served basis. The area will be open the following days: August 27, August 28, September 3, 4, and 5, 1977. Entrance will be granted only at the gate located on the Clear Lake Road. This station will be opened from 6 a.m. to one hour after sundown. The refuge will be closed when the kill quota is reached even though the season may still be open.

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.

WILLIAM W. SWEENEY,
Area Manager, California-Nevada, U.S. Fish and Wildlife Service.

[FR Doc.77–21002 Filed 7–20–77;8:45 am]

PART 32—HUNTING

Certain National Wildlife Refuges in Nevada

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

ACTION: Special regulations.

SUMMARY: These special regulations describe the conditions under which public hunting will be permitted on portions of certain National Wildlife Refuges in Nevada.

EFFECTIVE DATES: August 27, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

SUPPLEMENTARY INFORMATION:

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 the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.

Migratory game birds may be hunted on the following refuges:

Fallon National Wildlife Refuge, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702–423–5128.

Stillwater Wildlife Management Area, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702–423–5128.

Pahranagat National Wildlife Refuge, P.O. Box 232, Alamo, Nevada 89001, Telephone Number 702–725–3417.

Special Conditions: 1. The use of boats or other floating devices are not permitted.

2. Refuge closed to goose and snipe hunting.

3. Special dove hunting regulations are in effect opening day through the following Monday. All dove hunters, 14 years or older, must have a refuge permit during this period.

Ruby Lake National Wildlife Refuge, Ruby Valley, Nevada 89833, Telephone Number 702–779–2237.

Special Conditions: Migratory birds, except doves and pigeons, may be hunted.

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

Upland game may be hunted on the following refuge areas:

Fallon National Wildlife Refuge, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702–423–5128.

Pahranagat National Wildlife Refuge, P.O. Box 232, Alamo, Nevada 89001, Telephone Number 702–725–3417.

Special Condition: Quail and cottontail rabbit only may be hunted.

Charles Sheldon Antelope Range, Nevada (Headquarters: P.O. Box 111, Lakeview, Oregon 97630, Telephone Number 503–947–3315.

Special Conditions: Trapping is prohibited.

Stillwater Wildlife Management Area, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702–423–5128.

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

Big game animals may be hunted on the following refuge areas:

Desert National Wildlife Range, 1500 North Decatur Boulevard, Las Vegas, Nevada 89108, Telephone Number 702–878–9617.

Special Condition: Desert bighorn sheep only may be hunted.

Charles Sheldon Antelope Range, Nevada (Headquarters: P.O. Box 111, Lakeview, Oregon 97630, Telephone Number 503–947–3315.

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.

WILLIAM W. SWEENEY,
Area Manager, California-Nevada U.S. Fish and Wildlife Service.

[FR Doc.77–21003 Filed 7–20–77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management; Reopened Hearing; Prehearing Conference

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Prehearing Conference.

SUMMARY: The prehearing conference will establish procedural dates and the nature of participation by interested parties in further proceedings to be held in accordance with the Commission's Notice of Reopened Hearing, in the matter of Licensing of Production and Utilization of Facilities (Environmental Effects of the Uranium Fuel Cycle), published at 42 FR 26987; May 26, 1977.

All persons who intend to present views at the hearing or who have given an indication to the Secretary of the Commission, as provided for in the above-referenced Notice of Reopened Hearing are invited to attend this prehearing conference and to participate therein.

DATES: Prehearing Conference will convene at 10 a.m. on Thursday, July 28, 1977.

ADDRESS: Prehearing conference will be held in the Commission's Hearing Room (Fifth Floor), East-West Towers, 4340 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank L. Ingram, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–499–7715.

Dated this 15th day of July 1977, at Washington, D.C.

MICHAEL L. GLASER,
Chairman, Hearing Board.

[FR Doc.77–21239 Filed 7–20–77;9:46 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 765-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Texas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule amends the photochemical oxidant (hydrocarbon) control strategy promulgated for Texas on November 6, 1973. The National Ambient Air Quality Standard (NAAQS) for photochemical oxidants continues to be exceeded in parts of Texas. The measures being promulgated by the Environmental Protection Agency (EPA) at this time are not sufficient to demonstrate attainment of the NAAQS for oxidants; therefore, this plan must be considered as an interim plan only and further measures will be considered as more data become available. Reduction in the peak levels and frequency of violations of the standard can be accomplished through application of reasonable control strategies, and are the goals of this interim plan.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Chief, Technical Support Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region VI, Dallas, Texas 75270, (214-749-3837).

SUPPLEMENTARY INFORMATION:

Background

On November 11, 1976 the EPA proposed amendments to the photochemical oxidant (hydrocarbon) control strategy for Texas. The need for these amendments was discussed in the FEDERAL REGISTER of that date, and detailed in the EPA's technical support document entitled "Hydrocarbon/Photochemical Oxidant Control Strategy for the State of Texas," January 1976. The measures were proposed as an interim plan to reduce the peak levels and frequency of violations of the oxidant standard in Texas, but they were not viewed as sufficient controls to attain the standard. Possible long-range controls to enable Texas to meet the oxidant standard were outlined in the November FEDERAL REGISTER. Comments on the proposed measures and the possible long-range controls were requested. Public hearings on the measures were held in Houston, San Antonio and Dallas, Texas on December 14, 15 and 16, 1976, respectively.

The measures promulgated today involve the following: The extension of Texas Air Control Board Regulation V to Tarrant and Hardin Counties, the control of evaporative losses from the filling of gasoline storage vessels in the Houston, San Antonio and Dallas-Fort Worth areas, the control of evaporative losses from storage vessels for crude petroleum in Brazoria, Dallas, El Paso, Galveston, Hardin, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, and Tarrant Counties, an incentive program to reduce vehicle emissions through increased bus and carpool use, a carpool matching and promotion system, an employer mass transit and carpool incentive program, and a transportation mode trends monitoring regulation.

The measures promulgated today are modified from the proposed regulations based on the comments received. The hydrocarbon emission reductions achievable by implementation of these measures remain as estimated in the November 11, 1976 FEDERAL REGISTER. Only the timing of these reductions is affected by the modification of the proposed regulations. The relevant comments and resulting changes are discussed in the following sections.

General Comments

Eighteen persons representing private firms, private citizens, and state and local governments questioned the appropriateness of the National Ambient Air Quality Standards for hydrocarbons and photochemical oxidants and the relationship between hydrocarbon emissions and the formation of oxidants. The Agency will continue to review these issues. Region VI has forwarded all such comments, studies and data to EPA's Environmental Sciences Research Laboratory in Research Triangle Park, North Carolina, for analysis. The validity of the standard is not an issue, however, in this rulemaking.

The regulations promulgated today are directed at those areas within Texas having the most severe oxidant problems in an attempt to reduce peak levels, which are two to four times the standard, and to reduce the frequency of violations. Attainment of the oxidant standard cannot be demonstrated from implementation of these measures. Possible long-range controls to enable Texas to make further progress towards attaining the standard were outlined in the November proposed rulemaking. The possible measures included control of hydrocarbon losses from ship and barge loading, degreasing operations, and an inspection/maintenance program for motor vehicles. Comments were received on these long-range measures and will be considered in development of relevant proposed regulations. No action is being taken on the long-range measures in this promulgation.

Public comments were solicited on the recently reproposed Stage II vapor recovery regulations (published in the FEDERAL REGISTER, November 1, 1976, at 41 FR 48043). The proposed regulation for Stage II was not included as part of the amended Texas oxidant control plan published on November 11, 1976, but would impact the Dallas/Fort Worth and Houston/Galveston areas. All comments received on Stage II vapor recovery were forwarded to Peter Principe, EPA Mobile Source Enforcement Division, Washington, D.C. Final action on Stage II will take place at a later date as part of a national promulgation.

Extension of Regulation V

Texas Air Control Board (TACB) Regulation V (as adopted on April 10, 1973) for control of volatile carbon compounds was extended to Bell, McLennan, Hardin, and Tarrant Counties in Texas in the November 6, 1973 promulgation. The extension to Tarrant and Hardin Counties was upheld by the U.S. Fifth Circuit Court of Appeals in the August 7, 1974 decision and compliance was required by May 31, 1975. The extension to Tarrant and Hardin Counties as proposed in the November 11, 1976 FEDERAL REGISTER § 52.2283 merely clarified wording of the existing regulation and dropped the extension to Bell and McLennan Counties.

All comments received on this reproposal requested an extension of the compliance date from the original May 31, 1975 to a future date. Suggested dates included May 1981, or alternately, the TACB proposed date of February 29, 1980. One oil company, two refiners, and the Texas Air Control Board suggested February 29, 1980 as a realistic yet expeditious date for compliance.

Because of the uncertainty surrounding the original compliance date of May 1975, the EPA feels an extension of the final compliance date to February 29, 1980 is justified, and will result in hydrocarbon control as expeditiously as is practical. Thus, the regulation promulgated today to extend the TACB Regulation V to Tarrant and Hardin Counties shows a changed final compliance date of February 29, 1980.

It should be noted that a portion of the TACB Regulation V concerns the control of evaporative losses from gasoline loading facilities, and requires submerged fill pipes on storage vessels, as does the EPA regulation promulgated today in § 52.2286. Regulation V applies to facilities having 20,000 gallons or more throughput per day while Section 52.2286 does not exempt facilities on a throughput basis. In addition, the final compliance date for extension of Regulation V, as promulgated today is February 29, 1980, while the compliance date of Section 52.2286 is September 30, 1978. Thus, for Tarrant County, there is a conflict in facility coverage and compliance date requirements. Section 52.2286 takes precedence over the applicable portion of the TACB Regulation V.

Gasoline Marketing

Stage I gasoline marketing vapor controls, regulating the filling of gasoline storage tanks and the refilling of tank trucks, were first promulgated on November 6, 1973 for various Texas areas. In the amended regulations being promulgated today, Stage I control for the Houston/Galveston and San Antonio areas is covered in § 52.2285. Section 52.2285 has been amended to require compliance by August 31, 1976 to reflect the 90 day extension in compliance provided on March 5, 1976 in FR 9547. Stage I control for the Dallas/Fort Worth area is covered in § 52.2286.

Comments received on the proposed regulations from the Texas Air Control Board recommended acceptance of regulatory conditions as specified in the TACB Regulation V as adopted December 10, 1976. The TACB regulation differs from the EPA's proposed regulations in the following manner:

(a) TACB Regulation V exempts storage tanks at facilities which dispense less than 120,000 gallons per year and exempts loading and unloading facilities having a throughput less than 20,000 gallons per day averaged over a 30-day period. These exemptions were not part of the EPA proposed regulation.

(b) Regulation V excludes Fort Bend, Waller, Montgomery, Liberty, Chambers, Matagorda, Comal, and Guadalupe counties, as covered in § 52.2285, and Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis counties as covered in § 52.2286. The counties covered mutually in the State and proposed EPA regulations are Bexar, Harris, Galveston, and Brazoria (in § 52.2285), and Dallas, Tarrant and Denton (in § 52.2286).

(c) Regulation V sets on August 31, 1978 compliance date for the Houston/Galveston and San Antonio areas as opposed to August 31, 1976 set in § 52.2285. Regulation V sets a compliance date of February 29, 1980 for the Dallas/Fort Worth area as opposed to March 31, 1978 proposed in § 52.2286.

(d) Regulation V requires vapor recovery such that "the aggregate partial pressure of all volatile non-methane carbon compound vapors emitted to the atmosphere will not exceed a level of 1.5 psia." The EPA proposed regulation specified control "that prevents release to the atmosphere of no less than 90 percent by weight of total hydrocarbon compounds in said vapors."

One oil company commented that they were already in compliance with § 52.2285 since that compliance date has past, but that it will take 12–15 months after promulgation to bring facilities into compliance with § 52.2286. Thus the proposed construction completion date of January 31, 1978 and final compliance date of March 31, 1978 may be unattainable depending on date of promulgation. They recommend acceptance of the TACB Regulation V (as adopted December 10, 1976) date of February 29, 1980. In addition, they recommend a change in the proposed area of applicability in § 52.2286 to include only Dallas, Tarrant and Denton Counties as covered on the State regulation. This, they preferred as more cost effective.

Other oil companies noted that the proposed date for compliance of Stage I was inconsistent with the proposed requirement on the first 20 percent of Stage II, Class A sources as published in November 1, 1976 FEDERAL REGISTER. Also, the definition of 'owner' in Stage I regulations conflicts with that in State II. One company recommended that the definition of 'owner' for both Stage I and II be "with equitable title to land or in control of land through long term lease."

Additional recommendations from oil companies included changing the required recovery from "90 percent by weight" to the TACB Regulation V definition based on aggregate partial pressure, and omitting the interim compliance dates on the grounds that they do not aid in achievement of full compliance by the final date.

The Agency has evaluated these comments and its findings follow. The TACB recommendation for extending the compliance date and limiting the impacted counties under § 52.2285 is a moot point. Sources in the Houston/Galveston and San Antonio area already should be in compliance with the regulation since the final compliance date was August 31, 1976. The compliance date proposed under § 52.2286, however, could be unreasonable depending upon the date of promulgation of the regulation. Based on comments received the Agency is modifying the final compliance date to September 30, 1978. This timing appears reasonable for industry to install control equipment, yet expeditious in reducing air polution. Interim compliance dates have been revised accordingly. The interim dates must be maintained in accordance with § 51.15 as promulgated December 9, 1972 at FR 6312, which requires any compliance schedule extending past one year to provide legally enforceable increments of progress. Compliance dates for Stage II vapor control as proposed in the November 1, 1976 FEDERAL REGISTER are being revised, so conflict between Stage I and Stage II compliance dates should not exist.

Inclusion of all the counties in the Dallas/Fort Worth standard metropolitan statistical area (SMSA), i.e. Dallas, Tarrant, Denton, Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis, is necessary owing to their contribution to the area's oxidant problem via hydrocarbon/oxidant transport. Counties surrounding Dallas, Tarrant and Denton counties contribute approximately seventeen percent of the controllable hydrocarbon emissions under Stage I regulations for the area. The SMSA has the highest concentration of population and of industry an dhas the greatest growth potential for the area. Thus control of gasoline storage and loading facilities throughout the SMSA is justified.

The State's recommended exemptions of facilities having a throughput less than 120,000 gallons of gasoline per year, and of loading facilities with less than 20,000 gallons per day throughput, do not appear justified. Compliance with Stage I regulations was achieved in the Houston and San Antonio areas with few problems and without exemptions as recommended by the State. Considering the severity of the oxidant problem in the Houston, San Antonio, and Dallas/Fort Worth areas, the EPA cannot accept such exemptions as consistent with the goal of attaining air quality standards as expeditiously as is practicable.

The definition of 'owner' under the proposed Stage I vapor control regulations is consistent with the Agency's definition in Stage I regulations elsewhere in the United States. Likewise, the efficiency requirement for a vapor recovery system "which prevents release to the atmosphere of at least 90 percent by weight of total hydrocarbon compounds," is consistent with Federal regulations across the States. The EPA has had little problem with compliance and enforcement of regulations based on these definitions, and therefore does not see need to change them.

Some confusion was expressed by the public over the meaning of vessel 'capacity.' To clarify this, the Agency has specified 'nominal capacity' of the vessel in the final regulation.

CRUDE OIL STORAGE

The EPA proposed regulation in § 52.2289 would require crude oil storage vessels in specified counties, with a capacity greater than 100,000 gallons, to be equipped with a floating roof or a vapor recovery system. Estimated reactive hydrocarbon emission reductions under this proposed regulation were presented in the FEDERAL REGISTER of November 11, 1976.

The Texas Air Control Board recommended acceptance of Rule 510.2 of Regulation V (as adopted December 10, 1976) in lieu of EPA's proposed § 52.2289. The State Rule would require the same control, in the same counties as the Federal regulation, but would exempt storage facilities smaller than 420,000 gallons (10,000 barrels). It would not exempt storage vessels prior to custody transfer as would the EPA regulation. In addition, the Texas regulation would set a final compliance date of February 29, 1980 as opposed to the proposed Federal regulation date of December 31, 1978. One oil company, a pipeline company, and a crude oil marketing company supported acceptance of the TACB Regulation V (as adopted December 10, 1976) in lieu of proposed § 52.2289.

Six oil companies and an association of oil and gas firms stated that the EPA proposed compliance date of December 31, 1978 was unrealistic. One company indicated that a 6–8 month down time is required to convert a tank, and that outage of too many tanks at one time would be disruptive. They recommended December 1982 as a reasonable compliance date. Other suggested dates included three years from effective date of the regulation, December 1980, and the TACB Regulation V date of February 29, 1980.

An oil and gas association, a crude oil marketing firm, and one oil company, in addition to the Texas Air Control Board, challenged EPA's coverage of tanks between 100,000 and 420,000 gallon capacity. The oil company, the oil and gas association, and the TACB recommended a 10,000 barrel (420,000 gallon) cut-off. The oil and gas association presented an analysis of evaporative losses from 198 cone roofed crude oil tanks in the areas of the proposed regulation which indicated that losses from tanks up to and including 10,000 barrel capacity contribute only 3.4 percent of total losses from tanks studied. These small tanks, it was argued, would have to bear a much

higher cost per barrel for vapor control possibly leading to early abandonment of tanks. Because of the high cost for benefit received, the oil and gas association and the TACB recommended exemption of tanks smaller than 420,000 gallons (10,000 barrels). The crude oil marketing company considered 30,000 barrel tanks as the proper cut-off based on cost effectiveness.

In addition to the comments on tank size coverage under the proposed regulation, comments were received on the proposed exemption of tanks prior to custody transfer, and the technical problems associated with equipping bolted tanks with floating roofs. The TACB Regulation V, adopted December 10, 1976, did not exempt tanks prior to custody transfer as did the proposed EPA regulation. The State considers determining the status of storage tanks with respect to custody transfer to be a difficult enforcement problem. The oil marketing company considers § 52.2289 a denial of equal protection under law since it exempts storage tanks associated with drilling or production facilities prior to field custody transfer while regulating field storage tanks of crude oil gathering systems. These gathering system storage tanks are often of equal or smaller capacity than adjacent production batteries, of the same construction (bolted, cone roofs), and often handle the same crude under similar storage conditions. In addition, they note that EPA's reasons for exempting storage tanks associated with drilling and production facilities from new source performance standards for petroleum storage vessels (FR 9312, March 8, 1974), are exactly the same reasons arguing in favor of exempting existing gathering system field storage tanks from proposed § 52.2289. The EPA's statement was:

"Producing field storage is exempt because the low level of emissions, the relatively small-size of these tanks, and their commonly remote locations argue against justifying the switch from the bolted-construction, fixed-roof tanks in common use to the welded construction floating-roof tanks which would be required for new sources to comply with the standards."

Rather than exemption tanks associated with drilling, production, and gathering, the oil marketing firm recommends that exemption be based on size and notes that most tanks associated with drilling, production and gathering are generally of less than 10,000 barrel capacity; most are bolted, some are welded. A pipeline company notes that the maximum size of bolted storage tanks as specified in API Std 12B is 10,000 barrel. Testimony was presented on the technical difficulties of equipping bolted tanks with floating roofs due to the internal configuration of the tanks. Both conclude that a 10,000 barrel (420,000 gallon) capacity limit as adopted by the TACB would be acceptable from both a technical and economic standpoint.

Two oil companies, an oil marketer, and an oil and gas association recommend basing the regulation on results to be achieved instead of rule by method (i.e. allow hydrocarbon emissions of, say 150 lb/day/tank averaged over a month instead of requiring floating roof or vapor recovery). This, they argue, would allow consideration of other conditions affecting emissions such as tank diameter, color, turnover, and wind velocity, and would not penalize the operator who maintains his tanks in good condition. These commenters also suggested that the regulation specifically exempt crude oil with a true vapor pressure less than 1.5 psia. This would be consistent with the EPA's new source performance regulation on petroleum storage vessels.

Both the oil and gas association and the oil marketing company considered losses from crude and condensate storage tanks to be minimal. They note that most of the emissions are considered non-reactive by the EPA in the January 1976 Technical Support Document (EPA 906/9-76-001). Thus they recommend reconsideration of the total regulation by the EPA. The marketing company suggests that if the regulation is not abandoned, it should be amended so that vapor recovery efficiency is based on volatile non-methane carbon compounds as is the TACB Regulation V, rather than the proposed total vapor approach.

Finally several oil companies suggested omitting both the interim compliance dates and the certification requirement as unnecessary since they cannot substitute for any enforcement action required by the regulation.

The estimated emission reductions from control of evaporative losses from crude oil storage, as presented by the EPA in the FEDERAL REGISTER of November 11, 1976, were based on reactive hydrocarbons. For the areas impacted by the proposed regulation, the total reduction in reactive hydrocarbons resulting from control of crude oil storage is approximately 19,400 tons/year. In the Houston/Galveston area this control measure represents the largest contributor of emission reductions. Considering the extent of violations of the oxidant standard in the areas impacted by this regulation, this Agency considers crude oil storage control a necessary, justifiable measure.

Based on comments received, the Agency considers that enough uncertainty exists in both the air quality impact and economic impact of control on storage tanks less than 10,000 barrels (420,000 gallons) to warrant further study before promulgation of a regulation on these sized facilities. The Agency, therefore, is modifying its regulation to include storage tanks of greater than 10,000 barrel capacity and is committing to further study the number, location, construction, and air quality impact of tanks of less than 10,000 barrel capacity. Depending upon results of this study, a regulation controlling emissions from these smaller tanks may be proposed.

Since the Agency is establishing a 10,000 barrel cut-off of impacted sources, the exemption of facilities prior to custody transfer is being removed, as recommended by the Texas Air Control Board. This change in the regulation will no longer discriminate between tanks associated with production and drilling and those with gathering systems, but will exclude most of these field storage tanks since testimony indicates they are generally of less than 10,000 barrel capacity. This is consistent with the Texas Regulation V as adopted December 10, 1976.

Based on comments received, and review of the number of tanks impacted versus down time for installation of floating roofs, the Agency is modifying its final compliance date to February 29, 1980, as recommended by the Texas Air Control Board. This date is consistent with the State Regulation V, and based on comments, is as expeditious as practicable. The interim compliance dates and date for certification have been modified accordingly. The interim dates must be maintained in accordance with § 51.15 as promulgated December 9, 1972 at FR 26312, which requires any compliance schedule extending past one year to provide legally enforceable increments of progress.

The regulation as proposed, specified control by method rather than emission reduction to be achieved since that is consistent with the Agency's requirements under New Source Performance Standards, and consistent with existing State regulations across the country.

Wording of the regulation has been changed to specifically exempt storage of crude oil with a true vapor pressure less than 1.5 psia. This was implied in the regulation as proposed but not stated explicitly. Exemption is consistent with the Agency's New Source Performance Standard for crude oil storage. The Agency is retaining its efficiency requirement for a vapor recovery system as "aggregate partial pressure of all vapors * * * will not exceed a level of 1.5 psia" as consistent and comparable with the allowable crude oil vapor pressure exemption.

BUS AND CARPOOL FEASIBILITY STUDY

Section 52.2294, as revised, was proposed to ensure that the State or State designated local or regional transportation agency study various incentive measures to reduce air pollutant emissions from mobile sources (cars and buses), and incorporate the feasible measures in the transportation planning system.

Comments received from four transportation planning individuals representing both State and local agencies indicated that the deadline of December 31, 1977 for completion of studies was too short and that no source of funding was addressed. One estimate for the Houston area study alone indicated $250,000 with 10–12 people would be needed. Three people suggested that the EPA provide the funding; one other noted that the studies were logical candidates for the annual Unified Work Program for Transportation Planning prepared and conducted each year by the Metropolitan Planning Organization. Another commen-

ter; however, noted that funds apportioned to the State by the Federal-Aid Highway Acts and Urban Mass Transportation Acts are presently inadequate to accomplish needed improvements for transportation systems. Programming of any of these funds for this feasibility study would be difficult due to various reviews by the Metropolitan Planning Organizations necessary for inclusion in the Transportation Improvement Program and the Transportation System Management elements, and the necessary availability of local matching funds.

A commentator noted that a timetable showing the schedule of further detailed engineering studies and tentative implementation dates would be difficutl to affirm since the schedule is dependent on funding.

A recommendation was made to define carpool as "* * * two or more people" rather than three or more, as proposed. This would allow for better utilization of reserved lanes.

Five commenters including two city representatives, a representative of the League of Women Voters, and two individuals expressed support for mass transit incentives and mobile source control.

After discussions with representatives of the Federal Highway Administration and review of the above comments, the EPA has changed the date for completion of the feasibility studies to September 1, 1979, with interim compliance dates established. This extension of time will allow the responsible transportation agencies to plan, budget, and incorporate the feasibility studies into the Transportation Improvement Program. The measures as proposed by EPA are similar to those required by the U.S. Department of Transportation in FR 42976, published September 17, 1975, and Federal monies are supplied under that program. Implementation of those measures identified as feasible can, again, be programmed as activities under the Transportation Improvement Program.

The regulation has been modified to require implementation based initially on three or more passenger carpools but to allow two or more passenger carpools on specific traffic corridors if, after a valid trial period and evaluation, it can be satisfactorily demonstrated that a two passenger carpool requirement will result in greater emission reductions.

Carpool Matching Systems

The carpool matching and promotion system regulation (section 52.2296) was proposed to revise an existing regulation to include more than just the central business districts of each city and to require periodic progress reports from the cities.

The only comments received on this proposal suggested that the date of April 1, 1977 for submission of a timetable for implementation be extended, and noted that most cities were already in compliance with the regulation.

Since all specified cities have some form of a carpool matching system in existence, the regulation as proposed adds only the six month updating and reporting requirements. Based on the above comments, the Agency is promulgating this regulation as proposed except for extending the timetable submission date, or compliance certification date, to September 1, 1977, and establishing the date for full implementation as December 1, 1977

Employer Mass Transit and Carpool Incentive Program

The employer mass transit and incentive program, section 52.2297, was proposed as a revision to expand coverage to all employers with 250 or more employees and educational facilities with 1000 or more commuters. Instead of a plan developed by each facility and approved by EPA, minimum measures were proposed along with annual progress reports.

Representatives of several employers commented that they already had a carpool matching program for their employees, but felt a mandatory system with its reporting requirements and six month update would be burdensome, costly, and counter-productive to the cities' voluntary programs. A City of Houston transportation representative also indicated that a mandatory employer incentive program would be counterproductive to their city's voluntary program. A company in Fort Worth stated that they tried carpool matching with the aid of the city's program. Less than one percent of their employees were interested in carpooling, and none of those interested could be matched.

Two university representatives stated that the required incentive programs would be too costly for them. One indicated they had a possible source of funding but could not arrange it within the necessary timetable. Both commenters recommended support of a comprehensive effort of carpooling and mass transit planned and coordinated by the city rather than fragmented employer programs.

State highway representatives suggested restricting the requirement to Harris, Dallas, Tarrant and Bexar counties since over ¾ of the area transportation-related air pollution problem is within these four counties. They consider the required recordkeeping costly and time-consuming.

Two commenters representing a State and Federal agency indicated that they could not, under present law, participate in vehicle purchase for purposes of vanpooling. Five private firms commented that the vanpooling provision would be a detriment to employer-employee relations, could cause union problems, and would be discriminatory in that certain types of employees, like shift workers, would be less likely to take advantage of the program. Two companies also felt mandatory preferential parking for carpoolers would be discriminating against those unable to carpool and could cause union problems. The preferential parking requirement would also require policing.

Three private companies suggested that EPA formulate a regulation in terms of a goal of vehicle use reduction. This would allow each organization to achieve the goal by means best suited to the individual situation.

Several firms indicated that matching of shift workers would be difficult and one company suggested the regulation be modified to read "with 250 or more employees working the same set of hours" to account for firms with more than 250 employees but who work shift hours.

One firm suggested that the "base date" should be set in the future since carpooling data for past actions is difficult to gather and subject to error. A future date permits companies to establish data collection procedures and make necessary surveys.

Finally, one company suggested that EPA was beyond its authority in proposing this regulation, and noted that it would be costly and would accomplish little.

The EPA originally promulgated transportation control regulations, including an employer incentive program, on November 6, 1973. The regulations were challenged in court and on August 7, 1974 the U.S. Court of Appeals for the Fifth Circuit deferred the transportation control regulations (40 CFR 52.2292–52.2297) for the Houston/Galveston and San Antonio areas pending reconsideration of a refinery reactivity factor. In the Dallas/Fort Worth area the transportation control regulations were deferred pending reconsideration of their reasonableness by EPA. The EPA has documented the need for, and reasonableness of this control measure in both the EPA report (EPA 906/9–76–001) "Technical Support Document, Hydrocarbon/Photochemical Oxidant Strategy for the State of Texas, January 1976" and in the Federal Register proposed regulations on November 11, 1976. This measure is only a modification to an existing regulation.

The measure as proposed would not be counter productive to the cities' voluntary programs. In fact, employer coordination with a city program would satisfy many of the requirements of this incentive program, and aid in publicizing the city program. Employers should note that vanpooling is not a requirement in the regulation as proposed or promulgated. An evaluation of the feasibility of a vanpool program is required. If it is not feasible, employers are encouraged to find alternatives to reduce employee vehicle use.

Preferential parking to encourage carpooling was required in the proposed regulation. Based on comments received, the EPA is suggesting that incentive measure, but not requiring it. Employers can determine the best incentive measure for their particular facility.

In response to the suggestion that EPA set a goal of vehicle use reduction and let employers try to achieve it by means best suited to individual situations, this was done in the regulation as proposed. The greatest vehicle use reduction possible is the ultimate goal and to this end

EPA set only minimum requirements to ensure action by employers. Considerable leeway is provided for various reduction schemes. The reporting requirements are necessary to ensure that vehicle use reduction measures are considered, implemented, and maintained.

The hydrocarbon emissions from mobile sources throughout the total area impacted by this regulation contribute to the violations of the photochemical oxidant standard within the area. This measure is feasible for implementation in the specified areas and will result in hydrocarbon reduction.

The EPA has relaxed the timetable for implementation to try to alleviate some of the economic burden as expressed by university representatives and private employers.

The EPA feels that comments suggesting that the regulation account for employees working different sets of hours and that the "base date" be modified are valid and, accordingly, has revised the regulation.

MONITORING TRANSPORTATION MODE TRENDS

Section 52.2298 was proposed to be revised to reflect other changes in the proposed plan such as deletion of the retrofit regulation § 52.2291 and to require the monitoring of changes in vehicle miles traveled (VMT) and speeds as a result of measures required under § 52.2294, 52.2296 and 52.2297.

Comments received from two State Highway Department representatives indicated that correlating monitored VMT and the three transportation control measures would be very difficult and possibly meaningless. Vehicle speed data was considered difficult to monitor. The effort was considered time-consuming, costly and would have no effect on air quality.

The Agency is promulgating section 52.2298 as proposed. The requirements of section 52.2298 are a necessary part of the State Implementation Plan as specified in section 51.19(d). Based on comments received, the Agency is, however, reviewing the monitoring requirements under section 51.19(d) for possible modification to identify the most appropriate measures and methods for determining the actual efficacy of the transportation control strategies.

This final rulemaking is issued under the authority of Sections 110(c) and 301(a) of the Clean Air Act (42 U.S.C. 1857c-5(c) and 1857(g).

Dated: July 8, 1977.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding paragraph (13) as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(13) Revisions to Texas Air Control Board (TACB) Regulation IV (Control of Air Pollution from Motor Vehicles) were adopted by the TACB on October 30, 1973 and submitted by the Governor on December 11, 1973.

2. Section 52.2272 is revised to read as follows:

§ 52.2272 Extensions.

(a) The Administrator hereby extends the attainment dates for the national standards for photochemical oxidants (hydrocarbons) to May 31, 1977, in the following Air Quality Control Regions as defined in Part 81 of this chapter: Austin-Waco, Corpus Christi-Victoria, Metropolitan Dallas-Fort Worth, Metropolitan Houston-Galveston, Metropolitan San Antonio Intrastate, the Texas portion of the El Paso-Las Cruces-Alamogordo Interstate, and the Texas portion of the Southern Louisiana-Southeast Texas Interstate.

3. Section 52.2275 is revised to read as follows:

§ 52.2275 Control Strategy: Photochemical Oxidants (hydrocarbons).

(a) The requirements of § 51.14(a) of this chapter are not met since the plan submitted by the State does not provide the degree of hydrocarbon emission reduction necessary to attain and maintain the national ambient air quality standard for photochemical oxidants (hydrocarbons) as expeditiously as practicable in the following air quality control regions: Austin-Waco, Corpus Christi-Victoria, Metropolitan Dallas-Fort Worth, Metropolitan Houston-Galveston, and Metropolitan San Antonio Intrastate Regions; the Texas portions of the El Paso-Las Cruces-Alamogordo and Southern Louisiana-Southeast Texas Interstate Regions.

§ 52.2279 [Amended]

4. In § 52.2279, the attainment date table is amended, by revising the last column "Photochemical oxidants (hydrocarbons)" to read as follows with the corresponding first column "Air Quality Control Region":

Air quality control region		Photochemical oxidants (hydrocarbons)
Abilene-Wichita Falls Intrastate	* * *	(a).
Amarillo-Lubbock intrastate	* * *	(a).
Austin-Waco intrastate	* * *	May 31, 1977.
Brownsville-Laredo intrastate	* * *	(a).
Corpus Christi-Victoria intrastate	* * *	May 31, 1977.
Midland-Odessa-San Angelo intrastate.	* * *	(a).
Metropolitan Houston-Galveston intrastate.	* * *	May 31, 1977.
Metropolitan Dallas-Fort Worth intrastate.	* * *	Do.
Metropolitan San Antonio intrastate.	* * *	Do.
Southern Louisiana-Southeast Texas interstate.	* * *	Do.
El Paso-Las Cruces-Alamogordo interstate.	* * *	Do.
Shreveport-Texarkana-Tyler interstate.	* * *	(a).

5. In § 52.2283, paragraphs (a) and (c) are revised and paragraph (b) is amended by revising (1), (2), (3) and (4) as follows:

§ 52.2283 Control of volatile carbon compounds.

(a) All requirements of Texas Air Control Board Regulation V (as adopted on April 10, 1973) shall apply in Hardin and Tarrant Counties in Texas. The said Regulation has already been approved as a requirement of the applicable implementation plan for the counties specifically named therein.

(b) * * *

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than March 1, 1978.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin not later than June 1, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed not later than December 31, 1979.

(4) Final compliance is to be achieved not later than February 29, 1980.

* * * * *

(c) Paragraph (b) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (a) of this section and which has certified such compliance to the Regional Administrator by November 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) A source whose owner or operator receives approval from the Administrator, by November 1, 1977 of a proposed alternative schedule. No such schedule may provide for compliance after February 29, 1980. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

* * * * *

6. Section 52.2285 is revised to read as follows:

§ 52.2285 Control of evaporative losses from the filling of gasoline storage vessels in the Houston and San Antonio areas.

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater which is produced for use as a motor fuel and is commonly called gasoline.

(2) "Storage container" means any stationary vessel of more than 1,000 gallons (3,785 liters) nominal capacity. Stationary vessels include portable vessels placed temporarily at a location; e.g., tanks on skids.

(3) "Owner" means the owner of the gasoline storage container(s).

(4) "Operator" means the person who is directly responsible for the operation

of the gasoline storage container(s), whether the person be a lessee or an agent of the owner.

(5) "Delivery Vessel" means tank trucks and tank trailers used for the delivery of gasoline.

(6) "Source" means both storage containers and delivery vessels.

(b) This section is applicable to the following counties in Texas: Harris, Galveston, Brazoria, Fort Bend, Waller, Montgomery, Liberty, Chambers, Matagorda, Bexar, Comal, and Guadalupe.

(c) No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary storage container with a nominal capacity greater than 1,000 gallons (3,785 liters) unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atomosphere of no less than 90 percent by weight of total hydrocarbon compounds in said vapors.

(1) The vapor recovery system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Other equipment that prevents release to the atmosphere of no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Regional Administrator prior to start of construction.

(2) The vapor recovery system shall be so constructed that it will be compatible with a vapor recovery system, which may be installed later, to recover vapors displaced by the filling of motor vehicle tanks.

(3) The vapor-laden delivery vessel shall meet the following requirements:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) If any gasoline storage compartment of a vapor-laden delivery vessel is refilled in one of the counties listed in paragraph (b) of this section, it shall be refilled only at a facility which is equipped with a vapor recovery system, or the equivalent, which prevents release to the atmosphere of at least 90 percent by weight of the total hydrocarbon compounds in the vapor displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of one thousand gallons or less in gasoline delivery vessels presently in use on November 6, 1973 will not be required to be retrofitted with a vapor return system until January 1, 1977.

(iv) Facilities which have a daily throughput of 20,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage vessels served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Storage containers used for the storage of gasoline "used on a farm for farming purposes," as that expression is used in the Internal Revenue Code, 26 U.S.C. Section 6420.

(2) Any container having a nominal capacity less than 2,000 gallons (7571 liters) installed prior to November 6, 1973.

(3) Transfers made to storage containers equipped with floating roofs or their equivalent.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (c) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than March 31, 1975.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin no later than July 1, 1975.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than June 30, 1976.

(4) Final compliance is to be achieved no later than August 31, 1976.

(5) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administrator whether or not the required increment of progress has been met. The certification shall be submitted within five days after the deadlines for each increment. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies, and the date(s) the increment(s) of progress was (were) met—if met. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (c) of this section and which has certified such compliance to the Regional Administrator by January 1, 1974. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator receives approval from the Administrator by June 1, 1974, of a proposed alternative schedule. No such schedule may provide for compliance after August 31, 1976. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) After August 31, 1976 paragraph (c) shall be applicable to every storage container (except those exempted in paragraph (d)) located in the counties specified in paragraph (b). Every storage container installed after August 31, 1976 shall comply with the requirements of paragraph (c) from the time of installation. In the affected counties, storage containers which were installed, or converted to gasoline storage after November 6, 1973, but before August 31, 1976 shall comply with paragraph (c) in accordance with the schedule established in paragraph (e).

7. Section 52.2286 is revised to read as follows:

§ 52.2286 Control of evaporative losses from the filling of gasoline storage vessels in the Dallas-Fort Worth area.

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater which is produced for use as a motor fuel and is commonly called gasoline.

(2) "Storage container" means any stationary vessel of more than 1,000 gallons (3,785 liters) nominal capacity. Stationary vessels include portable vessels placed temporarily at a location; e.g., tanks on skids.

(3) "Owner" means the owner of the gasoline storage container(s).

(4) "Operator" means the person who is directly responsible for the operation of the gasoline storage container(s), whether the person be a lessee or an agent of the owner.

(5) "Delivery Vessel" means tank truck and tank trailers used for the delivery of gasoline.

(6) "Source" means both storage containers and delivery vessels.

(b) This section is applicable to the following counties in Texas: Dallas, Tarrant, Denton, Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis.

(c) No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary storage container with a nominal capacity greater than 1,000 gallons (3,785 liters) unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of total hydocarbon compounds in said vapors.

(1) The vapor recovery system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before

gasoline can be transferred into the container.

(ii) Other equipment that prevents release to the atmosphere of no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Regional Administrator prior to start of construction.

(2) The vapor recovery system shall be so constructed that it will be compatible with a vapor recovery system, which may be installed later, to recover vapors displaced by the filling of motor vehicle tanks.

(3) The vapor-laden delivery vessel shall meet the following requirements:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) If any gasoline storage compartment of a vapor-laden delivery vessel is refilled in one of the counties listed in paragraph (b) of this section, it shall be refilled only at a facility which is equipped with a vapor recovery system, or the equivalent, which prevents release to the atmosphere of at least 90 percent by weight of the total hydrocarbon compounds in the vapor displaced from the delivery vessel during refilling.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Storage containers used for the storage of gasoline "used on a farm for farming purposes", as that expression is used in the Internal Revenue Code, 26 U.S.C. Section 6420.

(2) Any container having a nominal capacity less than 2,000 gallons (7571 liters) installed prior to promulgation of this section.

(3) Transfers made to storage containers equipped with floating roofs or their equivalent.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (c) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than September 30, 1977.

(2) Initiation of on-site construction or installation of emission control equipment or process modification must begin no later than January 31, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than August 31, 1978.

(4) Final compliance is to be achieved no later than September 30, 1978.

(5) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administrator whether or not the required increment of progress has been met. The certification shall be submitted not later than February 15, 1978, for award of contracts and initiation of construction, and not later than October 15, 1978, for completion of construction and final compliance. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies, and the date(s) the increment(s) of progress was (were) met—if met. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (c) of this section and which has certified such compliance to the Regional Administrator by August 1, 1977. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator receives approval from the Administrator by August 1, 1977, of a proposed alternative schedule. No such schedule may provide for compliance after September 30, 1978. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) After September 30, 1978, paragraph (c) shall be applicable to every storage container (except those exempted in paragraph (d)) located in the counties specified in paragraph (b). Every storage container installed after September 30, 1978 shall comply with the requirements of paragraph (c) from the time of installation. In the affected counties, storage containers which were installed, or converted to gasoline storage after promulgation of this section, but before September 30, 1978 shall comply with paragraph (c) in accordance with the schedule established in paragraph (e).

8. Section 52.2289 is revised to read as follows:

§ 52.2289 Control of evaporative losses from storage vessels for crude petroleum.

(a) Definitions:

(1) "Storage vessel" means any stationary tank, reservoir, or container used for the storage of crude petroleum, but does not include pressure vessels which are designed to operate in excess of 15 pounds per square inch gauge without emissions to the atmosphere except under emergency conditions.

(2) "Crude petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(3) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in temperature and/or pressure and remains liquid at standard conditions (20°C and 760 mm of Hg).

(4) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(5) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(6) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors so as to reduce the emissions such that the aggregate partial pressure of all vapors or other material emitted from the vapor recovery system will not exceed a level of 1.5 psia.

(b) This section is applicable in the following Texas Counties: Brazoria, Dallas, El Paso, Galveston, Hardin, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, and Tarrant.

(c) The provisions of this section are applicable to each storage vessel for crude petroleum and condensate which has a nominal storage capacity greater than 10,000 barrels (420,000 gallons).

(d) The owner or operator of any storage vessel to which this section applies shall store crude petroleum and condensate as follows:

(1) If the true vapor pressure of the crude petroleum or condensate, as stored, is equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a floating roof or a vapor recovery system.

(2) If the true vapor pressure of the crude petroleum or condensate, as stored, is greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (d) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than March 1, 1978.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin no later than June 1, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than December 31, 1979.

(4) Final compliance is to be achieved no later than February 29, 1980.

(5) Any owner or operator of stationary sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administra-

tor, within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (d) of this section and which has certified such compliance to the Regional Administrator by November 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) A source whose owner or operator receives approval from the Administrator by November 1, 1977, of a proposed alternative schedule. No such schedule may provide for compliance after February 29, 1980. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

§ 52.2291 [Reserved]

9. Section 52.2291 is revoked and reserved.

§ 52.2292 [Reserved]

10. Section 52.2292 is revoked and reserved.

11. Section 52.2294 is revised to read as follows:

§ 52.2294 Incentive program to reduce vehicle emissions through increased bus and carpool use.

(a) Definitions:

(1) "Bus/carpool lane" means a lane on a street or highway open only to buses (or buses and carpools), whether constructed specially for that purpose or converted from existing lanes.

(2) "Central business district" is defined for each of the major cities in the affected areas as follows:

(i) For the City of Houston, in Harris County, that area bounded on the northwest by Interstate 45, on the southwest by Interstate 45, on the northeast by Franklin Street, and on the southeast by Crawford Street.

(ii) For the City of Dallas, in Dallas County, that area bounded on the west by Interstate 35, on the south by Interstate 20, on the east by Central Expressway (U.S. 75) and on the north by Woodall Rogers Freeway right of way.

(iii) For the City of Fort Worth, in Tarrant County, that area bounded on the west by Henderson Street, on the south by Interstate 20, on the east by Interstate 35 West, and on the north by Belknap Street.

(iv) For the City of San Antonio, in Bexar County, that area bounded on the west and northwest by U.S. 81, on the south and southeast by Alamo Street from U.S. 81 to Victoria Street, and by Victoria Street to the Southern and Pacific Railroad tracks, on the east by the Southern and Pacific Railroad tracks, and on the northeast by Jones Avenue to U.S. 81.

(b) On or before September 1, 1979, the State of Texas or a State designated local or regional transportation agency shall perform and complete feasibility studies, with recommendations, on incentive measures to reduce emissions by vehicles through increased bus and carpool use (or other appropriate measures) in the Harris, Dallas, Tarrant, and Bexar County area in Texas. The feasibility studies and plan implementation shall be based initially on three or more passenger carpools, with modification allowed under paragraph (e). Factors which should be considered in connection with the feasibility of such mechanisms should include, but are not limited to, the physical characteristics of the roads, predicted bus volumes, before/after person capacity with and without the measure, cumulative net time savings cost, the usefulness of mechanisms in reducing commuter vehicle miles traveled, and other costs and benefits to users and non-users. The feasibility studies shall also include a discussion of the measures considered and how the measures were organized into a comprehensive plan. The criteria used for the selection or rejection of individual measures and plans should be explicitly stated. The measures and plans should also be ranked and categorized according to the following scheme: Most feasible: ready for implementation in 1–3 years; feasible: appears to be feasible but requires further study; not feasible: permanently rejected.

Such measures shall include, but are not limited to:

(1) Alternative mechanisms for bus/carpool preferential treatment.

(i) Such mechanisms shall include, but are not limited to:

(A) Exclusive bus/carpool lanes, either with-flow or contraflow lanes;

(B) Preferential use by buses and carpools of freeway on and off ramps in the affected counties; and

(C) Signal pre-emption by buses.

(ii) Such mechanisms should be considered for use in the central business districts of the major cities in the affected counties and in the following traffic corridors and/or other routes as the study may determine to be feasible:

(A) Harris County.

(*1*) North and South corridor: Interstate 45 from Little York Road to Houston central business district to Almeda Genoa Road.

(*2*) North corridor: U.S. 59 from Little York Road to Interstate 10.

(*3*) West corridor: Interstate 10 from Gessner Road to Interstate 45.

(*4*) Southwest corridor: U.S. 59 from Fondren Road to Interstate 45.

(*5*) East corridor: Interstate 10 from East Loop 610 to Houston central business district.

(*6*) Circumferential corridor: Interstate 610.

(B) Dallas County.

(*1*) North and South corridors: U.S. 75 from Loop 635 North to Dallas central business district to South Loop 635.

(*2*) Northwest and South corridors: Interstate 35E from North Loop 635 to Commerce Street to South Loop 635.

(*3*) Southeast corridor: U. S. 175 from East Loop 635 to Dallas central business district.

(*4*) South corridor: Interstate 45 from South Loop 635 to Dallas central business district.

(*5*) East corridor: Interstate 20 from East Loop 635 to Dallas central business district.

(*6*) Northeast corridor: Interstate 30 from East Loop 635 to Interstate 20.

(*7*) Northwest corridor: Harry Hines Boulevard from North Loop 635 to Dallas central business district.

(*8*) West corridor: U. S. 80 from West Loop 12 to Dallas central business district.

(*9*) South corridor: U. S. 67 from Interstate 20 to Dallas central business district.

(*10*) Circumferential corridor: Interstate 635.

(C) Tarrant County.

(*1*) North corridor: Interstate 35W from Loop 820 North to Fort Worth central business district.

(*2*) Northeast corridor: State Highway 121 from Loop 820 East to Fort Worth central business district.

(*3*) East corridor: U.S. 80 from East Loop 820 to Fort Worth central business district.

(*4*) Southeast corridor: U.S. 287 from Loop 820 East to Fort Worth central business district.

(*5*) South corridor: Interstate 35W from South Loop 820 to Fort Worth central business district.

(*6*) West corridor: Interstate 20 from U.S. 377 to Fort Worth central business district.

(*7*) West corridor: Camp Bowie Boulevard from U.S. 377 to West 7th Street and West 7th Street to Fort Worth central business district.

(*8*) Northwest corridor: U.S. 199 from Lake Worth Village to Fort Worth central business district.

(*9*) Circumferential corridor: Interstate 820.

(D) Bexar County.

(*1*) North corridor: U.S. 281 from Loop 410 North to U.S. 81.

(*2*) Northeast corridor: U.S. 81 B. R. from Loop 410 North to U.S. 81.

(*3*) East corridor: Interstate 35 (U.S. 81) from Loop 410 East to San Antonio central business district.

(*4*) Southeast corridor: Interstate 37 from Loop 410 South to Interstate 35 (U.S. 81).

(*5*) Southwest corridor: Interstate 35 from Loop 410 South to Interstate 35 North (U.S. 81).

(*6*) Northwest corridor: Interstate 10 (U.S. 87 North) from Loop 410 North to San Antonio central business district.

(*7*) West corridor: U.S. 90 from Loop 410 West to Interstate 35.

(8) Circumferential corridor: Interstate 410.

(2) Toll restructuring on the two Texas Turnpike Authority roads (Dallas North Tollway and Dallas-Fort Worth Turnpike) so as to provide incentives for bus and carpool use, such as (but not limited to):

(i) Preferential lanes at toll gates and/or lower tolls for buses and carpools;

(ii) Raising tolls during commuting hours so as to collect all revenues during those hours and allowing free usage at other times.

(3) Other incentives for reduced vehicle use, such as (but not limited to):

(i) Transit system improvements including implementation or expansion of park and ride facilities.

(ii) Restriction or elimination of on street parking in the central business districts of the major cities.

(iii) Vehicle free or bus only zones.

(iv) Improved facilities for bicycle use including bikeways and storage facilities.

(c) On or before December 31, 1977, the State of Texas or a State designated local or regional transportation agency shall submit to the Regional Administrator a scope of work for each study specified in paragraph (b) of this section. The State or designated agency shall also submit on this date a schedule describing the timing and contributions of agency participants. On or before June 1, 1978, the State shall submit to the Regional Administrator a summary of progress to date and any necessary modification to the schedule of timing and contributions of agency participants. In addition to the complete feasibility studies which are to be submitted on or before September 1, 1979, a timetable showing the schedule of further detailed engineering studies and tentative implementation dates shall be prepared and submitted by the State and participating local and regional agencies for all those measures determined to be feasible or most feasible. To the fullest extent possible this timetable should coincide with, and the studies result from, the ongoing planning and programming activities required by the U.S. Department of Transportation in FR 42976, published September 17, 1975.

(d) The State of Texas shall structure the studies so as to ensure the effective participation of all affected State, regional, and local agencies whose area of jurisdiction would be affected by any matter to be studied. To the maximum extent possible, the studies should make use of the urban transportation plan for each region.

(e) The Regional Administrator may approve a carpool scheme for a specific traffic corridor based on less than three passengers per vehicle after a valid trial period and evaluation. Approval will be based on submission by the State of traffic and resulting hydrocarbon emission data for an implemented three or more passenger carpool on the corridor and a justification for change based on air quality impact.

§ 52.2295 [Reserved]

12. Section 52.2295 is revoked and reserved.

13. Section 52.2296 is revised to read as follows:

§ 52.2296 Carpool matching and promotion system.

(a) Definitions:

(1) "Carpool" means two or more persons utilizing the same vehicle.

(2) "Major Employment facility" means any single employer location having 250 or more employees.

(3) "Commuter" means an employee who travels regularly to a place of employment.

(4) "Time-origin-destination (TOD) information" means specifications of a driver or rider's work schedule, home and work locations.

(b) This section is applicable to the following cities in the State of Texas: Houston, Dallas, Fort Worth and San Antonio.

(c) Each applicable city shall develop and implement a carpool matching and promotion system designed to encourage commuters of each respective city, on a voluntary basis, to utilize carpools by facilitating their making contact with other commuters having similar travel patterns to the same or neighboring work locations. The system shall be fully implemented by December 1, 1977. As a minimum, the system shall include the following:

(1) A method of collecting information which will include the following as a minimum:

(i) Provisions on each application for the commuter to specify TOD information and the applicant's desire to drive only, ride only, or share driving.

(ii) Provisions for making applications, with instruction, readily available to all commuting employees in each city.

(iii) Preparation and distribution to the major employment facilities in each city of information describing how the carpool matching system work and providing directions for the proper preparation of employee applications.

(2) A computerized method that will locate each applicant's origin in the urban area and destination within the city and match applicants with compatible TOD information. The results of the matching process will then be made available to applicants either through the employer or directly through the city.

(3) A method for providing continuing service so that a current list of all applicants is available for use by new applicants. The system will be periodically updated (every 6 months as a minimum) to correct TOD information and remove applicants no longer available for carpooling.

(d) A timetable for full implementation of the system required in paragraph (c) shall be submitted to the Regional Administrator by September 1, 1977.

(e) Each city shall periodically submit to the Regional Administrator a report on the progress of the carpool matching program which includes the number of applicants in the system, the estimated effectiveness of the system in promoting carpools, changes in the system since the last report, number of updates to the system, and a summary of efforts to promote carpooling and use of the matching system. The first report shall be due on December 1, 1977 and every year thereafter on December 1.

(f) Paragraphs (c) and (d) of this section shall not apply to a city which is presently in compliance by having already implemented an equivalent carpool matching system and which has certified compliance to the Regional Administrator by September 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

14. Section 52.2297 is revised to read as follows:

§ 52.2297 Employer mass transit and carpool incentive program.

(a) Definitions:

(1) "Employee" means any person who performs work for an employer thirty-five or more hours per week and for more than twenty weeks per year for compensation and who travels to and from work by any mode of travel.

(2) "Student" means any full-time day student who does not live at the educational facility and who travels to and from classes by any mode of travel.

(3) "Commuter" means an employee or a student who travels regularly to and from a facility.

(4) "Employment Facility" means any single location of a business nature with 250 or more employees working, at minimum, the same six core hours.

(5) "Educational Facility" means any single location of an educational nature of college level or of vocational training above the secondary level with 1,000 or more commuters.

(6) "Facility" means both an employment facility and an educational facility.

(7) "Employer" means any person or entity controlling an employment facility.

(8) "Educational institution" means any person or entity controlling an education facility.

(9) "Carpool" means a private motor vehicle occupied by two or more persons traveling together.

(10) "Single-passenger commuter vehicle" means a private motor vehicle with four or more wheels with capacity for a driver plus one or more passengers which is used by a commuter traveling alone to work or classes, and is not customarily required to be used in the course of his employment or studies.

(11) "Base date" means the date which is used as a reference for determination of compliance with this regulation. The base date for all facilities shall be November 1, 1977, with the exception listed in paragraph (h).

(12) "Base date period" means the thirty day period immediately preceding the base date; "compliance date period" means the thirty day period immediately preceding the compliance date. In situa-

tions where the averaging periods are not appropriate, approval of an alternate period may be requested from the Regional Administrator.

(b) *Applicability.* This regulation shall be applicable to each facility located in the following counties of the State of Texas: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties in the Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region; Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, and Waller Counties in the Metropolitan Houston–Galveston Intrastate Air Quality Control Region; Bexar, Comal, and Guadalupe Counties in the Metropolitan San Antonio Intrastate Air Quality Control Region.

(c) Each affected employer and educational institution shall develop and implement, and continuously maintain, an incentive program for each facility designed to encourage and increase use of mass transit and carpools by employees and students in their regular commuting to and from the facility. The following mandatory measures must be incorporated as a minimum into the incentive program for each facility:

(1) Posting in a conspicuous place or places of the schedules, rates and routes of mass transit service to the facility;

(2) Publicizing any applicable on-street parking restrictions including penalties for violations, which affect any areas adjacent to the facility being used for parking by commuters to the facility;

(3) Negotiations with authorities in charge of mass transit serving the facility for improved service to the facility;

(4) Incentives for bicycle commuting such as secure locking facilities and removal of restrictive rules against bicycle usage at the facility;

(5) Conducting or participating in a carpooling program (either alone, in cooperation with neighboring facilities, or as part of a city-wide system) which:

(i) Matches on a regularly recurring basis (not less often than once every six months) the names, addresses, and work telephone numbers of all commuters who commute in single-passenger commuter vehicles to a facility or group of neighboring facilities so that such commuters with similar daily travel patterns are informed and aware of each other for the purpose of forming carpools, provided that commuters who state in writing that they do not wish to be matched on-grounds of personal privacy may be omitted from the matching process;

(ii) Continuously publicizes the advantages of carpooling, both in terms of savings of fuel and money and any incentives in effect at the facility; and

(iii) Creates incentives for carpool formation by measures such as providing persons who carpool with first call on available parking spaces, spaces which are closest to entrances to the facility, or spaces which provide for most expedient exit at the end of the day.

(6) Publicizing the availability and locations, and encouraging the use, of park-and-ride facilities which could be used by employees and students.

(7) For a facility which has commuters who park on streets within one-half mile of the facility, negotiating with local municipal authorities for the curtailment of available on-street commuter parking.

(8) In the case of an affected employment facility with 1,000 or more employees, the employer shall include in the initial report required in paragraph (d) an evaluation of the feasibility of establishing a vanpool program for the facility. The report shall include: expected employee participation, any special problems in implementing such a program, progress or plans for implementing such a program, and identification of feasible alternative measures if a vanpool program is not considered feasible. The vanpool program would normally consist of the following elements:

(i) The employer would post in a conspicuous place and regularly notify all employees of a continuously outstanding offer to acquire a van or vans (by purchase, lease, or otherwise), to obtain insurance, and to make available to any group of at least eight employees a van for their use in a vanpool. Such offer would include:

(A) The procedures by which a group could accept the offer, including the designation of a driver.

(B) The conditions upon which the offer would be contingent, including acceptance by the prospective driver of the responsibility for providing regular service, training back-up drivers, and arranging vehicle maintenance, and acceptance by each other member of the prospective group of responsibility for payment of a pro rata share of all direct costs (such as rental charge, licensing costs, insurance, tolls, fuel and repair) and indirect costs (such as depreciation and interest on borrowed funds) of the operation and maintenance of the vehicle;

(ii) The employer would analyze and continuously publicize the advantage of vanpooling, including any resulting cost savings, convenience and any incentives in effect at the facility. Such incentives could include providing persons who vanpool with priority treatment on available parking spaces or spaces which are closest to entrances to or exits from the facility;

(iii) Matching for the vanpool program would be coordinated with the carpool matching program, to facilitate the formation of vanpools.

(d) Each employer and educational institution shall submit to the Regional Administrator, by the initial reporting date specified in paragraph (f), a report on the program and its effectiveness signed by an authorized official of the facility. The report shall contain, as a minimum the following information:

(1) A description of the actions taken to comply with paragraphs (c)(1) through (c)(8) of this section and any other existing or planned incentive measures for the facility.

(2) The numbers of commuters regularly arriving at and leaving the facility for the base date period and the compliance date period by each of the following modes of transportation:

(i) Single passenger commuter vehicle.

(ii) Carpools.

(iii) Van-type vehicles with 8 or more commuters.

(iv) Mass transit.

(v) Bicycles.

(vi) All other.

(3) A description of the method for determining the information in paragraph (d)(2) of this section.

(e) Following the initial reporting date specified in paragraph (f), each employer and educational institution shall periodically submit to the Regional Administrator, for each facility, a report similar to that required in paragraph (d) of this section and containing the same types of information. The first such periodic report shall be due on the next succeeding June 30 after the initial reporting date and every year thereafter on June 30.

(f) The compliance date for the full implementation of paragraph (c) and initial reporting date for each facility shall be in accord with the type and size of the facility as shown in the following table:

Facility type	Size	Compliance date	Initial reporting date
Employment facility	1,000 or more employees	Oct. 1, 1978	Nov. 1, 1978
Do	500 to 999 employees	Nov. 1, 1978	Dec. 1, 1978
Do	250 to 499 employees	Dec. 1, 1978	Jan. 1, 1979
Educational facility	5,000 or more commuters	Oct. 1, 1978	Nov. 1, 1978
Do	1,000 to 4,999 commuters	Nov. 1, 1978	Dec. 1, 1978

(g) Each educational institution or employer submitting reports required by this section shall retain for at least three years all supporting documents and data upon which such report was based.

(h) For a facility established after the effective date of this section, the base date shall be the date on which regular operations were commenced. The compliance date and initial reporting date shall be six months and seven months, respectively, after the date on which regular operations commenced.

§ 52.2298 Monitoring transportation mode trends.

(a) The State of Texas or a designated agency approved by the Regional Administrator shall monitor the changes in vehicle miles traveled (VMT) and average vehicle speeds as a result of the measures required under §§ 52.2294, 52.2296, and 52.2297.

(b) No later than May 31, 1978, the State of Texas shall submit to the Administrator a detailed program demonstrating compliance with paragraph (a) of this section in accordance with § 51.19 (d) of this chapter. The program description shall include the following:

(1) The agency or agencies responsible for conducting, overseeing and maintaining the monitoring program.

(2) The administrative process to be used.

(3) A description of the methods to be used to collect the emission reduction, VMT reduction, and vehicle speed data including a description of any modeling techniques to be employed.

(c) All data obtained by the monitoring program shall be included in the quarterly report submitted to the Regional Administrator by the State, as required at § 51.7 of this chapter, and in the format prescribed in Appendix M, Part 51 of this chapter. The first quarterly report shall cover the period January 1–March 31, 1979.

[FR Doc.77-21088 Filed 7-20-77;8:45 am]

[FRL 762-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: A notice announcing EPA's delegation of authority for the New Source Performance Standards to the State of New Jersey is published at page 37387 of today's FEDERAL REGISTER. In order to reflect this delegation, this document amends EPA regulations to require the submission of all notices, reports, and other communications called for by the delegated regulations to the State of New Jersey rather than to EPA.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Kevin Healy, Attorney, U.S. Environmental Protection Agency, Region II, General Enforcement Branch, Enforcement Division, 26 Federal Plaza, New York, New York 10007, 212–264–1196).

SUPPLEMENTARY INFORMATION: On May 9, 1977 EPA delegated authority to the State of New Jersey to implement and enforce the New Source Performance Standards. A full account of the background to this action and of the exact terms of the delegation appear in the Notice of Delegation which is also published in today's FEDERAL REGISTER.

This rulemaking is effective immediately, since the Administrator has found good cause to forego prior public notice. This addition of the State of New Jersey address to the Code of Federal Regulations is a technical change and imposes no additional substantive burden on the parties affected.

Dated: July 18, 1977.

BARBARA BLUM,
Acting Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended under authority of Section 111 of the Clean Air Act (42 U.S.C. 1857c-6), as follows:

(1) In § 60.4 paragraph (b) is amended by revising subparagraph (FF) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(FF)—State of New Jersey: New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

* * * * *

[FR Doc.77-21020 Filed 7-20-77;8:45 am]

[FRL 762-3]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: A notice announcing EPA's delegation of authority for certain categories of the National Emission Standards for Hazardous Air Pollutants regulations to the State of New Jersey is published at page 37386 of today's FEDERAL REGISTER. In order to reflect this delegation, this document amends EPA regulations to require the submission of all notices, reports, and other communications called for by the delegated regulations to the State of New Jersey rather than to EPA.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Kevin Healy, Attorney, U.S. Environmental Protection Agency, Region II, General Enforcement Branch, Enforcement Division, 26 Federal Plaza, New York, New York 10007 (212-264-1196).

SUPPLEMENTARY INFORMATION: On May 9, 1977 EPA delegated authority to the State of New Jersey to implement and enforce many categories of the National Emission Standards for Hazardous Air Pollutants regulations. A full account of the background to this action and of the exact terms of the delegation appear in the Notice of Delegation which is also being published in today's FEDERAL REGISTER.

This rulemaking is effective immediately, since the Administrator has found good cause to forego prior public notice. This addition of the State of New Jersey address to the Code of Federal Regulations is a technical change and imposes no additional substantive burden on the parties affected.

Dated: July 18, 1977.

BARBARA BLUM,
Acting Administrator.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended, under authority of section 112 of the Clean Air Act (42 U.S.C. 1857c-7), as follows:

(1) In § 61.04 paragraph (b) is amended by revising subparagraph (FF) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(FF)—State of New Jersey: New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

* * * * *

[FR Doc.77-21021 Filed 7-20-77;8:45 am]

proposed rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1030]

[Docket No. AO–361–A17]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision would amend the Chicago Regional Federal milk order. The decision is in response to industry proposals considered at a public hearing in June 1976. Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed order as amended.

Proposed changes to the order relate to performance standards for pool plants and the rates used to adjust milk prices for different plant locations. The changes would aid the efficient handling of milk and would reflect the recent increases in hauling costs.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–6273).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued May 25, 1976; published May 28, 1976 (41 FR 21787).

Notice of Recommended Decision—Issued May 26, 1977; published June 1, 1977 (42 FR 27921).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Madison, Wisconsin on June 15–18, 1976 pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on May 26, 1977 filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein with the following modifications:

Index of Changes

1. Issue No. 1—*Pooling standards for distributing plants and supply plants.*—Two new paragraphs are inserted after the ninth paragraph of issue No. 1(a); two new paragraphs are added at the end of issue No. 1(b)(1); a new paragraph is inserted after the tenth paragraph of issue No. 1(b)(3); four new paragraphs are added at the end of issue No. 1(b)(4); a new paragraph is added at the end of issue No. 1(b)(5); a new paragraph is added at the end of issue No. 1(b)(6); and issue No. 1(c) is entirely revised.

2. Issue No. 2—*Definition of producer and producer milk.*—Issue No. 2(a) is entirely revised and a new paragraph is added at the end of issue No. 2(b).

3. Issue No. 3—*Plant accounting procedure*—is entirely revised.

4. Issue No. 4—*Class I price level.*—The fifth paragraph is deleted and six new paragraphs are added at the end of this issue.

5. Issue No. 5—*Location adjustments to handlers and producers*—six new paragraphs are inserted after the 12th paragraph and two new paragraphs are added at the end of this issue.

6. *Rulings on motions and Requests*—the second paragraph is revised.

The material issues on the record of the hearing relate to:

1. Pooling standards for distributing plants and supply plants;
2. Definition of producer and producer milk;
3. Plant accounting procedures;
4. Classification of milk;
5. Class I price level;
6. Location adjustments to handlers and producers; and
7. Modification of payments to producers.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for distributing plants and supply plants.*—(a) *Distributing plants.* The unit pooling provisions applicable to distributing plants should be modified by making the 10 percent in-area route disposition requirement applicable to the unit as a whole rather than on each plant in the unit. This change will facilitate the efficient handling of Class II products by operators of distributing plants.

A proprietary operator of two pool distributing plants proposed that packaged fluid cream products, cottage cheese, yogurt, and eggnog be defined as "associated fluid milk products" and that the sales of such packaged products count toward meeting the minimum "route disposition" requirement of pool distributing plants. A proposal by several cooperative associations would include sales of packaged fluid cream products as "route disposition" in qualifying a distributing plant for pool plant status.

Presently, a distributing plant qualifies for pooling on the basis of its total and in-area sales of packaged fluid milk products. A spokesman for the cooperatives testified that prior to August 1, 1974, packaged fluid cream products were also considered in determining whether a distributing plant had met the minimum sales requirement. The witness stated that when cream products were put in a separate class they were unintentionally deleted as qualifying sales for a distributing plant.

The witness is mistaken in this contention. The final "classification" decision issued on February 19, 1974, (39 FR 8202), relative to the Chicago Regional order states as follows:

"With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining if a plant meets the pooling requirements of the order. To accommodate this, certain changes are necessary to those pool plant definitions that make specific reference to the movement of cream" (39 FR 8208).

A spokesman for the operator of two pool distributing plants testified that fluid cream products, cottage cheese, yogurt, and eggnog are generally associated with fluid milk products in processing and distribution and are highly perishable, as are fluid milk products. He said that they are largely distributed through fluid milk plants.

The witness further testified that in recent years there has been a tendency to concentrate the production of these Class II products in fewer and fewer plants. He said that after years of producing these products in each of the handler's distributing plants it became apparent that the production of these products should be concentrated in one plant if they were to be handled profitably.

The witness stated that for the market as a whole the concentrated production of "associated fluid milk products" has raised the Class I utilization of the plants where they were formerly produced. At the same time, however, it has lowered the Class I utilization in the plants specializing in these products.

This, he concluded, should be recognized in the order by allowing "associated fluid milk products" to count towards pooling qualification.

This proposal would allow a plant that had no distribution of fluid milk products or other relationship with the Class I market to qualify for pooling under the order. For example, a plant specializing in the production of cottage cheese could qualify for pooling under this proposal. Since the Class II price is usually below the uniform price, this—theoretically, at least—could drain the pool of money needed to attract milk for Class I use.

In its exceptions to the recommended decision, proponent contended its "associated fluid milk product" sales outside the marketing area enhance the blend price, since in the event of the loss of such sales the volume of milk used in such products would otherwise be utilized in Class III products. This contention assumes that such sales accounts would not be taken by other pool handlers. The record does not demonstrate that such assumption would necessarily be the case.

Moreover, proponent states that its "associated fluid milk products" plant (that processes milk into Class II uses, priced 10 cents over the Class III price) would not be able to pay a high enough price to its dairy farmers to compete for a supply of milk if it were not a pool plant. Such contention amounts to an admission that the Class II price is not sufficient to attract a supply of Grade A milk. Thus, if the pooling base were to be expanded to include "associated fluid milk products" disposition along with Class I disposition, it could result in the expansion of Class II and Class III utilization to the point that the uniform price would be reduced below that level necessary to ensure that a sufficient supply of Grade A milk would be made available for Class I use.

A further problem associated with the proposal is drawing a distinction for pooling purposes between certain Class II products. For example, a plant specializing in the production of cottage cheese would be allowed to pool under the order while a plant specializing in ice cream, another Class II product, would not. Since all Class II disposition returns a uniform value to the pool, such disposition should be treated uniformly in any pooling provision.

Accordingly, it would not be appropriate to adopt the proposal advanced by proponents. However, the problem can be mitigated by removing the in-area route disposition requirement for each distributing plant in a unit. The 10 percent in-area route disposition requirement would thus apply to the entire unit. This change would allow a handler to specialize in the production of Class II products in one of his plants if the combined route disposition of fluid milk products from all plants in the unit is at least 10 percent of the unit's receipts used for determining pool plant status.

This modification of the proposal will maintain the basic pooling base by requiring all operators of distributing plants to have at least a minimum proportion of fluid milk product disposition in the marketing area. In this way, all operators of distributing plants will be contributing some higher valued Class I utilization to the market and all will have the same opportunity to benefit from any Class II utilization they may have.

The present 10 percent in-area route disposition requirement should not be reduced to 5 percent or a daily average of 1000 pounds, as suggested by proponent. Proponent testified that the present 10 percent in-area route disposition requirement places severe restrictions on new sales outside the marketing area. Removal of the 10 percent in-area route disposition requirement for separate plants within a unit should eliminate the restriction referred to by proponent. Any further relaxation of the 10 percent requirement is not needed at this time.

With removal of the in-area route disposition requirement for each plant within a unit, the possibility exists for a distant plant to become pooled under the Chicago Regional order by virtue of being in a unit with a distributing plant that has ample route disposition in the marketing area. To preclude certain pricing aberrations which could result by pooling such distant plants, the order should restrict the location of plants within a unit to the State of Wisconsin and that portion of Illinois that is within the Chicago Regional marketing area. Although it is unlikely that any distant plant would find it economically advantageous to become regulated under the Chicago order, this restriction will provide a degree of insurance against any potentially disruptive situations that might otherwise occur. There are no presently regulated distributing plants that will be affected by this change.

Removal of the in-area route disposition requirement for each plant in a unit requires a conforming change in the order terminology applicable to a unit, since, in effect, some plants in a unit may have no route disposition. Therefore, the words "two or more distributing plants" in the introductory text of § 1030.7(a) should be replaced with "at least one distributing plant and one or more additional plants at which milk is processed and packaged or manufactured." This change will permit the inclusion of any plant in a unit at which Grade A milk is processed and packaged or manufactured; *Provided*, That the total and in-area route disposition from all plants in the unit is sufficient to meet the minimum requirements for the entire unit.

(b) *Supply plants.* Several changes should be made in the supply plant pooling standards on the basis of this record.

First, with respect to supply plants qualifying in a unit, the present requirement that each individual supply plant in a unit must ship a minimum proportion of its receipts of milk to pool distributing plants should be dropped.

Second, supply plants that are included in a unit should be located in the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

Third, supply plants should be given credit for shipments to distributing plants fully regulated under other Federal orders. However, credit for shipments to other Federal order plants should be limited to the amount of milk shipped to pool distributing plants regulated under the Chicago Regional order. Furthermore, only that milk which is not shipped on an agreed upon Class II or III classification should be eligible for pooling credit.

Fourth, producer milk that is delivered by the operator of a supply plant (either a cooperative association or a proprietary handler) directly from producers' farms to pool distributing plants should be considered as qualifying shipments from the supply plant. This should be accomplished by allowing producer milk to be diverted from one pool plant to another pool plant.

Fifth, the period for which supply plants may have automatic pool plant status should be changed from April through July to April through August.

Sixth, receipts of other source milk should be excluded from a supply plant's receipts in computing the percentage of its receipts that must be shipped to distributing plants during the month to qualify for pooling.

1. Presently, each supply plant in a unit must ship a portion of its producer milk to distributing plants. Specifically, it must ship 15 percent of its producer milk receipts during the months of September, October, and November, and 10 percent in each of the months of August, December, January, February, and March.

Several cooperative associations (proponent of proposal No. 2) proposed the removal of the requirement that each supply plant in a unit be required to ship a minimum quantity of milk during the months mentioned above. However, in the event a temporary increase in the supply plant shipping percentage was issued by the Director of the Dairy Division, they proposed retaining the authority to require an individual plant to ship up to 50 percent of the shipping percentage applicable to the entire unit.

A similar proposal was made by the National Farmers Organization (NFO), except that its proposal would not retain the option of requiring a minimum level of shipments from individual plants in a unit in the event a call was issued. An NFO spokesman testified that the proposal would allow a handler to supply milk from the closest, least costly supply area and in the most efficient manner possible. It would, he said, provide substantial savings in the handling of the milk involved.

The witness testified that the present order provision causes more milk to be handled through supply plants than is actually necessary. Moreover, he said that lack of reciprocity in Grade A milk inspection by the Chicago Board of Health makes it difficult and sometimes impossible to pool an otherwise qualified supply of milk on the Order 30 market.

A spokesman representing proponents of proposal No. 2 testified that the total shipping percentage required of a unit of supply plants assures handlers and the market of an adequate supply of milk for Class I and II use. The individual plant shipping requirement, he said, results in inefficiency and lower returns to producers because it does not permit all of a unit's shipments to come from the most favorably situated plants.

Individual shipping requirements for plants within a unit were incorporated in the order in a Final Decision issued July 9, 1973. At that time, it was found that distributing plants located in the Chicago metropolitan segment of the market were experiencing difficulty in obtaining needed milk supplies from supply plants. To remedy this situation, individual supply plant shipping requirements were adopted.

Two years later, on the basis of a hearing held in June 1975, the supply plant shipping requirements were lowered. It was found at that time that producer milk supplies on the market had increased to the point where uneconomic shipments of milk from supply plants were being made simply for the purpose of meeting the pooling requirements. Accordingly, supply plant shipping requirements were lowered by 5 to 10 percentage points.

Since June 1975, more milk has been pooled under Order 30 and the Class I utilization has declined further. In June 1975, 818 million pounds were pooled and 235 million pounds, or 29 percent of total receipts, were used as Class I. In June 1976, producer deliveries had increased to 892 million pounds—9 percent more than June 1975. Producer milk used in Class I increased to 237 million pounds, resulting in a Class I utilization of 26 percent—3 percentage points below June 1975.

Perhaps more significant than the total amount of milk on the market is the amount of milk pooled at supply plants approved by the Chicago Board of Health, since pool distributing plants distributing milk within the City of Chicago have, until recently, been required to receive only Chicago-inspected milk. In March 1976, 450 million pounds of milk were received at Chicago-approved supply plants, compared to 413 million pounds in March 1975, 400 million pounds in March 1974, and 375 million pounds in March 1973. This 20 percent increase in Chicago-approved milk in the past 3 years has reduced the need to require each plant in a unit to perform. Moreover, as a result of a recent court decision,[1] the Chicago Board of Health now approves the sale of milk on a reciprocal inspection basis. Thus, there is an abundant supply of milk available to Chicago bottling plants.

In conclusion, the reasons previously supporting shipments from supply plants within a unit no longer exist. There are now plentiful supplies of milk available to the market, making it unnecessary to require shipments from individual plants in a unit. Removal of this requirement will allow operators of supply plant units to minimize hauling costs in supplying milk to the market.

There is no need to retain authority for the Director of the Dairy Division to require individual plants within a unit to ship up to 50 percent of the shipping percentage required of the unit. To invoke this requirement on a short notice basis after many months without requiring shipments would likely cause increased transportation costs in moving milk to market. Moreover, it would adversely affect those units which are having no difficulty in meeting their minimum deliveries if the provisions were invoked in response to requests by other operators of units which are experiencing difficulty in getting their plant operators to ship milk. Therefore, it is more appropriate for the unit participants themselves to determine which plants in a unit should ship and how much each should ship.

Presently, the cooperative or handler establishing a unit furnishes the market administrator with a list of the plants included in the unit. In the event that shipments from the unit are insufficient to qualify the entire unit for pooling, the plant first on the list is excluded from the unit first, followed by the plant second on the list, and so on.

This procedure should be modified slightly by offering the handler or cooperative establishing the unit the option of specifying which plant or plants shall be excluded from the unit when deliveries are insufficient to qualify the entire unit. This option will allow the cooperative or handler to exclude the plant(s) of those parties that may have failed to meet their obligations to supply a certain amount of milk, while protecting the interests of those operators of plants that are specified at the beginning of the list who may, in fact, be fulfilling their obligations. If a handler or cooperative declines to identify the plant(s) that will be excluded from the unit, then the market administrator will simply exclude the plants according to the sequence in which they are listed.

This modification should give handlers and cooperatives more leverage in insuring that agreements are honored by unit participants. It will replace the need to allow the Director to require shipments from individual plants in a unit, which as mentioned above, would be unfair to those units which are experiencing no difficulty in meeting their delivery obligation.

An exception was made to the modification that would enable the operator of a supply plant unit to specify which plant or plants shall be excluded from a unit when deliveries are insufficient to qualify the entire unit. Exceptor states that such provision detracts from the impartiality of the removal of a plant from the unit and, thus, may encourage formation or less binding supply plant leases and agreements.

The supply plant unit concept was adopted to realize savings in hauling costs by enabling multi-plant operators to supply the market from the plants located closest to the bottling plants. Also, it was adopted to gain greater returns for producers by using reserve supplies in the more remunerative products processed by certain plants while shipping milk from plants that otherwise would be processing milk into less remunerative products. The modification adopted will thus enhance the ability of unit operators to carry out the intent of the unit concept.

2. The order should be modified to restrict supply plants that qualify for pool status as part of a unit to be located in either the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

Presently, all supply plants—including those in a unit—have to make some shipments to pool distributing plants. This requirement has tended to restrict the area in which supply plants are located, since a plant located a great distance from the market would find it uneconomical to make the required level of shipments.

With the removal of the shipping requirement for individual plants in a unit, however, it would be possible for supply plants located at great distances from the market to pool under the Chicago order by being included in a unit. It is probable that a distant plant would find it undesirable to pool under Order 30 after the Chicago uniform price is adjusted to the plant's location. However, to guard against any unforeseen pricing aberration that could result, a geographic restriction encompassing the historical supply area for the market should be placed on all plants qualifying as part of a unit. Since all plants now pooled under Order 30 are located either within the State of Wisconsin or that part of northern Illinois that is in the Chicago Regional marketing area, this area is a reasonable one in which to restrict the location of plants qualifying as part of a unit.

3. Several proposals by cooperative associations would give full or partial pooling credit for shipments of milk from Order 30 supply plants to various non-Order 30 plants.

Presently, a supply plant is credited for its shipments to Order 30 pool distributing plants and plants of producer-handlers. Credit is also given for shipments to plants partially regulated under Order 30 if the transhipped milk is assigned to Class I milk disposed of in the Chicago Regional marketing area.

One of the proposals would also give pooling credit for shipments to plants fully regulated under other Federal orders and also to totally unregulated plants if the milk transferred received a Class I classification. Proponent contended that these proposals would encourage pool supply plant operators to increase their Class I utilization by serving additional Class I outlets and, thus, be of benefit to producers by increasing the uniform price.

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[1] Official notice is taken of: *"Dixie Dairy Co. vs. The City of Chicago,"* 355 F. Supp. 1351. (N.D. Ill. 1975) affirmed 538 F. 2d 1303 (7th Cir. 1976) *cert. den.* 45 L. W. 3416 (1976)

Pooling credit should be granted for supply plant shipments to plants fully regulated under other Federal orders. Evidence on the record shows that during the period from September 1975 to February 1976 Order 30 supply plants shipped bulk milk to 9 other Federal order markets. Such shipments went as far south as the Oklahoma Metropolitan market and as far east as the Eastern Ohio-Western Pennsylvania market. The greatest volume of shipments occurred during January 1976, when more than 6 million pounds of milk were shipped to other markets.

Shipments of this nature are primarily intended for Class I use at the transferee plant. The Class I utilization is passed back to the supply plant and serves to increase the Class I utilization and uniform price of Order 30. Consequently, such sales serve to improve the returns of all producers on the market.

Up until now, shipments to other order plants have not been recognized as providing a service to the market and the system of Federal order markets. In fact, the current pooling standards tend to discourage such shipments by requiring the minimum shipments to be made to just one order. Consequently, a supply plant shipping to several markets would likely not qualify for pooling under any of them.

The trend in milk marketing has been towards larger markets, larger producer organizations, and large, centralized processing plants. Milk now moves much farther than it ever did before; not only is it procured from farther distances but also distributed over a much wider area. As a result of these developments, Federal order markets have been merged to provide a broader sharing of returns over much wider areas.

Allowing pooling credit for shipments to other orders is one means of providing a broader sharing of the Class I market among producers where merger may not be a feasible solution. It represents a logical step in accommodating movements of milk over much broader geographic areas and should benefit both the transferee and transferor markets.

Some of the proposals provided restrictions on the amount of milk which could be transferred to other order plants and receive credit towards the shipping requirement under Order 30. One proposal restricted such credit to the amount of milk shipped to Order 30 distributing plants. Another proposal provided no restrictions, so that a supply plant could conceivably qualify for pooling under Order 30 solely on the basis of shipments to other order distributing plants.

Pooling credit for shipments to other order plants should be limited to the equivalent of the shipments made to Order 30 distributing plants. This will insure that distributing plants in this market will be supplied with milk. Unlimited credit for shipments to other markets would undermine the effectiveness of the pooling standards in insuring that consumers in the Chicago Regional market will be supplied with fluid milk products.

An exceptor pointed out that the recommended decision stated that "there is an abundant supply of milk available to Chicago bottling plants" and therefore urged that no limitation be provided on pooling credit accorded shipments to other order distributing plants. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Thus, performance standards based on association of pooled milk supplies with fluid milk outlets in the market are needed to assure that milk is made available to such outlets.

Only that milk which is intended for Class I use at the other order plants should count towards pooling credit. The terms of Federal orders accommodate the transfer of milk to other order plants for the purpose of surplus disposal as well as for fluid use. Thus, milk which is transferred on the basis of requested Class II or III utilization should receive no pooling credit.

The order now provides pooling credit for milk transferred to a partially regulated distributing plant and assigned to Class I milk disposed of in the marketing area. Since virtually all of the territory now surrounding the Chicago Regional market is included in some other marketing area, it can be assumed that a distributing plant partially regulated under Order 30 probably has the bulk of its sales in some Federal order marketing area. As just indicated, pooling credit would be given for shipments to distributing plants regulated under other orders. In view of this and in view of the likelihood that a partially regulated plant's sales would be largely in regulated areas, it is reasonable that a supply plant receive pooling credit for all milk transferred to a partially regulated distributing plant which receives a Class I classification.

No pooling credit should be given for transfers from supply plants to totally unregulated plants. Under the terms of the Chicago Regional order the operator of an unregulated plant is assumed to be paying his own producers the Federal order uniform price, rather than the Class I price for milk utilized in fluid milk products. This treatment under the order is based on the assumption that the unregulated plant can not compete for producers unless he pays at least the order uniform price. But since this is the competitive price to producers the unregulated handler is not likely to be paying a higher price.

The Federal order Class I price structure is designed to include in the Class I price that amount necessary to carry the burden of maintaining an adequate reserve supply in the order market. Thus Federal order handlers pay a Class I price designed to carry a reserve supply for the regulated market. Unregulated handlers do not contribute to this burden on a year-around basis as regulated handlers do.

To encourage transfers to unregulated distributing plants for Class I use would facilitate an unregulated distributing plant operator in escaping the burden of carrying his own reserve milk supplies. When the plant operator did not need supplemental supplies, the pool would be forced to carry this milk for Class III use. Accordingly, while such transfers should not be prohibited under the order, they should not be encouraged by counting them as qualifying shipments for the transferor plant.

4. Cooperatives and proprietary handlers should be allowed to meet supply plant shipping requirements on the basis of direct deliveries from producers' farms.

The National Farmers Organization and Lakeshore Federated Dairy Cooperative each proposed allowing direct deliveries from producers' farms to pool distributing plants to count as qualifying shipments for a supply plant.

An NFO witness testified that current order provisions provide that only shipments from supply plants count towards meeting the supply plant shipping requirements. This, he said, causes a great deal more milk to be handled through supply plants than is actually needed to supply the fluid market. The witness concluded that its (NFO) proposal would make it possible for milk to be handled more efficiently. This would occur by having milk that is normally delivered to supply plants for transshipment to move directly from the farm to pool distributing plants but still count as a supply plant transfer. He also pointed out that its proposal would reduce shrinkage of milk (as a result of unnecessarily pumping it into a supply plant) and would result in less deterioration in the quality of the milk, which is also a result of pumping it.

Better roads and bigger trucks now make it feasible to direct-ship milk to all distributing plants in the Wisconsin segment of the market. For Chicago metropolitan area distributing plants, it may be more efficient to ship milk through supply plants. Whatever the individual circumstances may be, the order should encourage milk to be marketed in the most efficient way possible. Testimony indicates that current order provisions have encouraged the movement of milk through supply plants when it could have been direct-shipped to a distributing plant in Wisconsin. Inclusion of direct deliveries as qualifying shipments will remove the necessity of supplying milk through a supply plant—simply to keep the plant qualified for pooling—when the milk can be more economically supplied directly from producers' farms.

In their exception to the recommended decision a group of cooperatives opposed the adoption of any provision that would permit a proprietary supply plant operator to be a handler on milk diverted to a pool distributing plant. The exceptors

contend that the provision "conflicts with other provisions of the order and would subvert the right of a cooperative to control the marketing of milk of its member's." Exceptors refer specifically to that part of the definition of a cooperative which states that a qualified cooperative "have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members."

The provision adopted would not preclude a cooperative from making any sales arrangement it desires to engage in with respect to milk of its members. If a cooperative does not want a plant operator to divert milk of its members to other plants it could so stipulate in its sales agreement with such handler.

The present terms of the order provide that a pool plant operator may be the handler on milk diverted to a nonpool plant. The provision adopted permits the same type of handling practice between pool plants. The order does not require a plant operator to be the handler on diverted milk. Rather the order simply recognizes diversion of milk as a permissable handling practice that a pool plant operator may perform.

Exceptors state further that the present terms of the order provide that a cooperative association may be the handler on milk moved directly from the farm to a pool plant. Also, they state that a cooperative may pool a supply plant on the basis of member producer milk received at pool distributing plants. Accordingly, they contend that the order now adequately accommodates the handling of milk from farm to plant. The record demonstrates, however, that cooperatives have not engaged in handling milk under such terms of the order. Moreover, these handling arrangements are now available only to cooperative associations. By permitting proprietary plant operators to engage in essentially the same handling practices under the order it is expected that more efficient handling of milk will be encouraged.

5. The period for which supply plants may have automatic pool plant status should be changed from April through July to April through August. Presently, a supply plant or unit of supply plants that met the pool performance standards for each of the months of August through March is automatically qualified for pool status during the following months of April through July.

The Trade Association of Proprietary Plants proposed dropping August as a qualifying month for supply plants. A spokesman for this group testified that surrounding orders generally use September as the first month in the qualifying period. He said that the Class I utilization during August is more related to the automatic pooling months than to the higher utilization months in the fall and winter. He also stated that September is a more logical month to use because schools in the Chicago area do not usually start until early September. Testimony by other witnesses indicated support for this proposal.

During 1976, the Class I utilization under the Chicago order was significantly higher during the months of January through March and September through December than during the other months of the year. For January, February, and March, the utilization percentages were 36, 32, and 33 percent, respectively. For September, October, November, and December, they were 35, 36, 36, and 32 percent, respectively. For April through August they were 30, 28, 26, 28, and 30 percent, respectively. These figures, which generally follow the pattern of the previous two years, indicate that the supply-demand pattern for August is more comparable with that for the current months of automatic pooling than with that for the months when supply plants are now required to ship milk.

By using September as the starting month of the qualifying period, the Chicago order will be better coordinated with neighboring orders, such as the Upper Midwest order, the Central Illinois order, the Indiana order, and others. This will facilitate planning by handlers and cooperatives concerning which plants and producers to associate with which markets during the qualifying period.

Eligibility for automatic pool plant status for a supply plant during the April–August period should not be denied a plant that was a pool plant under another order in one month during the prior September–March period. A cooperative association proposed that any plant that was a supply plant under Order 30 shall be a pool plant under Order 30 during the following month regardless of the volume of shipments made to other order distributing plants. Proponent stated that this proposal was made for the purpose of insuring that a supply plant would not lose its eligibility for pooling during the automatic pool plant status period. Proponent contended that the provision was needed in conjunction with adoption of pooling credit on shipments made to other order distributing plants.

It would not be workable to have a provision in this order that would preclude a plant from qualifying as a pool plant under another order. Thus, the proposal as published in the notice of hearing can not be adopted.

However, if a pool supply plant were to risk the loss of eligibility for pooling during the automatic pool plant status period by shipping enough milk to qualify for pool status under another order, it would tend to inhibit such plant operator's willingness to supply milk to other order markets. Thus, to complement the amendment providing for supply plant pooling credit on shipments to other order distributing plants, the proposal should be adopted as modified above.

An exceptor contended that this provision would detract from the requirement that a supply plant must ship milk to an Order 30 distributing plant to qualify for pooling status. Since automatic qualification during April through August would still require shipments to Order 30 plants in six of the prior seven months there is little likelihood that the provision adopted would affect the ability of Order 30 distributing plants to attract adequate supplies of milk. Such conclusion is supported by the fact that the record does not indicate any apparent problem of bottling plants obtaining supplies of milk in the past during the months of automatic qualification for pool supply plants.

6. A proposal to exclude receipts of other source milk from a supply plant's receipts for purposes of determining the amount of milk which must be shipped to distributing plants during the month should be adopted.

Presently, to determine if a supply plant or unit has met the minimum shipping percentage specified in the order, its total eligible shipments to pool distributing plants, producer-handler plants, and partially regulated plants are divided by the volume of Grade A milk received from dairy farmers and cooperative associations acting as handlers on bulk tank milk, including milk diverted to nonpool plants, but excluding packaged fluid milk products which are disposed of as route disposition or which are moved to nonpool plants.

Generally, Grade A milk received at a pool plant from dairy farmers is "producer milk" and is pooled under the order. However, there are certain exceptions to this, such as when a dairy farmer's milk is diverted from another order plant. In such case, the dairy farmer would be a producer under the other order.

Also, the Chicago order was amended in 1973 by including a provision that excludes from producer status a dairy farmer whose milk is received at a pool plant during the months of January through July if the dairy farmer's milk was pooled under an order with a seasonal incentive production plan during any of the "payback" months of the previous year. Consequently, such dairy farmer's milk is not pooled under the order.

In both cases, the milk of such dairy farmers is now part of a supply plant's receipts on which performance is based even though the milk is not producer milk under Order 30. Such other source milk is part of the reserve milk supply for other markets. Milk received by diversion from another order plant is allocated to Class II or Class III use. This treatment under the order is for the purpose of accommodating the disposal of reserve milk supplies of other order markets.

Similarly, milk received from a dairy farmer who was associated with another market during the prior "payback" period, which is the season of low production, is essentially part of the reserve supply of such other market. Thus in both situations, receipts of such milk at an Order 30 plant represent milk supplies basically associated with other markets. Accordingly, Order 30 plant operators should not be required to move such other source milk supplies to fluid use outlets when the Order 30 plants are

merely facilitating the disposal of reserve milk supplies of other markets.

Since pooling credit will be given for movements of milk in bulk or packaged form to plants which are fully regulated under other Federal orders, there is no necessity to exclude shipments of packaged fluid milk products to other order plants from the supply plant's receipts, as the order now provides. However, fluid milk products disposed of as route disposition should continue to be excluded from a supply plant's receipts for the purpose of determining its shipping performance.

There is no basis for adopting a proposal that would exclude the volume of packaged fluid cream products that are disposed of from a supply plant from its receipts for the purpose of determining its shipping performance. As discussed above with respect to pool distributing plants, pooling standards must be tied to distribution of fluid milk products. Similarly, in the case of supply plants, only shipments to serve the fluid milk product needs of distributing plants should count towards meeting the shipping requirement. Since milk used in fluid cream products at a pool plant is pooled under the order, the supply plant should be required to perform on that quantity of milk also. Hence, there is no basis for subtracting the volume of fluid cream products utilized from the plant's receipts, as proposed.

The order provides that a supply plant may count shipments of condensed skim milk that is utilized in a fluid milk product as a qualifying shipment for pooling. The order language adopted in the recommended decision did not specify that such shipments to pool distributing plants must be utilized in a fluid milk product. Accordingly, the order provisions are revised to include the condition that shipments of condensed skim milk from pool supply plants to pool distributing plants must be utilized in a fluid milk product to count for pooling credit.

(c) *Distributing plants and supply plants.* A proposal that would allow a plant automatic pool plant status while plant operations are unavoidably interrupted, if it met the pool performance standards in the immediately preceding three months, should be adopted.

Proponents of proposal No. 2., a group of 14 cooperative associations, proposed the provision to accommodate situations where a "natural disaster", such as an ice storm, wind storm, or tornado, has caused the distributing plant or supply plant physical destruction such that the plant is not able to maintain its pool plant status.

The proposal should be adopted with a two-month limit, but also should be modified to cover circumstances in addition to a "natural disaster." It is not uncommon for a plant to fail to qualify for pooling for other unavoidable reasons. Such reasons could include a strike, breakdown of equipment, fire damage, and possibly other reasons that the market administrator may verify as unavoidable. Since the main impact of failing to qualify for pooling falls hardest on producers, they should be protected from sudden and unexpected loss of producer status under the order.

Allowing a plant that unavoidably failed to meet the pooling standards to be a pool plant, if it met the performance requirements in each of the three preceding months, is a reasonable and equitable basis for protecting producers' interests. It will afford handlers the opportunity to make corrective adjustments in their operations in the event of unanticipated circumstances and it will afford producers reasonable opportunity to find an alternative outlet for their milk without losing pooling privileges in the interim.

It is not necessary to extend the automatic pooling privilege to supply plants that are included in a unit since such plants already have the security of being in a unit. Thus, failure to perform does not mean such a plant will lose its pool status so long as the unit as a whole performs.

A proposal by the Southland Corporation would provide automatic pooling for six months in the event of a work stoppage, natural disaster, civil disturbance, fire, or other disaster beyond the control of the plant operator.

Proponent's spokesman testified that its Madison, Wisconsin plant, which specializes in the production of Class II products, is eligible to pool by virtue of being in a unit with its bottling plant in Chicago. Therefore, if the Chicago plant were to go out of operation, the Madison plant would also lose its pool status. This, he said, would make it impossible for the Madison plant to purchase milk for Class II use and still remain competitive.

This proposal goes well beyond the time period needed to make alternative arrangements for marketing the milk of the producers involved. Producers should have protection against unexpected loss of pool participation of their milk because a distributing plant or supply plant, over which they have no control, failed to qualify as a pool plant. However, the six-month automatic pool status proposed by Southland provides too much leeway and could be subject to abuse.

A provision now provides up to two months' automatic pool status for a supply plant that fails to qualify for pooling because of a work stoppage. Thus, the provision adopted would expand automatic pool status to all pool plants under circumstances that the market administrator determines are beyond the control of the plant operator.

The recommended decision provided a one-month automatic qualification in any circumstance. One exceptor urged that such automatic qualifications be granted only in the event of unavoidable circumstances such as a "natural disaster." Another exception stated that the one-month limit was too short a time period because if the interruption of plant operation occurred in the latter part of a month the relief granted would be for only a few days.

The record testimony pertains primarily to limiting such automatic pooling status to only cases where plant operations are unavoidably interrupted. Accordingly, it is appropriate that the provision be formulated as is provided. Also, since the order now provides a two-month limit on automatic pooling status in the case of a work stoppage and since the provision adopted is confined to only cases of unavoidable interruption of plant operations, which could occur in the middle or near the end of the month, a maximum of two months of relief should be provided.

2. *Definition of producer and producer milk.*—(a) *Producer.* A proposal to modify the treatment of a dairy farmer who was a producer under an order with a seasonal incentive payback plan during the preceding year should be adopted in the case of a dairy farmer who moves to a different farm.

The order currently provides that a dairy farmer who was a producer during any "payback" month under another Federal milk order having provisions for a seasonal incentive payment plan shall not be a producer during the following months of January through July. (Under a seasonal incentive payment plan, or "Louisville plan" as it is commonly known, funds are deducted from the pool during the flush production months and added back to the pool during the short production months in the fall. The purpose of the plan is to encourage more even production of milk throughout the year.) Milk received from such a dairy farmer during January-July does not qualify as "producer milk". Instead, it is treated as "other source milk" and allocated to the lowest possible use class.

Proponents of proposal No. 2 proposed that the treatment of such milk be modified. Proponents proposed easing the present restrictions to allow any handler to receive milk from any three such dairy farmers described above during January through July as producer milk rather than as other source milk. In other words, a handler—at each of his pool plants—would be able to receive as producer milk the milk of any three dairy farmers who had previously been producers under an order with a Louisville plan.

Proponents testified that, while the present provision is sound in principle, it has caused some hardship in the case of a tenant dairy farmer who moves to a different farm which he may rent or purchase, particularly when the diary farmer no longer has the opportunity to ship to the market with which he was previously associated. Proponent witness pointed out that April is a good time for producers to change farms, since it is the beginning of the crop season. He claimed that by allowing such dairy farmers who move to a different farm to qualify as producers under the order, such hardship would be alleviated.

Proponents failed to show that any other dairy farmers have suffered a "hardship" as a result of the present order provisions. As cited by opponents of the proposed provision, a multiple-

plant handler would be in a position to "bring back" three large producers at each plant and, thus, abuse the intent of the provision.

One exceptor urged that the current provision be modified to also exempt any dairy farmer who participated in the full take out period under such order prior to the most recent payback period. Such exemption should not be adopted since a regional handler could shift Louisville plan market producers to the Chicago order pool during the season of high production. This would tend to shift the burden of the seasonal reserve supply for the Louisville plan market to the Chicago order producers.

Proponents also proposed the addition of a new "dairy farmer for other market" provision that would exclude from producer status any producer whose production was "disassociated" with the Chicago Regional order and subsequently sold as Class I to an unregulated market. Any dairy farmer so losing producer status would not be again eligible for such status until the following August.

Proponents testified that producers who leave the market to take advantage of Class I sales in an unregulated market should not be allowed to come back to the market as producers until the following August. According to proponents, market-hopping in this manner does not contribute to the orderly marketing because it creates a price disparity between producers regularly supplying milk to the marketwide pool at the uniform price and neighboring dairy farmers supplying milk for Class I use to an unregulated market at a higher price.

While the record evidence shows that some milk previously pooled under the order has been moved to an unregulated market, no specific amount of milk or number of producers were cited. On the basis of the evidence, it is difficult to conceive that the amount of milk disassociated from this market would have any appreciable effect on the marketwide blend price or result in disorderly marketing. Furthermore, since the market administrator would not have any basis of knowing the use of "depooled" milk moved to an unregulated market, it would appear to be an impractical and unworkable proposal. For these reasons, the proposal to adopt a "dairy farmer for other market" provision should be denied.

(b) *Definition of producer milk.* The "producer milk" definition should be modified to (1) base diversion limits on the aggregate producer milk receipts of a handler rather than on an individual producer basis, (2) provide authority for the Director of the Dairy Division to temporarily increase or decrease the diversion limits by 10 percentage points, and (3) allow unlimited diversion during the month of August.

Presently, handlers may divert milk from pool plants to nonpool plants only. During September, October, and November, the amount of a producer's milk diverted may not exceed twice the quantity of such producer's milk received in the pool plant from which diverted; during the months of December through March, the limit is four times such quantities of producer milk received. No diversion limits apply during April through July for a producer who delivered to a pool plant anytime during the prior August–December period and who maintained producer status without interruption of more than 30 days during January–March.

National Farmer's Organization (NFO), the Trade Association of Proprietary Plants, Inc., and Lakeshore Federated Dairy Cooperative offered proposals to make the current diversion provisions less restrictive.

Essentially, the NFO proposal would permit diversion of producer milk from a pool plant to a pool distributing plant in addition to nonpool plants. Diversion of producer milk would be permitted during each month if one day's production of a producer was received at the plant from which diverted.

NFO contended that its proposals to revise the diversion rules would minimize unnecessary hauling and handling of milk for the purpose of pooling. Thus, proponent contends its proposal would result in more efficient marketing of milk.

The provisions regarding the diversion of producer milk are intended primarily to obtain efficiency in the disposition of milk not utilized in fluid form. Nonpool manufacturing plants are the customary outlets for the market's reserve supply of milk. Only a few pool plants, distributing or supply, have facilities to manufacture cheese, butter, nonfat dry milk, or condensed dairy products.

The processing and packaging of fluid milk products at distributing plants now takes place on only four and five days per week. On nonprocessing days at distributing plants milk that is not needed at such plants is usually moved to nonpool manufacturing plants. Production of producer milk is normally the highest during May and June, the lowest during September, October, and November. Even when production of producer milk is the lowest (September-November and the amount of packaged Class I products is relatively high, more than half of the total receipts of producer milk is moved to nonpool plants for manufacturing purposes.

Under the current marketing conditions cited herein, it is appropriate to revise the present diversion provisions to permit diversion of a producer's milk so long as one day's production during the month is received at the pool plant from which the milk is to be diverted. This minimal requirement is necessary to demonstrate that a producer's milk is available to the fluid market. Otherwise, milk which is picked up at a farm in a tank truck also containing manufacturing grade milk could qualify for pooling even though the farm on which it is produced is remote from a Grade A milk route and, thus, could not be relied on to supply the market.

A total diversion limit for proprietary plant operators and cooperatives should be established to insure that adequate supplies of Grade A milk are being assembled to meet the fluid use needs of the market. Such limitation should be based on a percentage of the quantity of producer milk for which the handler is accountable rather than the quantity of milk received at a pool plant from each producer. This change will provide greater flexibility to handlers in moving excess milk supplies to nonpool plants. For example, it will enable a handler to divert the milk of those producers whose farms are most distant from his pool plant more often than those located closest to his plant. Thus, it may enable savings in hauling costs.

Limiting the diversion of producer milk by a handler to nonpool plants to not more than 65 percent during the months of September, October, and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler corresponds to the quantities of producer milk that may be diverted under the current order provisions. Presently, the order limits the quantity of milk that may be diverted to not more than twice the quantity of each producer's receipts during each of the months of September, October, and November, and four times the quantity of a producer's receipts during the months of December through March.

During the months of April through August, no limitations should apply to milk diverted from a pool plant to nonpool plants, except that at least one day's production of milk of a new producer must be received at the pool plant prior to any diversion. Under the present order provisions, a dairy farmer must have been a producer sometime during the prior August–December period and must have subsequently maintained producer status without interruption for more than 30 consecutive days in order to be eligible for unlimited diversions during the months of April through July. Under the current market conditions, it is no longer necessary to maintain this requirement.

The incentive for dairy farmers to come on the market for the first time during the April–August period is minimal. Virtually all of the Grade A milk supply in the Chicago Regional order procurement area has been pooled under Federal orders since the promulgation of the Upper Midwest order in June 1976. Accordingly, Grade A producers in the area are now sharing in the proceeds of the fluid market that affords them the most favorable returns. Thus, there is little likelihood of seasonal reserve supplies of other markets being shifted to the Chicago Regional market pool.

The order at the present time does not specify how to differentiate between producer milk and milk diverted in excess of diversion limits. Therefore, a provision is added which provides that a handler may designate the dairy farmers whose diverted milk will not be producer milk in case any milk is diverted in excess of the prescribed limits. Lacking a decision by the handler, the milk last diverted, on

the basis of an entire day's production, is to be excluded in determining which dairy farmer's milk should not be producer milk.

Lakeshore Federated Dairy Cooperative proposed that the limitations now placed on the quantity of producer milk diverted to nonpool plants during the month be increased or decreased, at the discretion of the Director of the Dairy Division, in the same amount now specified in the order for supply plants. (The order now specifies the conditions under which shipping standards for supply plants may be temporarily adjusted up to 10 percentage points.) Lakeshore pointed out that under its proposal, if the shipping percentage requirements for supply plants were increased pursuant to the temporary revision provision of the order, the quantity of producer milk permitted to be diverted to nonpool plants could be decreased; conversely, if shipping requirements were decreased, the quantity that could be diverted could be increased. Lakeshore contends that, if there is a large increase in the market supply of producer milk requiring lower shipping requirements for supply plants, then the most economical and efficient means of handling such milk would be to divert it to nonpool plants. On the other hand, if a decrease in the supply of milk requires greater shipments from supply plants, it would be logical to reduce the amount of milk that may be diverted to nonpool plants. In sum, Lakeshore believes its proposal will enable any needed correlation between shipping percentages and diversion limitations.

We agree that better coordination is needed between shipping requirements and diversion limitations. Allowing the Director of the Dairy Division to adjust both of these simultaneously will likely result in more efficient handling of milk. Therefore, the proposal should be adopted.

The Trade Association of Proprietary Plants, Inc., proposed that unlimited diversion of producer milk to nonpool plants should be permitted during April through August. The order now permits such unlimited diversions, under certain circumstances, during April through July. Proponent noted that most neighboring orders include August as a month of unlimited diversions. They also noted their proposal would conform with the proposed change to make September, rather than August, the first qualifying month for supply plants.

This proposal should be adopted. It conforms with the changes previously adopted in this decision which would make September the first qualifying month for supply plants. The reasons stated in support of that change, i.e., the seasonal production patterns and variations in Class I utilization, and the fact that Class I demand increases when schools open in September, are equally valid for permitting unlimited diversions in August.

As previously mentioned under the discussion of pooling standards, diversions should be allowed between pool plants. This will allow supply plant operators to qualify their plants for pooling either on the basis of shipments from the plant or shipments directly from producers' farms. It will also allow distributing plant operators to divert excess milk supplies to other pool distributing plants or to pool supply plants.

The order should, in so far as possible, promote the most efficient handling of milk. To this end, the operator of a pool plant should be permitted to direct milk supplies to another pool plant and retain the pooling responsibility for such milk. Without such a provision, a handler wishing to retain his regular producers on his payroll for the entire month would have to physically receive the milk of such producers into his plant (so that it will be considered "producer milk" there), then pump it back into the truck, and deliver it to the other pool plant. Such milk would then be considered a transfer from one plant to another with the transferor handler accounting to the pool for the milk and paying those producers as well

This practice is obviously uneconomic, resulting in unnecessary and costly movements of milk. In addition, the unnecessary pumping of milk is damaging to its quality. Permitting diversions of milk between pool plants will promote efficient handling of milk and also will facilitate more simplified accounting procedures on producer milk weights, butterfat testing, and payrolling.

One exceptor stated that it would facilitate handler accounting procedures if milk diverted from a pool supply plant to a pool distributing plant was priced at the location of the plant from which diverted. Milk diverted from a supply plant to a nonpool plant is now priced at the location of the plant to which diverted. Most distributing plants obtain milk supplies associated with supply plants located in more distant zones of the milkshed. Producers are likely to incur a higher hauling cost when their milk is diverted from a supply plant to a distributing plant. Thus, they need to receive the higher uniform price applicable at the distributing plant location to cover their increased hauling cost. Accordingly, milk diverted between pool plants should be priced at the location of the plant of physical receipt.

3. *Plant accounting procedure.* The option for the operator of two or more pool plants to file a single report of receipts and utilization should be modified with respect to the classification of shrinkage under the order. Specifically, shrinkage limits for multiplant operators should be applied separately for such a handler's distributing plant(s) and his supply plant(s).

A handler operating two or more pool plants under Order 30 may now, upon request approved by the market administrator, file a single report for all of his pool plants. This reporting option was originally adopted as an aid to multiplant operators in filing required monthly data with the market administrator on a timely basis.

An association of proprietary plants, proponent of the proposal as set forth in the hearing notice to remove the reporting option, did not support the proposal on the hearing record or in its brief. However, the operator of a pool distributing plant offered testimony in support of the proposal. This handler testified that the present provision is unfair because it allows a multi-plant operator to "balance" losses due to shrinkage in his distributing plant operations with overages or lower levels of shrinkage at his pool supply plants, while the operator of a single pool plant must account for shrinkage or overage, as the case may be, with no opportunity to similarly "offset" shrinkage or overages.

There was some discussion on the record as to whether the proposal was still valid. A group of cooperative associations and a proprietary handler were apparently of the opinion that the proponent of a proposal may withdraw it from consideration at the hearing by not supporting it. However, the Administrative Law Judge stated on the hearing record that "once a proposal is made, it is part of the proceedings and anyone can come here with the intention of supporting it." We concur with the Judge.

No opposition testimony was presented at the hearing. In their briefs a group of cooperatives and two proprietary handlers opposed the proposal.

The cooperative associations opposing the change in the order regarding reporting contended that multi-plant handlers had not avoided their pool obligation or enjoyed an unfair advantage over individual plant handlers. They further maintained that "milk from the same farms may be moved, on different days, to different plants operated by the handler depending upon the needs of the fluid market or the availability of processing capacity at the several plants. If such a handler maintains proper records approved by the market administrator, he should be permitted, as a matter of convenience and fairness, to treat his aggregate receipts and utilization at all plants as if he were the operator of a single plant."

A proprietary handler opposed to the proposal contended in his brief that elimination of the single report option would result in additional recordkeeping costs to the handler.

The present shrinkage provision of the order allows the combined shrinkage incurred by all pool plants of a multi-plant handler to be computed and classified in total. Thus, an overage incurred by one plant may be offset by shrinkage of another plant operated by the same handler. Also, since the total allowable Class III shrinkage for all plants of a handler is likely to exceed actual shrinkage at one or more plants of a handler it practically assures that excessive shrinkage incurred at certain plants operated by the multi-plant operator will retain a Class III assignment. This is particularly possible when a multi-plant handler operates his own supply plants at which very little shrinkage is normally incurred. The allowable shrinkage not incurred by a multi-plant handler's supply plants may be used to offset excess shrinkage incurred at any of the multi-

plant handler's distributing plants. Such "offset privileges," of course, are not available to the operator of a single pool distributing plant who purchases milk from supply plants operated by other handlers.

To require separate accounting for shrinkage classification at supply plants and distributing plants of a handler would insure that overage or allowable shrinkage not incurred at his supply plant assembly and manufacturing operations could not be used to offset excessive shrinkage at distributing plants of the same handler.

Handlers are now required to report to the market administrator data for each plant they operate to the extent necessary to determine whether or not each plant qualifies as a pool plant each month. Thus, receipts and disposition of each plant operated by a multi-plant operator must be determined before such data can be combined into a single report. This would generally be the case even in the circumstances of milk from the same farm being moved to two or more plants of a handler during the month. However, other amendments adopted herein remove the individual plant performance requirements for plants that are pooled as a unit. A handler may pool two or more supply plants under a combined performance standard. Also, a handler may pool two or more plants as a distributing plant unit, subject to a combined performance standard. Accordingly, little if any additional cost would be incurred by a multi-plant handler in transcribing the data on separate reports for his supply plants and for his distributing plants.

The present option allowing a multiplant handler to account for shrinkage on a system basis does not provide equity as among handlers who operate both supply plant(s) and distributing plant(s) and handlers who do not. For this reason, the provisions should be modified. The order, however, should still provide the option of complete system allocation of receipts to classes of utilization. No testimony was presented on the record with respect to this feature of the single report option available to handlers.

The recommended decision concluded that single plant accounting for shrinkage should be adopted. One exceptor contended that it is difficult for a multiplant operator to compile sales and inventory records for each plant when two plants process the same product. Other exceptors contended that the impact of the proposal on the matter of equity among handlers was not adequately explored on the record.

The order now provides discretionary authority to the market administrator regarding a single report by a multiplant operator. This enables the market administrator to assure himself that a handler keeps sufficient records of each plant operation to enable proper application of the terms of the order. In addition to the computation of pool plant qualification mentioned above, records of receipts and disposition for each plant are needed for the market administrator to properly price milk at plants at various locations. In these circumstances, a handler's recordkeeping difficulty is no basis for retaining the single report option in the computation of shrinkage.

Moreover, the evidence on the record in favor of this issue, based on the matter of equity as among handlers who operate both supply plant(s) and distributing plant(s) and those who do not, was not disputed at the hearing by exceptors. All exceptors now opposed to single-plant accounting were present at the hearing and had the opportunity to give evidence in opposition to the proposal. On the basis of the record evidence, the order is properly revised as provided.

Finally, as is well known by the industry, shrinkage varies according to handling functions performed. The order reflects this in the division of shrinkage between milk assembly and processing operations at individual plants. The record shows that among the 100 handlers under the order in March 1976, there were nine handlers operating both pool distributing plants and pool supply plants. As proponent witness stated, the operators of these multi-plant operations now may offset excessive shrinkage at a distributing plant with little shrinkage or overage at supply plants. A handler who operates only distributing plant(s) has no such opportunity and thus is at a competitive disadvantage with operators of both types of plants.

The record testimony, however, did not cover the issue of competitive equity among handlers on accounting for shrinkage in a system of distributing plants vs a single distributing plant. Likewise, no evidence was presented with respect to this issue in the case of a system of supply plants vs a single supply plant. Accordingly, the revision of the single report option is limited to only the case of a handler who operates both pool supply plant(s) and pool distributing plant(s).

4. *Classification of milk.* The method of classifying yogurt should be changed to a "used to produce" basis rather than the present "disposed of" basis, as proposed by a proprietary handler.

In support of this change, proponent stated that it is difficult to account for skim milk and butterfat in yogurt on a sales basis because of the large volume of flavoring ingredients included in the product. Proponent pointed out that since about 25 percent of the product in a flavored yogurt cup is ingredients other than skim milk and butterfat, it is necessary to convert the total sales volume of flavored yogurt back to the milk equivalent ingredients in the product for proper accounting. This has been a problem for proponents since sales personnel account for yogurt in terms of the number of containers of product, which includes the flavoring ingredients. This has resulted in the handler having to use production formulas for each flavor of yogurt to subtract the flavoring ingredients in the product. Proponent indicated that if it were permitted to account for yogurt on a used to produce basis this would facilitate its recordkeeping and reporting under the order. Proponent also contended that "disposed of" accounting invariably results in significant auditing time and audit adjustments that could be reduced by accounting for yogurt on the basis of production records.

In recognition of the difficulties involved in accounting for receipts and disposition of yogurt by regulated handlers, it is reasonable that the order provide for the accounting of yogurt on a used to produce basis. Yogurt is typically made with a number of different flavors, each of which may require a slightly different accounting factor in determining how much of the product in each package consists of milk ingredients. To meet the varied demand of consumers, handlers may process a wide variety of yogurt products or buy such products from other processors for distribution on routes. In reporting the receipts and sales of these products, as well as inventories and route returns, handlers now must keep detailed records of each yogurt flavor handled and the related accounting factors needed for determining the milk ingredients. This becomes unnecessarily burdensome in view of the alternative accounting procedure available.

Under the used to produce accounting procedure adopted herein, handlers would account for yogurt in the same manner as now provided for cottage cheese, for example. A handler would report from his production records just the milk ingredients used in making the product. There would be no need to convert the total sales volume of packaged yogurt back to a milk ingredients basis for proper accounting. Also, receipts of yogurt at a pool plant would no longer be other source milk and would not entail the additional accounting now associated with such receipts for purposes of the inventory and allocation provisions.

Another accounting proposal by proponent would treat all packaged Class II products received by a handler and disposed of in the same package as "pass-through" products. Such treatment would exclude receipts of packaged fluid cream products and eggnog from the reporting, inventory and allocation provisions as well as the other source milk definition. Presently, such treatment is limited to receipts of packaged Class II products at a pool plant that are accounted for on a used to produce basis.

Proponent stated that the only packaged Class II item purchased by his company is aerated cream. He contented that the present accounting procedure of reporting receipts and disposition of such packaged Class II products requires a lot of recordkeeping which is not worth the time and effort involved.

The March 1974 final decision (39 FR 8209) adopting the present accounting procedure stated that "it is desirable for accounting purposes that such receipts (packaged fluid cream products) be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II prod-

ucts processed in the handler's plant versus those received at the plant in packaged form from other plants." Thus, the basic thrust of the present accounting provisions on receipts of packaged cream and eggnog by a handler is to provide the handler with greater assurance that any such receipts be allocated directly to Class II disposition and thereby avoid being allocated to Class III in the event of insufficient records of the products being held in inventory or disposed of. Accordingly, if the proposal were adopted handlers would be faced with the need to maintain separate records of inventory and disposition of purchased products versus like products produced in the plant.

The record fails to demonstate that these findings are not still valid. Although proponent may not be manufacturing a Class II product which he purchases from another handler, other handlers in the market may be both purchasing and manufacturing the same Class II products.

Proponent also proposed that a handler be given a maximum Class III shrinkage allowance. To determine the Class I utilization of a handler, the market administrator would verify total Class II and III utilization and subtract such utilization from the total receipts of the handler. The difference would be Class I.

Proponent stated that the intent of the proposal is to reduce accounting costs incurred by handlers and to reduce market administrator costs of auditing handler reports. In his brief, however, proponent added that, if his proposal would not reduce the costs or if offsetting additional costs would be incurred in the process of making an adequate audit, then the proposal should not be adopted.

Several handlers noted their opposition to this proposal in their briefs, arguing that it would not result in any savings but could result in unequal treatment among handlers.

To carry out his audit of receipts and utilization, the market administrator verifies disposition of producer milk in all three classes and compares it to the verified total receipts. Any difference between receipts and disposition would result in shrinkage or overage.

The order presently prescribes specific limits on Class III shrinkage. However, if a handler has less shrinkage than the prescribed limits, he only gets credit for the actual shrinkage. The proposal would grant the handler a shrinkage classification whether or not it is incurred. Thus, for some handlers the proposal could result in classifying milk receipts as Class III shrinkage when such milk is actually disposed of in packaged fluid milk product form for Class I use.

This could be particularly true in the case of a handler who operates a distributing plant but utilizes a large proportion of his producer milk receipts in Class II or Class III products that are accounted for on a used to produce basis. Such handlers would likely be credited with much more Class III shrinkage than they actually incurred in assembling milk for Class II or Class III use. In this market, where a majority of the producer milk is utilized in Class III, the proposal would likely result in a substantial volume of milk that is now disposed of in Class I use being classified as Class III shrinkage.

Such reclassification from Class I to Class III could conceivably amount to about three percent of present Class I use. The volume of producer milk accounted for on a used to produce basis in Class II and Class III is about twice the volume of milk used in Class I. Thus, if handlers were credited 2 percent shrinkage on this Class II and III volume but incurred only 0.5 percent shrinkage in such use, it would leave 1.5 percent of Class II and Class III volume, which is equivalent to 3 percent of Class I volume, classified in Class III shrinkage rather than its actual use in Class I.

Thus, the proposal could result in a significant departure from "classifying milk in accordance with the form in which or the purpose for which it is used," as is required by the Act. Accordingly, the proposal should be denied.

5. *Class I price level.* A proposal to reduce the Class I differential by 86 cents per hundredweight should be denied. The Class I differential should be continued at its current level of $1.26 per hundredweight.

A Kimberly, Wisconsin, handler representing himself and six other Order 30 handlers proposed that the Class I differential for Order 30 be set at 40 cents over the basic formula price for the preceding month. Proponent argued that such a reduction is necessary because the current Class I price has resulted in excessive production of Grade A milk, increases in "unnecessary surpluses," and decreasing Class I sales.

Proponent handler testified that the present Class I price level is contrary to the Agricultural Marketing Agreement Act, which, he contends, authorizes prices which will ensure consumers of an adequate supply of pure and wholesome milk only for fluid use. The proponent believes that about one-half of the milk now pooled under the order, which would result in a Class I utilization of about 50 percent, is all that is necessary for the market. Thus, he contends that about one-half of the milk now pooled constitutes "unnecessary surplus," or that amount of milk pooled that is in excess of Class I needs plus necessary reserves. He feels that a 40-cent Class I differential will result in a uniform price that will reduce the incentive for the "unnecessary surplus" supplies to be pooled under the order.

A witness for the proponent argued that the Chicago Regional market only needs enough milk during the shortest production month of the year to cover 120 percent of the Class I sales in the market during that month. The witness testified that the 20-percent reserve during the shortest production month will cover any day-to-day variations in fluid milk requirements and that it will also cover milk requirements for Class II products.

To arrive at a Class I differential of 40 cents, proponent computed what he considered to be the optimum Class I utilization for the market. Since production in the highest production month exceeded production in the lowest production month by 22 percent during 1975, proponent feels that 22 percent of the market's milk supplies during the heaviest production month is part of the necessary reserve to be carried by the market. Combining the 22 percent seasonal reserve with the 20 percent reserve necessary in the shortest production month, proponent calculated a necessary reserve of 42 percent, leaving a Class I utilization of 58 percent. With a 58 percent Class I utilization, proponent contended, a Class I differential of 40 cents would result in a blend price that is 23 cents above the basic formula price: *Provided*, The basic formula price for the preceding month is the same as the basic formula price for the current month. In his brief, proponent stated that 15–20 cents per hundredweight is sufficient to encourage the production of Grade A milk relative to Grade B milk.

Several parties offered testimony in opposition to the proposed reduction in the Class I differential. Handler witnesses testified that lowering the Class I differential would make it impossible for them to attract milk to the fluid market and would disrupt price alignment with surrounding markets. Moreover, they said it would result, during certain months, in the manufacturing grade milk price exceeding the order uniform price.

Cooperative spokesmen stated that the definition of "unnecessary surplus" described by proponents bore no reality to the Order 30 market. They presented data showing that on certain days of the week, especially during the short production season, there is wide variation in fluid milk requirements. Moreover, they testified that many distributing plants lack storage facilities for holding milk from one day to the next and that union contracts, overtime pay, and certain health standards make it impossible to store milk over the weekend.

The record does not support a reduction of the Order 30 Class I differential, as proposed. Adoption of the proposal would render the order ineffective in insuring the market's consumers of an adequate milk supply, would result in disorderly marketing conditions, and would disrupt price alignment with surrounding markets.

As mentioned above, proponent stated that the present price level has resulted in excessive production of Grade A milk, unnecessary surpluses, and decreasing Class I sales. It is true that there was more Grade A milk pooled under the Chicago Regional order in 1975 than there was in 1970, the first full year that the order in its present form was in effect; it is true that a smaller proportion of the milk pooled under the order in 1975 was used in Class I compared to 1970; and it is true that in

1975 there were less total Class I sales under Order 30 than in 1970.

A major factor contributing to the more ample milk supplies has been the conversion of Grade B milk supplies to Grade A. Producers of Grade B milk have been slowly converting to Grade A milk production for a number of years, not only in the Chicago milk supply area but also in areas where Grade B milk is still produced. Modern bulk tank equipment, better roads, stricter health standards, and other factors make it relatively easy to switch from Grade B to Grade A. As a result, in many markets, including the neighboring Upper Midwest market, there is more Grade A milk now priced under the orders than five years ago. There is no indication that such conversion of supplies has been just in response to the level of prices under Federal orders.

Proponents argue that 48.4 percent of the market's supplies are unnecessary reserves. However, this is based upon the assumption that the market only needs a 20 percent reserve for day-to-day fluctuations.

An exhibit at the hearing showed that milk requirements of distributing plants varied widely from one day to the next. For instance, during October 1975 shipments by the Central Milk Sales Agency supply plant unit varied from 13 loads on Saturdays to 132 loads on Thursdays and averaged 78.5 loads per day. These figures indicate that on Thursdays 68 percent more milk is required than during an "average" day of the week. Accordingly, based on the processing pattern in this market, a day-to-day reserve substantially above 20 percent is required to satisfy the milk requirements of distributing plant operators.

As noted above, Class I sales under the Chicago order have declined in the last five years. The statistics indicate that total Class I sales in 1970 were 3.5 billion pounds compared to 3.2 billion pounds in 1975. The record in no way demonstrates that this decline is attributable to the present Class I price level under the order.

Nevertheless, in assessing the impact of the present Class I price level, one must recognize that the basic formula price, and not the Class I differential, is the major determinant of the price. In January 1970, the basic formula price was $4.67 per hundredweight. In January 1976, it was $8.90 per hundredweight, or almost twice the 1970 level. During this period, the Class I differential remained virtually constant. In September 1970, three new price zones were added in the area within 70 miles of the city of Chicago and the Class I differential was changed from $1.20 to $1.26. This did not change the effective differential at any location beyond 70 miles from Chicago. As a percent of the basic formula price, the Class I differential decreased from 30 percent in January 1970 to 14 percent in January 1976. Accordingly, the differential is becoming less and less significant in terms of the cost of Class I milk. For this reason, it is unlikely that the Class I differential is contributing significantly to any decline in Class I sales in this market.

Any decision to modify the pricing structure under the Chicago Regional order must take into consideration its impact on intermarket price alignment if orderly marketing is to be maintained.

Federal milk order marketing areas cover territory in 42 of the 48 contiguous states and plants regulated under the orders receive some 80 percent of all the fluid Grade A milk used in the United States. Moreover, farms of producers supplying Federal order plants are located in each of the 48 contiguous states. (Official notice is taken of Federal Milk Order Market Statistics, Annual Summary for 1975).

The Chicago Regional market supply area encompasses Northern Illinois and most of Wisconsin, which is the leading milk production area of the country. Neighboring Federal order markets also procure milk supplies from Wisconsin. Many other more distant markets rely on milk produced in Wisconsin as a source of reserve milk supplies.

In these circumstances, alignment of prices throughout the system of Federal milk orders is essential to orderly marketing. Should price differences between any two plant locations in order markets exceed the cost of transporting milk from one plant to the other, it would unduly encourage handlers to move milk supplies solely to take advantage of such price misalignment. Similarly, producers in the Chicago Regional milkshed would seek alternative outlets in those markets where the returns would be higher.

The proposed reduction in the Class I differential under Order 30 would have an immediate and severe impact upon neighboring order markets, such as the Upper Midwest, Michigan Upper Peninsula, Southern Michigan, Iowa, Indiana, Central Illinois, and perhaps other order markets. To take one example, a Chicago-based handler presently has a Class I differential cost of $1.26 compared to $1.47 for an Indianapolis-based handler, 187 miles away. If the Chicago handler's cost of Class I milk were reduced by 86 cents per hundredweight, the Indianapolis Class I price would exceed the Chicago price by $1.07 per hundredweight. At a reasonable estimate of 2 cents per hundredweight per 10 miles to haul milk, it would cost the Chicago handler 29 cents to haul milk to Indianapolis, leaving him with a price advantage of 78 cents per hundredweight over the Indianapolis handler. Similar misalignment would occur with the other orders mentioned.

Another very real problem alluded to by opponents is the pricing relationship that would result between the order's uniform price and the basic formula price for the month. The Class I price is based on the basic formula price for the second preceding month. Assuming a 40-cent Class I differential and a 50 percent Class I utilization, as suggested by proponent, anytime the basic formula price would rise more than 20 cents during a two-month period the Class III price would exceed the uniform price. This would have occurred during 20 of the last 48 months. Such pricing under the order would not attract a milk supply for the regulated market in competition with unregulated manufacturing plants.

Even if the Class I price were based on the Minnesota-Wisconsin price (i.e., basic formula price) for the current month, it would be impossible for handlers in the Chicago Metropolitan area to attract a milk supply at the order price. While 20 cents above the manufacturing grade price might be a sufficient inducement for Grade A producers in Zone 12 (190–205 miles from Chicago) and beyond to deliver milk to metropolitan area plants, this presumably would not be the case for producers in those zones closer to Chicago since uniform prices in alternative neighboring markets would be higher.

Historically, Chicago handlers have had to reach out to about Zone 18 to find sufficient quantities of Chicago-inspected milk. With the recent court decision concerning the Dixie Dairy case, this situation may change. The record does not indicate what impact the Dixie Dairy decision will have on marketing practices in the Chicago supply area.

If Wisconsin-inspected milk were utilized by Chicago-based handlers, it would appear unnecessary for such handlers to go beyond Zone 12 to find an adequate supply of milk. Moreover, if we assume that 20–25 cents over the manufacturing grade milk price will maintain an adequate supply of Grade A milk within the first 12 zones, then, based on the market's current Class I utilization, a Class I differential somewhat lower than $1.26 might be workable. However, in view of the several considerations discussed above, no reduction in the Class I differential should be made at this time.

In his exceptions proponent reiterates his contention that the Class I differential has encouraged pooling of excess supplies of milk and has resulted in "the sharing of the Class I market by those people primarily in manufacturing."

The Class I differential is only one of several factors that may have contributed to increased amounts of milk being pooled. In fact, if proponent is correct in his contention that it takes about 20 cents per hundredweight to encourage production of Grade A milk relative to Grade B milk, it could be concluded that the Class I price as reflected in uniform prices would not have attracted any new supplies of milk to the pool since 1973 at plants beyond Zone 14. The uniform price averaged less than 20 cents over the basic formula price at all plant locations beyond Zone 14 during 1973 as well as the entire period 1973–1975. However, between 1973 and 1975 over 600 new producers came on the market at plants beyond Zone 14.

A handler witness who contended that the $1.26 Class I differential was not enough to attract milk to Chicago-based plants attributed the increase in pooled milk supplies to the level of the Class III price. He stated that the Class III price was lower than the prevailing price paid for Grade B bulk tank milk in the

milkshed. This, he reasoned, encourages plant operators to convert their Grade B producers to Grade A so that they can account to the pool at the lower Class III price for such milk.

This may well be the case in light of the evidence that supply plant operators pay distributing plant operators to qualify their milk for pooling. In addition, several witnesses stated that competitive premiums are paid to producers by supply plant operators. Thus, operators of distributing plants pay comparable premiums to hold their milk supplies. Also, cooperative association handlers who supply milk to Class I proprietary handlers obtain an over-order price to be able to pay their produces a competitive price.

Even proponent's own testimony supports the view that the condition he complains about is more related to the Class III price level than the Class I price level. He testified that the competitive pay price situation was such at his bottling plant location in Zone 11 that he has difficulty obtaining an adequate supply of milk directly from farms of producers and occasionally difficulty in purchasing bulk milk to supplement his receipts of direct-shipped milk.

Another proprietary handler stated that the competitive pay price situation would preclude him from obtaining milk supplies for his Class II uses at the Class II price if his plant were not a pool plant.

In light of the above considerations, it is concluded that the record raises considerable doubt that the conditions proponent complains about would change by adoption of his proposal. In any event, the proposal should not be adopted for the reason that it would provide substantial misalignment of prices between order markets and thereby result in disorderly marketing conditions.

6. *Location adjustments to handlers and producers.* Location adjustments to Class I and uniform prices under the Chicago Regional order should be revised to reflect increased transportation costs. Specifically, location adjustments between Zones 1 and 5 should be increased from 2 cents per zone to 3 cents per zone; location adjustments for Zones 6 through 15 should be increased from 2 cents per 15 miles to 2.3 cents per 15 miles; and all zones beyond Zone 15 should be included in Zone 16 with a maximum location adjustment of minus 36 cents. In addition, the order should provide that the adjusted Class I price and the adjusted uniform price be not less than the Class III price for the month.

A proposal to uniformly increase the location adjustment rate from 2 cents per 15-mile zone to 3 cents per zone should be adopted with the above specified modifications. Without modification, this proposal would seriously disrupt alignment of prices with neighboring orders.

A handler who operates a distributing plant located in Zone 1 proposed the adjustment rate of 3 cents per zone to reflect the present cost of transporting milk from supply plants to distributing plants such as his. A handler who operates distributing plants located in Zones 2 and 3 supported this proposal in its brief for this same reason. A witness for a large cooperative in the market stated that on the basis of recent experience in the market hauling costs on supply plant milk now range from 14 to 18 cents per hundredweight over the transportation allowance now provided in the order.

Producer associations opposed the proposal on the basis that it would disrupt alignment of prices with neighboring markets.

The Chicago order supply area extends into the Upper Midwest order (Order 68) marketing area in the vicinity of Eau Claire, Wisconsin, at Zone 19. Presently, the adjusted Class I differential at Zone 19 is $0.90. The adjusted Class I differential under the Upper Midwest order is $0.96 and $1.02 within parts of the Chicago order Zone 19. If the location adjustment rate were increased to 3 cents per zone for all zones as proposed, the adjusted Class I differential at Zone 19 would be $0.72. Such a reduction in price at Zone 19 would result in a misalignment of prices between Orders 30 and 68, as pointed out by several parties in their opposition to the proposal. For example, the Universal Foods Corporation Order 30 supply plant located in Eau Claire, Wisconsin, would have a Class I price 30 cents below a competing handler, Dolly Madison Dairies, which also is located in Eau Claire and regulated under Order 68.

As adopted herein, the Class I price would not be reduced more than 36 cents per hundredweight. Accordingly, at Zone 16 and beyond the adjusted Class I differential would be leveled off at $0.90. This would maintain or improve the present alignment, depending on the zone involved, with the Upper Midwest order.

The present 2 cents per 15-mile zone location adjustment rate in the Chicago order translates to about 1.3 cents per 10 miles, which is below the 1.5 cents per 10-mile rate provided in most other Federal orders that obtain milk supplies from Wisconsin. The latter figure is widely employed in orders and its use in Order 30 would come closer to reflecting current transportation costs.

An increase in the Order 30 location adjustment rate to 1.5 cents per 10 miles (i.e., 2.3 cents per 15-mile zone) will provide some improvement in price alignment among orders. Moreover, it will complement the amendment to the pooling provisions that gives pooling performance credit on shipments to other Federal order distributing plants by better accommodating the movement of milk supplies from pool supply plants to other order plants.

Historically, Chicago order supply plants have been a major source of supplemental milk supplies for many of the markets throughout the United States. To reflect the variable cost of moving such milk to distant markets, Class I prices in Federal order markets gradually increase the more distant the markets are from the Chicago milkshed. The gradation of prices reflects to a large degree a transportation rate of 1.5 cents per hundredweight per 10 miles. The adoption of this rate within the Chicago milkshed would tend to provide a further coordination of Class I prices on a geographical basis.

In order to reflect an average rate of 1.5 cents per 10 miles between most supply plants and the major Chicago metropolitan area distributing plants, the location adjustment rate for Zones 2 through 5 should be set at 3 cents per 15-mile Zone. This will compensate for the fact that no location adjustment is made within the first 40 miles of the Chicago city hall, which constitutes Zone 1. Zones 1 through 5 encompass all the territory within 100 miles of the City of Chicago wherein about 80 percent of the Class I milk is processed.

The Chicago metropolitan area handler normally pays the full cost of transporting milk from supply plants. This is so whether he operates his own supply plant or another handler, such as a cooperative association, operates the supply plant. In the latter case, the buying handler normally pays the hauler. Thus, the basic cost of Class I milk to a Chicago handler includes the full cost of transporting milk between the supply plant and his bottling plant.

While the location adjustment structure adopted herein may not completely eliminate the need for some out-of-pocket hauling costs by a handler in procuring milk from supply plants, it will provide a significant degree of improvement over the existing transportation allowance reflected in the order. It is not practical to provide a greater rate of location adjustment at this time.

Location adjustments should be applicable through Zone 16 for a maximum adjustment of 36 cents per hundredweight. Not only will this result in maintaining alignment with prices under Order 68, as described above, it will also provide an increased transportation allowance on supply plant milk at all plants within 295 miles of Chicago, or inside of the present Zone 19. This area encompasses virtually all of the supply plants now serving the market.

Certain exceptors opposed any revision of location adjustments on the basis that the specific rates adopted were arbitrary, would result in making it more difficult for mid-zone plants to hold milk supplies in competition with closer-in plants, would not provide adequate transportation credits on milk shipments from plants beyond Zone 15, and would alter returns to producers throughout the milkshed.

The specific rates adopted were selected to reflect increased transportation costs to the extent that maintenance of alignment of prices among orders permits. None of the exceptions suggested any modification that would better serve such purpose. One of the basic purposes of the order is to encourage shipments of milk for fluid use by Chicago-based handlers as opposed to being retained by supply plant operators for

manufacturing use. Thus, it is appropriate that the order reflect, to the extent possible, the cost of moving milk to the central market from supply plant locations. The recent increase in the cost of transporting milk has made producer milk received at supply plant locations less valuable in relation to milk received at distributing plants in Chicago. Accordingly, the location adjustment to the uniform price to producers should reflect such lower value of producer milk received at plants in the supply area.

The limit of a 36-cent location adjustment is necessary to maintain proper alignment of Chicago Regional order Class I prices with Class I prices at the same plant locations under the Upper Midwest order. If no limit were provided and the 2.3-cent rate per 15-mile zone were extended, it would reduce the Class I price differential at Eau Claire from the present 90 cents to 81.9 cents. Such price would then be 20.1 cents under the Upper Midwest order Class I price at Eau Claire. This would provide a substantial incentive for the distributing plant located at Eau Claire that is now regulated under the Upper Midwest order to purchase supplies of milk from nearby Chicago Regional order supply plants. Such practice would result in the buying handler realizing an undue competitive advantage in competition with other Upper Midwest order distributing plants. In addition, the Order 30 distributing plant located in Zone 19 would have a similar price advantage over competing handlers regulated under the Upper Midwest order.

The 36-cent limit maintains the current relationship in Class I prices at Eau Claire (Zone 19) between the two orders. Opponents to the location adjustments proposal maintained in their testimony that it was essential to orderly marketing that the Class I price relationship between the Chicago Regional order and the Upper Midwest order not be widened. The 36-cent limit is consistent with the position taken by opponents.

It is recognized that the limit on the location adjustment would not provide an additional incentive for supply plants located more than 250 miles from Chicago to ship milk to bottling plants in Chicago. However, there is a fully adequate supply of milk pooled at plants within 250 miles of Chicago to meet the fluid milk requirements of plants within such territory. Thus, no additional incentive is needed for distributing plants to obtain milk supplies from beyond 250 miles of Chicago.

Proposals to "floor" the Class I and uniform prices at the level of the Class III price for the month should be adopted.

Presently, there is no limit on the location adjustment applied to either the Class I price to handlers or the uniform price to producers. Even though the Class I price is equal to the basic formula price for the second preceding month plus a Class I differential of $1.26, there have been instances in the past few years when the adjusted Class I prices, and more frequently the uniform prices, in the outer zones of the market have actually been below the basic formula price, i.e., the Class III price for the month. This has occurred when the basic formula price, or Minnesota-Wisconsin price as it is commonly known, has increased sharply in a two-month period. The two-month lag in reflecting the Minnesota-Wisconsin price in the Class I pricing formula was incorporated in all Federal milk orders in February 1972.

Any Grade A milk pooled under the order should have a value equal to at least the value of manufacturing grade milk, since there are manufacturing plants throughout the supply area that could realize the manufacturing use value for such milk. Therefore, it is illogical to charge a handler less than the Class III price or for producers to realize a price that is below the Class III price.

Moreover, the uniform price for producer milk should not be adjusted below the Class III price because this would discourage producers from making milk available to distributing plants for fluid use. There are distributing plants regulated under the order throughout the supply area, including one located in Zone 19. If the uniform price were to fall below the alternative manufacturing use value at any such plant, the distributing plant operator would have to pay at least the manufacturing use value to his producers to obtain a supply of milk for fluid use. Thus, if the uniform price were permitted to fall below the Class III price, it would negate a basic function of the order—to assure distributing plants of an adequate supply of milk.

Certain cooperatives excepted to the adoption of a floor to the uniform price and the 36-cent limit to the location adjustment on the basis that it would tend to attract milk supplies to the Order 30 pool from the Upper Midwest Order No. 68 pool.

As stated above, the limits are needed to maintain orderly marketing as between handlers regulated under Order 30 and handlers regulated under Order 68. Since pool supply plants and pool distributing plants under each of the orders are located in close proximity to each other in this area of Wisconsin, it is necessary that Class I prices be kept in alignment to assure an orderly competitive price situation. Such need is more important to orderly marketing than any consideration of where milk will be pooled in response to uniform price relationships between the orders.

7. *Modification of payments to producers.* No change should be made in the order provisions with respect to partial payments to producers.

The order now requires handlers to make a payment to individual producers on the third day after the end of each month for the producer milk received during the first 15 days of the month. Payments to cooperatives are required by the first day after the end of the month. In making the partial payment, a handler may deduct from a producer's check any proper deductions authorized in writing by the producer.

The Trade Association of Proprietary Plants, Inc., a group composed of 24 proprietary plant operators, proposed that handlers be allowed to hold authorized deductions from producers' partial payment checks until the time of final payment, approximately 15 days later. This proposal was supported at the hearing by an additional proprietary handler and by two other handlers in their briefs.

Handlers supporting the proposal contended that producers have complained about uneven payments when authorized deductions were made only at the time of final payment; that making deductions for assignments authorized by producers is a service to producers; and that extra expense is incurred by both the handler and the creditors if payments are made twice each month.

A producer's written authorization for a handler to deduct monies for payment to an assignee does not relieve the handler of his obligation to make payment for milk by the date prescribed in the order. It is expected that the amounts deducted by handlers will be paid to assignees, as directed by the producer. This is necessary to insure that all handlers are paying the minimum class prices for their producer milk.

Most producers in the Chicago Regional market are members of cooperative associations which generally collect payments from handlers and then pay their member producers and their assignees. This practice relieves handlers of any obligation concerning deduction of assignments and corresponding payments to creditors. It is an option that is presumably available to any handler receiving milk from producers who are members of a cooperative association.

For those handlers receiving milk from nonmember producers, the record demonstrates various payment procedures that will meet the intent of the order. First, a handler could deduct all of a producer's authorized deductions from his final payment and at that time pay over the deductions to the producer's creditors. Secondly, a handler could deduct half of the deduction from the partial payment and half from the final payment and pay the producer's creditors twice a month. Finally, a handler could establish an escrow, reserve, or custodial account in a bank for the sole purpose of depositing assignment deductions for later disbursement to creditors.

There may be additional alternatives that would also be acceptable to the market administrator, who has the administrative discretion and authority to prescribe whatever necessary rules and regulations are needed to carry out the intent of the order. In these circumstances, it is not necessary to prescribe in the order provisions the specific manner in which handlers shall make the required timely payments of assignment deductions to creditors.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, pro-

posed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

RULING ON MOTIONS AND REQUESTS

An exhibit identified at the hearing as Exhibit 17 was not admitted into evidence but was inserted in the hearing transcript as an offer of proof. The Administrative Law Judge upheld an objection to its admission in evidence on the basis that the exhibit was not relevant to the hearing proposal under consideration. The exhibit consists of an unexecuted milk supply contract form. The handler who offered the exhibit at the hearing requested in his brief that it be admitted into evidence "to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws" as provided in section 608d(1). This person also requested that Exhibit 14 be admitted for the same purpose. Exhibit 14 is the Central Milk Producers Cooperative's Order 30 Market Service Program Pool Announcement for April 1976.

This proceeding, conducted pursuant to section 608c (3) and (4) of the Agricultural Marketing Agreement Act of 1937, is for the purpose of considering the proposals of the notice of hearing issued May 25, 1976 (41 FR 21787). There was not, nor could there be, a proposal to determine whether there has been any abuse of the privilege of exemptions from antitrust laws. Accordingly, Exhibit 14, except for the limited purpose for which the Administrative Law Judge admitted it, and Exhibit 17 are not relevant to the issues raised in this proceeding. Therefore, the motion to reverse the rulings of the Administrative Law Judge with respect to Exhibits 14 and 17 is denied.

The handler also requested in his brief that official notice be taken of certain statements in prior hearing records on the Chicago Regional order and of the statements of Mr. Herbert L. Forest, Director, Dairy Division, AMS, USDA, before the Subcommittee on Dairy and Poultry, Committee on Agriculture, House of Representatives, United States Congress, on July 1, 1976. All such statements were incorporated in or attached to the written brief filed by the handler in this proceeding. Such matters are from sources of which official notice may be taken. Their incorporation in a brief as part of the record of this proceeding gives other interested persons adequate opportunity to show that such facts are inaccurate or are erroneously noticed. In this circumstance, the request for official notice as filed in this proceeding by the handler is granted.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments, thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions therof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjuction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Chicago Regional marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

March 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Chicago Regional marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 15, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order[1] *Amending the Order, Regulating the Handling of Milk in the Chicago Regional Marketing Area*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Chicago Regional marketing area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, on May 26, 1977, and published in the FEDERAL REGISTER on June 1, 1977 (42 FR 27921) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein with the following modifications: Changes are made in §§ 1030.7(b)(4) and (d), 1030.12(b)(5), and 1030.60.

1. Section 1030.4 is revised to read as follows:

§ 1030.4 Plant.

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment: (a) that has facilities adequate for cleaning tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) At which milk is received from dairy farmers, or (c) At which milk is processed and packaged or manufactured.

2. Section 1030.7 is revised to read as follows:

§ 1030.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant or unit described in paragraph (a)(4) of this section from which during the month the disposition of fluid milk products specified in paragraph (a)(2) of this section is not less than 10 percent of the receipts specified in paragraph (a)(1) of this section and from which the disposition of fluid milk products specified in paragraph (a)(3) of this section as a percent of the receipts specified in paragraph (a)(1) of this section is not less than 45 percent in each of the months of September, October, November, and December, 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted to nonpool plants and to pool supply plants pursuant to § 1030.13, but excluding producer milk diverted to other pool distributing plants, receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44(a)(8)(i)(*a*) and (ii) and the corresponding step of § 1030.44(b).

(2) Packaged fluid milk products, except filled milk, disposed of as either route disposition in the marketing area or moved to other plants from which it is disposed of as route disposition in the marketing area. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Packaged fluid milk products, except filled milk, disposed of as either route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(4) A unit consisting of at least one distributing plant and one or more additional plants of a handler at which milk is processed and packaged or manufactured shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the State of Wisconsin or that portion of the marketing area within the State of Illinois, and if, prior to the first day of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the market administrator.

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transhipped and physically unloaded into plants described in paragraph (b)(2) as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 30 percent for September, 35 percent for each of the months of October and November, 25 percent for December, and 20 percent for all other months, subject to the following additional conditions:

(1) A plant that was a pool plant pursuant to this paragraph during each of the months of September through March (or during six such months and was an other order plant during one such month) shall be a pool plant for each of the following months of April through August unless written application is filed with the market administrator by the plant operator on or before the first day of any such month (April–August) requesting the plant be designated a nonpool plant for such month and any subsequent month through August: *Provided,* The plant does not otherwise qualify as a pool plant.

(2) Qualifying shipments pursuant to this paragraph may be made to the following plants:

(i) Pool plants described in paragraph (a) of this section;

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk which receives a Class I classification at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity of milk shipped to pool distributing plants during the month. Shipments to other order plants may not be made on the basis of agreed-upon Class II or Class III utilization.

(3) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants directly from farms of producers pursuant to § 1030.13(d).

(4) The quantity of condensed skim milk and fluid milk products moved (including milk diverted) from supply plants to each pool plant described in paragraphs (a) or (d) of this section that shall count towards meeting the shipping requirements of this paragraph shall be a net quantity assignable at each such pool plant pro rata to supply plants in accordance with total receipts from such plants. The net quantity shall be computed by subtracting from the quantity of fluid milk products and condensed skim milk received from supply plants the following:

(i) The quantity of condensed skim milk not disposed of in a fluid milk product and the quantity of fluid milk products in the form of bulk milk and skim milk moved from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk, other than:

(*a*) Transfers or diversions classified pursuant to § 1030.40(b)(3); and

(*b*) Transfers or diversions on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas, and on any Saturday if no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(d) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used for this purpose; and

(ii) If milk is diverted from the pool distributing plant on the date of the receipts from the supply plant, the the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of any emergency situation such as a breakdown of trucking equipment or hazardous road conditions if such emergency is reported to the market administrator.

(5) The shipping requirements of this paragraph applicable during the months of September through March and the diversion allowances specified in § 1030.13(d)(3) applicable during the same months may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision

is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month does qualify as a pool plant because of a reduction in shipping requirements pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool status with the market administrator.

(6) Two or more plants shall be considered a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(i) The plants are located within the State of Wisconsin or within that portion of the State of Illinois within the marketing area;

(ii) The plants included in the unit are owned or fully leased and operated by the handler establishing the unit and such plants were pool plants during the month prior to being included in a unit. In the case of plants operated by cooperative associations, two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives; and

(iii) The handler or cooperatives establishing the unit submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. The request shall list the plants in the sequence in which they shall be excluded from the unit if the minimum performance standards are not met. If the entire unit does not meet the minimum performance for the month, the handler or cooperatives establishing the unit may specify which plant or plants shall be excluded from the unit until the minimum performance standards are met. If a handler or cooperative declines to identify the plants to be excluded, then the market administrator shall exclude the plant first on the list followed by the plant second on the list, and continuing in this sequence until the remaining plants on the list have met the minimum performance standards. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler (or cooperative associations) establishing the unit submits a written request to the market administrator that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a), (b), or (d) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producer members of such cooperative association is received at pool plants of other handlers described in paragraph (a) of this section during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) Any plant other than a supply plant pooled in a unit that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraphs (b) or (c) of this section that is unable to meet such performance standards because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than 2 consecutive months.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant;

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order; and

(3) That portion of a plant that is physically separated from the Grade A portion of such plant, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1030.9 [Amended]

3. In § 1030.9, paragraph (h) is revoked, the word "or" is added after the semicolon at the end of paragraph (f), and the semicolon and word "or" at the end of paragraph (g) are replaced with a period.

3a. In § 1030.12 paragraph (b)(5) is revised to read as follows:

§ 1030.12 Producer.

* * * * *

(b) * * *

(5) A dairy farmer with respect to milk produced by him that is received at a handler's pool plant during the months of January through July if any milk from the same farm operated by such dairy farmer was a receipt of producer milk in any "payback" month during the preceding year under another order that provided for a seasonal incentive payment plan whereby funds previously withheld in the computation of the uniform price to producers were paid back to producers through the uniform price computation in subsequent months of the year.

4. Section 1030.13 is revised to read as follows:

§ 1030.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from producers by being physically unloaded into processing facilities, a storage tank, or, in the case of a reload facility, another tank truck, as further provided below:

(1) Any shrinkage of milk received from producers' farms which was not unloaded in a pool plant shall also be producer milk under this paragraph; and;

(2) In the event that part of a load of milk is first received at another plant(s) and the remaining part is then unloaded in the pool plant, the quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received at a pool plant from a handler described in § 1030.9(c).

(c) Received by a handler described in § 1030.9(c) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant pursuant to paragraph (b) of this section. In applying §§ 1030.52 and 1030.75, such skim milk and butterfat shall be deemed to have been received at the location of the pool plant to which delivery is normally made.

(d) Diverted by the operator of a pool plant, or by a handler described in § 1030.9(b), to another pool plant or to a nonpool plant (that is not a producer-handler plant), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion unless during the period of September through March at least one day's production is physically received during the month at the pool plant from which diverted;

(2) Milk from a dairy farmer who was not a producer during the previous month shall not be eligible for diversion until at least one day's production is received at the pool plant from which diverted;

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative, the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary revision of the specified percentages pursuant to § 1030.7(b)(5);

(4) The quantity of each producer's milk to be considered as diverted milk when a portion of a tank load of milk, picked up at the farms of two or more

producers, is unloaded at another plant, shall be determined by prorating the total quantity unloaded at such other plant over the total quantity of milk picked up at each producer's farm;

(5) To the extent that milk diverted by a cooperative association as a handler described in § 1030.9(b) during any month would result in a plant failing to qualify as a pool plant under § 1030.7, such diverted milk shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which dairy farmer's milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted, except that, in the case of a distributing plant, if during the month not more than 4 days' production of a producer is diverted from such plant or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant, such milk shall be priced at the location of the plant from which diverted.

5. In § 1030.30, the introductory text of paragraph (a) and paragraph (a)(3) are revised to read as follows:

§ 1030.30 Reports and receipts and utilization.

* * * * *

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report for supply plants and a single report for distributing plants may be filed), shall report the quantities of skim milk and butterfat contained in or represented by:

(1) * * *

(2) * * *

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable) including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(4), except that during the months of April through August no such separate statement need be made if receipts from supply plants are only from plants that were pool plants during the prior months of September through March.

* * * * *

6. Section 1030.32 is revised to read as follows:

§ 1030.32 Other reports.

(a) Each handler described in § 1030.9 (a), (b), and (g) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler described in § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products and fluid cream products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month; and

(2) Each handler pursuant to § 1030.9 (a) and (b) shall report for each load of milk diverted for his account:

(i) The quantity of each producer's milk so diverted;

(ii) The date(s) of pickup of each producer's milk; and

(iii) The name and location of the plants to which and from which the milk was diverted; and

(3) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk during the previous calendar month shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

7. In § 1030.41, the introductory text of paragraph (a) and paragraph (b)(2) are revised to read as follows:

§ 1030.41 Shrinkage.

* * * * *

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of a handler's supply plants combined or at all of a handler's distributing plants combined if such reports are filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c) and in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

* * * * *

8. In § 1030.42, paragraph (a) is revised to read as follows:

§ 1030.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (or to the pool plant of another handler if a combined report is filed pursuant to § 1030.30 by the transferor-handler) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b).

* * * * *

8(a). In § 1030.40, paragraph (b)(1) and (4)(v) are revised to read as follows:

§ 1030.40 Classes of utilization.

* * * * *

(b) * * *

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product or eggnog, except as otherwise provided in paragraph (c) of this section.

* * * * *

(4) * * *

(v) Custards, puddings, pancake mixes, and yogurt; and

* * * * *

9. Section 1030.43 is revised to read as follows:

§ 1030.43 General classification rules.

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant (or plants, if applicable) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative.

10. In § 1030.44, the introductory text is revised to read as follows:

§ 1030.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9 (a), (b), and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization pur-

suant to paragraphs (a) through (c) of this section. For this purpose only, a handler described in § 1030.9(a) who operates more than one pool plant may elect to have his receipts allocated for each of his pool plants separately or for all of his pool plants combined, except that, if he has receipts that would be allocated pursuant to paragraph (a) (11) or (12) of this section or the corresponding steps of paragraph (b) of this section, his total receipts shall be allocated for all of his pool plants combined.

* * * * *

11. Section 1030.52 is revised to read as follows:

§ 1030.52 Plant location adjustments for handlers.

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part pursuant to the following schedule, except that in no event shall the adjustment result in a price less than the Class III price for the month:

Zone	Distance in miles from city hall in Chicago	Location adjustment rate (cents per hundredweight)
1	0-40	0
2	41-55	−2.0
3	56-70	−6.0
4	[1] 71-85	−8.0
5	[2] 86-100	−12.0
6	101-115	−14.3
7	116-130	−16.6
8	131-145	−18.9
9	146-160	−21.2
10	161-175	−23.5
11	176-190	−25.8
12	191-205	−28.1
13	206-220	−30.4
14	221-235	−32.7
15	236-250	−35.0
16	[3]	−36.0

[1] Including Milwaukee County, Wis., and Winnebago County, Ill.
[2] Excluding Milwaukee County, Wis., and Winnebag County, Ill.
[3] Beyond 250.

(b) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago—with fractions rounded up to the next whole mile. The market administrator shall notify each handler of the zone or mileage determination, which shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment credit computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or at all pool plants of such handler for which his total receipts are allocated for all his pool plants combined pursuant to § 1030.44, after eliminating duplication for transfers between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.44;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c) (6) (i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk and milk diverted from other pool plants, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If, during the month, receipts at such distributing plants of producer milk, milk diverted from other pool plants, and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c) (6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to paragraph (c) (7) of this section;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk and milk diverted from other pool plants at such distributing plant pursuant to paragraph (c) (6) (i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plant, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c) (6) (ii) of this section; or

(ii) Receipts specified in paragraph (c) (6) (ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c) (7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rate applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c) (8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on receipts at such plant of producer milk and milk diverted from other pool plants that is classified as Class I but is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section.

12. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

13. In § 1030.60, the introductory text is revised to read as follows:

§ 1030.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9 (a), (b), and (c) as follows:

* * * * *

§ 1030.71 [Amended]

14. In § 1030.71(b) (2), the words "(but not to be less than the Class III price)" are deleted.

§ 1030.76 [Amended]

15. In § 1030.76(a) (4) and (5), the words "(but not to be less than the Class III price)" are deleted.

[FR Doc.77-20928 Filed 7-20-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 2]

BURDEN OF PROOF IN ENFORCEMENT PROCEEDINGS

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its rules so as to provide generally that the proponent of an order in an enforcement action has the burden of proof. The proposed rule would overrule an earlier opinion by the Commission's Atomic Safety and Licensing Appeal Board and take account of a recent decision by the U.S. Court of Appeals for the District of Columbia Circuit.

DATE: Comments on the proposed rule are due by September 6, 1977.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Martin G. Malsch, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301–492–7203.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission ("Commission") is considering an amendment to § 2.732 of its "Rules of Practice" in 10 CFR Part 2 which would state that as a general rule the proponent of an order to amend, suspend, or revoke a license or to impose a civil penalty in an enforcement proceeding against a licensee, including a licensee under 10 CFR Part 50 (a person licensed to construct or operate a production or utilization facility), has the burden of proof, unless otherwise ordered by the presiding officer in a given case. The familiar term "burden of proof" is commonly used to denote two distinct concepts: the burden of going forward and the ultimate burden of persuasion (establishing the validity of a contention by the necessary quantum of the evidence). Under the proposed amendment to § 2.732 the proponent of the order would have both the burden of going forward and the burden of persuasion. This allocation of the burden of proof is in accord with section 7(c) of the Administrative Procedure Act, 5 U.S.C. § 556(d). Section 7(c) of the APA, as recently interpreted in *Environmental Defense Fund* v. *EPA*, 548 F. 2d 998 (D.C. Cir. 1977), provides that in the absence of some statutory exception, the proponent of an order has the burden of going forward with evidence. The Commission believes that the Atomic Energy Act does not provide for any statutory exception to this general rule.

Environmental Defense Fund v. *EPA* further held that the allocation of the burden of persuasion is not specified by section 7(c) of the Administrative Procedure Act. In determining that both the burden of going forward and the burden of persuasion should be on the proponent of an enforcement order, the Commission has given careful consideration to basic concepts of fairness, the need for procedures that will facilitate effective enforcement action where warranted, the nature of the two-step nuclear facility licensing process, and the need for some stability in facility licensing decisions. Once the licensing review and hearing process has been completed and a valid construction permit has been issued, the Commission believes that as a general matter it is unnecessary to assure an effective enforcement program and unreasonable to require the construction permittee continually to prove the absence of permit violations as a condition of continuing with plant construction. The proposed rule would, however, permit the presiding officer in the enforcement proceeding to make exceptions to the general rule as to burden in particular cases. For example, a case seeking modification of the construction permit to account for some newly discovered safety issue can properly be regarded as an effort to resolve the safety issue early, rather than waiting for the operating license stage. In such a case, the burden of persuasion can properly be placed on the applicant, since the applicant must bear the burden of persuasion on the issue at the operating license stage in any event.

In *Consumers Power Company* (Midland Plant, Unit Nos. 1 and 2) ALAB–283, 2 NRC 11 (1975), ALAB–315, NRCI–76/2 at 101 (March 1976), the Commission's Atomic Safety and Licensing Appeal Board indicated that the holder of a construction permit has the burden of persuasion in an enforcement proceeding seeking revocation, suspension or modification of the permit. The Appeal Board in that case also indicated that the proponent of the order did have the burden of going forward with some minimum quantum of evidence to support enforcement action during the initial stage of the proceeding. However, the outcome of the *Midland* proceeding did not depend on resolution of the burden of proof question, since the Appeal Board concluded that the construction permittee in that case had met the burden which the Appeal Board believed the law imposed on it. The Commission chose not to review the *Midland* proceeding. This rulemaking proceeding is intended to address the burden of proof question on a generic basis.

As indicated, the proposed rule would overrule the *Midland* opinion and generally place both the burden of persuasion and the burden of going forward on the proponent of an order, as is the usual allocation adopted by Federal administrative agencies. There appear to be no discernible impacts on safety from the rule change, which would as a practical matter affect the outcome only of those cases in which the evidence for and against the proposed order is evenly divided.

There is no legal requirement that these proposed rules be published for public comment before adoption since "rules of agency organization, procedure, or practice" are exempt from that general requirement of the Administrative Procedure Act. 5 U.S.C. 553(b). The Commission, however, believes that public participation beyond the legal minimum can make a valuable contribution to its decisions. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment of 10 CFR Part 2 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 6, 1977.

1. Section 2.732 is revised to read as follows:

§ 2.732 Burden of proof.

(a) For the purposes of this section, burden of proof shall mean (1) the initial burden of going forward with evidence and (2) the ultimate burden of persuasion.

(b) Unless otherwise ordered by the presiding officer, the applicant or the proponent of an order has the burden of proof. Unless otherwise ordered by the presiding officer, in a proceeding under Subpart B, the proponent of the order to modify, suspend, or revoke the license, (including a construction permit) or to impose a civil penalty or take such other enforcement action as may be proper has the burden of proof.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2701); sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841), 5 U.S.C. 557.)

Dated at Washington, D.C., this 14th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-21028 Filed 7-20-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

CRUDE OIL BUY/SELL PROGRAM

Proposed Revision and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) proposes to revise the Mandatory Crude Oil Allocation Program (the "buy/sell program") to limit the scope of the program to those

refiner-buyers who have a demonstrated necessity for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil and to simplify the administration of the program.

DATES: Comments by August 8, 1977, 4:30 p.m.; requests to speak by August 3, 1977, 4:30 p.m.; hearing date: August 9, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box NO, Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461, (202–254–5201).

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, (202–566–9833).

Robert G. Bidwell, Jr. (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461 (202–254–9707).

Michael Paige (Office of the General Counsel), 12th & Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565).

SUPPLEMENTARY INFORMATION: On February 28, 1977, FEA issued a notice of public hearing and opportunity for public comment with regard to a reevaluation of the crude oil buy/sell program (42 FR 12187, March 3, 1977). In the notice, FEA stated that it was considering whether to modify, or alternatively to eliminate, the program to simplify its administration and to reflect current conditions in the petroleum industry. FEA had tentatively concluded that, at this time, supplies of crude oil for small and independent refiners were adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.63) and the general availability of crude oil in the world markets and, therefore, a reevaluation of the program was appropriate to assess its usefulness.

FEA specifically invited comment on three alternative proposals as follows: (1) Whether the program should be eliminated; (2) whether the program should be eliminated and the supplier/purchaser freeze modified to enable FEA to establish supplier/purchaser relationships for those refiner-buyers which could demonstrate their inability to obtain adequate crude oil supplies because of lack of access to foreign crude oil; and (3) whether the program should be modified to provide for the establishment of semi-permanent relationships between buyers and sellers of allocated crude oil, reviewed at six month intervals, with eligibility to purchase allocated crude oil based on lack of access to imported crude oil. FEA also invited general comments as to possible revisions to the program other than the alternatives outlined above.

Discussion of Comments

Comments on the reevaluation of the buy/sell program were invited through April 13, 1977, and forty-seven written comments were received by FEA. A public hearing was held on April 12 and 13, at which twenty-six persons presented oral statements. The oral statements and written comments expressed the views of major integrated refiners, large independent refiners, small refiners, producers, trade associations, consumers, and government agencies. FEA believes that the comments received fairly represent the broad range of interests which would be affected by any changes in the buy/sell program.

In the comments received by FEA, the large integrated refiners expressed the view that more normal supply conditions had returned to the petroleum industry and that current supplies of crude oil for small and independent refiners were adequate. Based on this conclusion, these companies generally supported elimination of the program for the following reasons: (1) The program acts as a disincentive for refiner-buyers to improve their supply situation, either with respect to volume or type of crude; (2) the administrative complexities of the program are unduly burdensome; and (3) the program creates uncertainties in planning which result in inefficiencies of operation.

The small and independent refiners, on the other hand, contended generally that a stable crude oil supply/demand situation does not exist because domestic production is declining and imports of foreign crude oil are increasing. In addition, these firms maintained that new sources of domestic production are difficult to obtain because of the existence of price controls. Moreover, they contended that adequate supplies of foreign crude oil are not in fact available to small refiners. Difficulties in negotiating with producing governments arise due to the relatively small volumes involved, and use of imported crude oil is made difficult by the higher inventory costs associated with smaller storage facilities, inadequate docking facilities, and lack of pipeline space to move additional supplies of crude oil inland. Small refiners also commented that sweet crude oil, which is their principal feedstock, remains in tight supply and that large purchases of foreign sweet crude oil for the Strategic Petroleum Reserve could result in a tighter supply situation than currently exists.

Although Alternative No. 3 (semi-permanent buyer-seller relationships, reviewed every six months) received more support than Alternative No. 2 (FEA assigned supplier/purchaser relationships for refiner-buyers that do not have access to imported crude oil), the majority of those responding where opposed to both of these alternatives. Some firms commenting indicated that Alternative No. 2 would have the advantage of constituting a simpler, more easily administered method of assuring supplies of crude oil to those refiner-buyers which are encountering difficulty in obtaining such supplies. The principal objections raised in opposition to the proposal were that it would remove supply flexibility and lock in buyers and sellers, and that the administrative complexities of assigning specific volumes to certain sellers and monitoring the system would be much more involved than the current administrative process. In addition, some respondents indicated that assigning specific supplier/purchaser relationships would create a dependence on this source of crude oil and constitute a disincentive for investment in transportation and processing facilities.

The firms supporting Alternative No. 3 commented that the proposed semi-permanent allocation relationships would minimize supply and inventory uncertainties, thus providing continuity in planning for both refiner-buyers and refiner-sellers, and would limit participation to those refiner-buyers with the fewest supply alternatives. Those opposed to this alternative cited the inflexibility of semi-permanent relationships in the dynamic petroleum industry, and also contended that such a program would be complex and difficult to administer.

Proposed Revisions to Mandatory Crude Oil Allocation Program

Based on its analysis of the material submitted in the public hearing and in the written comments, and upon all other information available, FEA has tentatively determined that the buy/sell program should be retained in a modified form, because certain small refiners are continuing to experience significant difficulties in obtaining adequate supplies of crude oil. The proposed revised program would be limited to those refiner-buyers which have a legitimate need for allocated crude oil due to a lack of access to offshore crude oil. Several administrative changes have been proposed to simplify the program and reduce the burdens imposed on participants. FEA is also proposing a change in the method of determining the maximum permissible sale price for allocated crude oil in order more closely to approximate actual market transactions. It should be emphasized that FEA does not believe that this proposed program would be appropriate for use in an extreme shortage situation, but that the proposal would be more effective than the current program in today's supply environment.

The specific proposed modifications are as follows:

1. *Eligibility.* Program participation would be reduced first by elimination of all large independent refiners, as well as small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. All other small refiners (including those who had allocations of zero) would be eligible to apply for allocations under the program, and allocations would be granted for specific refineries as to which the supplies of domestic crude oil were not sufficient and the required showing of lack of access to imported crude oil had been made.

Applications for individual refineries would be evaluated according to the following criteria, which would be used to determine whether or not the refinery had access to imported crude oil:

A. Refineries with crude oil runs to stills (excluding allocated crude oil) during the period January 1, 1977, through June 30, 1977, comprised of 20 percent or more imported crude oil would be deemed to have access to imported crude oil and would not receive allocations.

B. Refineries that are located at ports or on navigable inland waterways would be deemed to have access to imported crude oil and would not receive allocations, unless the refiner could show that the refinery could only receive imported crude oil on a seasonal basis, in which case it could be granted a seasonal allocation, or that the refinery was built to process domestic crude oil and had no facilities for delivery of imported crude oil.

C. Refineries with direct access to pipelines that are normally used to carry imported crude oil to inland refineries would be deemed to have access to imported crude oil and would not receive allocations, unless the refiner could demonstrate that the refinery could not receive a sufficient quantity of imported crude oil by pipeline for one or more of the following reasons:

(i) The refinery's runs to stills have dropped 15 percent or more in the six months immediately preceding the refiner's application because of documented pipeline proration;

(ii) The minimum size of pipeline shipments exceeds refinery storage or other available storage in the immediate area; or

(iii) The refiner is required to supply minimum pipeline fill equal to or greater than one half of the refinery's crude oil storage capability.

FEA has attempted to develop reasonable and objective criteria for determining which refineries have access to imported crude oil and which do not, although the availability of pipeline space changes constantly, and no administrative criteria can precisely assess the degree of a particular refinery's access to imported crude oil. Therefore, FEA invites further suggestions for other access criteria that would fairly measure a refinery's access to imported crude oil and that could be applied without necessitating difficult subjective administrative judgments.

An alternative approach could be to further restrict those eligible to apply for the program to the small refiners that purchased allocated crude oil in at least three of the previous four quarters (September 1, 1976, through August 31, 1977) or in some other designated number of quarters in a recent period. Historical participation in the buy/sell program may be indicative of a continuing need for allocated crude oil, and FEA requests comments on whether this factor should be considered in determining eligibility for the program in addition to the access criteria specified above.

2. *Purchase opportunities for eligible refiner-buyers.* Under the proposal, eligible refiner-buyers would be entitled to purchase an amount of crude oil equal to the difference between (A) the crude oil runs to stills for the refiner's own account at the eligible refinery in the corresponding six months of the previous year, including allocated crude oil, and (B) the runs to stills for the six month period immediately preceding the allocation period (determined by using the crude oil runs to stills level for that refinery for the refiner's account in the first four months of that period over the six month period), less the volume of allocated crude oil processed in the refinery. For example, for the first allocation period (October 1, 1977, through March 31, 1978), if the crude oil runs to stills for an eligible refinery were 120,000 barrels (including a purchased allocation of 20,000 barrels) for the period October 1, 1976, through March 31, 1977, and the refinery's projected volume of crude oil runs to stills for the period April 1, 1977, through September 30, 1977, were 90,000 barrels (excluding purchased allocation amounts), the allocation would be 30,000 barrels 100,000 plus 20,000, less 90,000 = 30,000).

FEA believes that this formula for determining allocations will provide for the equitable replacement of any shortfall in supplies of crude oil for eligible refineries. In addition, it will provide for automatic adjustments to allocations based on demonstrated (but not estimated) changes in supplies.

FEA requests comments generally on whether this proposal is a fair and equitable method for determining allocation volumes, and on whether there is an appropriate maximum level that should be placed on allocations, given a possible future decline in domestic production.

3. *Allocation period.* FEA is proposing to extend the allocation period from a quarterly to a six month period, which is intended to simplify the administration of the program and add a greater degree of certainty for both refiner-buyers and refiner-sellers. The first six month allocation period would begin on October 1, 1977.

As a transition between the current and revised programs, FEA plans to propose an extension of the June through August 1977 allocation quarter for the month of September 1977, by permitting refiner-buyers that purchased their allocations to purchase a pro-rata amount thereof from the same refiner-sellers from which they purchased crude oil in the current quarter.

The buy/sell notice that specifies the quantities of allocated crude oil each refiner-buyer is eligible to purchase and each refiner-seller is required to sell would be published 30 days prior to the start of each allocation period, rather than 15 days prior to the beginning of an allocation quarter as provided under current regulations. FEA believes that this will make it easier for refiners to arrange purchases and sales of allocated crude oil and for refiner-buyers to apply for directed sales orders from FEA, if required.

4. *Allocations for newly constructed refining capacity and for leased or purchased refineries.* No provisions are included in the proposal for allocations to new or expanded refinery capacity, as FEA believes that, prior to committing therefor, the refiner concerned would either have arranged for a sufficient volume of domestic crude oil supplies, or alternatively would have acces to imports. In addition, FEA has had difficulties in determining the appropriate allocations for newly constructed refining capacity under the criteria set forth in § 211.65(b). FEA has also tentatively concluded that sufficient incentives for new refiners are provided under other regulatory programs, and that, to obtain a crude oil allocation, it would be appropriate to require the new refiner to make the showing required for the granting of an exception under Subpart D of Part 205. However, as to refineries operational prior to September 1, 1977 that have not been shown on any buy/sell notice and where the owner may have relied upon the continued effectiveness of the provisions of the current § 211.65 (b), the proposal permits application for a maximum possible allocation of 25% of the refinery's capacity under the same access criteria as for other refineries.

Since a refinery's supply of crude oil is normally sold or transferred with the refinery, the allocation rights of purchased or leased refineries are proposed automatically to transfer to its new owner or lessee. However, there is no provision for allocations to refineries that have been shut down and are subsequently reactivated.

FEA invites comments as to whether it is appropriate to limit eligibility for the buy/sell program to existing refineries or whether there are other factors which would support special provisions for allocations to new or expanded refinery capacity that does not have access to imported crude oil.

5. *Sales obligations of refiner-sellers.* A refiner-seller's sales obligation will continue to be a fixed percentage share of the total amount of crude oil to be allocated to all refiner-buyers in an allocation quarter. The percentage share of each refiner-seller will be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. Since the amounts to be allocated to refiner-buyers should under the proposal more accurately reflect their actual purchases, the existing provision for calculating primary and secondary sales obligations for refiner-sellers would be unnecessary. The sales obligation for each refiner-seller would therefore consist of its unsold sales obligation from the previous allocation period, plus its fixed percentage share of that additional volume of crude oil, if any, necessary to make the total of the sales obligations of all sellers equal to the sum of the quantities of crude oil that all refiner-buyers would be eligible to purchase for the allocation period.

6. *Directed sales.* Procedures for directed sales under the proposed program would be similar to those under the current program, except that refiner-buyers would be permitted to request directed sales as soon after the publication of a buy/sell list as they could demonstrate their inability to obtain allocated crude oil for their refinery under the program. Refiner-buyers would apply for directed sales at any time within the twenty (20) day period following publication of the list. This change is intended to speed up the directed sales process and to assure that refiner-buyers' allocations would be arranged before the beginning of the allocation period.

7. *Reporting requirements.* The current reporting provisions require the submission of quarterly reports of refinery runs to stills and estimated runs to stills, together with other data, and a report of sales or purchases under the program, which must be updated if actual deliveries differ from contract volumes. The FEA has had difficulties with both reports, because the former does not include all the data needed by FEA and because under the latter requirement refiners have often not filed forms, have filed inaccurate forms, or have not updated forms.

The proposed reporting requirements provide only for a monthly report, which would include the data now reported quarterly plus actual sales or purchase volumes, and data on runs to stills of allocated crude oil, which are not now reported. This report should correct the weaknesses of the two existing reports and should simplify reporting for refiners.

Refiners would be required to report sales under the program within forty-eight (48) hours of their consummation. This is to enable FEA to complete directed sales in a timely manner. Refiner-buyers would also be required to estimate their refineries' runs to stills for the two month period immediately prior to the beginning of an allocation period.

FEA is considering whether a further reporting requirement would be appropriate, pursuant to which refiners would identify the volumes of differing quality crude oils processed in each of their refineries. This information could potentially be of significant assistance in FEA's evaluation of requests for directed sales. FEA invites comments as to whether such a requirement would be appropriate or if reporting this information would be unduly burdensome for refiners.

8. *Pricing of allocated crude oil.* FEA proposes to modify the pricing provision for sales of allocated crude oil more accurately to reflect the actual market value of crude oil sold under the buy/sell program. This modification is proposed because many comments received in this proceeding and during the rulemaking proceedings regarding Special Rule No. 1 (42 FR 1035; January 5, 1977) indicated that many refiner-buyers are able to obtain low sulfur, high gravity crude oil at an advantageous price as compared with similar quality imports under the current pricing provisions. Refiner-sellers therefore may have been required to sell sweet crude oil below its acquisition cost or value on the world market because the sulfur and gravity differentials currently allowed are not representative of actual world market prices for imported crude oil. There are also indications that, to a much lesser extent, refiner-buyers may have had to pay proportionately higher prices for sour crude, and thus have curtailed purchases of sour crude under the program.

FEA intends that the buy/sell program be available only to provide a source of crude oil supplies to refiners which might not otherwise have adequate access thereto, at a price approximating the fair market value of such allocated crude oil. In addition, FEA wishes to allow refiner-sellers to recover their costs as fully and as equitably as possible. The amended pricing provision is designed to achieve these objectives, and comments are requested as to whether the proposal is in fact equitable to both buyers and sellers.

FEA has verified, through its own calculations, that light, sweet foreign crude sold under the program is generally priced under the rule currently in effect so as to result in a loss to the seller and, therefore, at a price less than the fair market value for such crude oil. FEA has considered several possible methods of correcting this situation, including upward revisons in the sulfur and/or gravity differentials, and altering the value of the allowed sulfur and/or gravity differential at various points on the sulfur content and/or gravity scale. FEA believes the most equitable method to be to modify the pricing provision for sales of allocated crude oil to take into account crude oil quality differentials by separating the refiner-sellers' crude oil imports into two categories, high sulfur crude oil, defined for this purpose only as crude oil that has a sulfur content of six-tenths of one percent or more by weight, and low sulfur crude oil, defined as crude oil that has a sulfur content of less than six-tenths of one percent sulfur by weight. The refiner-seller would determine his weighted average landed cost separately for each category. The maximum permitted sale price of allocated crude oil would be calculated by applying the current sulfur and gravity differentials of plus or minus three cents per one tenth percent sulfur by weight and three cents per °API against the weighted average landed cost of the category of crude oil in which the actual volume of crude oil sold to a refiner-buyer is included.

According to FEA's calculations, which are based upon data reported by refiners, the proposed rule would have the effect of substantially reducing the price advantage to the refiner-buyer for purchases of light, sweet foreign crude oils, and substantially reducing the price disadvantage to buyers for purchases of sour crudes.

The results of FEA's trial pricing calculations for this proposal are as follows. A cross section of six sellers were selected, and the weighted average landed cost of their imports for the month of February 1977 for low sulfur and high sulfur crude oil was calculated. For each, a hypothetical sale price for Nigerian light crude oil (36.75 °API, 0.1% sulfur) was calculated under the present rule and the proposed rule. The resulting pricing advantages and disadvantages for refiner-buyers appear in the table below. For the four selected sellers which import significant volumes of high sulfur crude oil, a hypothetical sale price for Arab light crude oil (33.27 °API, 1.7% sulfur) was also calculated under the present rule and the proposed rule. As can be seen from the results in the table, the price disadvantage to the buyer for purchases of sour crude was similarly reduced.

Price advantage (disadvantage) to the buyer

[In dollars per barrel]

	Seller					
	A	B	C	D	E	F
	Purchase of Nigerian light					
Present rule	1.36	0.03	0.97	0.42	0.09	1.05
Proposed rule	.46	(.05)	.20	(.05)	.33	.06
	Purchase of Arab light					
Present rule	NA	NA	(.45)	(1.04)	(.26)	(.27)
Proposed rule	NA	NA	(.33)	(.07)	(.19)	(.11)

On the basis of these test calculations, FEA believes that the proposed rule will meet the objective of providing a method of pricing under which the refiner-buyer's cost will more closely approximate current market values.

FEA also proposes to modify the provision regarding transportation expenses recoverable by refiner-sellers, since the current regulation may be subject to an interpretation which could permit double recovery of transportation costs in certain cases. The proposed rule provides that the refiner-buyer will be charged only actual additional transportation costs over and above the average of all transportation costs of imported crude oil included in the calculation of the price of allocated crude oil. Domestic transportation costs included in a refiner-seller's computation of landed costs will not be recoverable as additional expenses. FEA requests written comments on whether this aspect of the pricing proposal will ensure equitable recovery of delivery costs for refiner-sellers.

COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Modification of Buy/Sell Program," Box NO. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA

Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

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

B. PUBLIC HEARING

1. *Request procedure.* The time and place for the public hearing is indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., August 5, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., e.d.t., August 8, 1977.

2. *Conduct of the hearing.* The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.d.t., August 8, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790; 39 FR 23185.)

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing, it is proposed to amend Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.62 is amended to delete the definitions of "allocation quarter", "future refining capacity", "new refining capacity" and "refinery capacity"; and to add, in appropriate alphabetical sequence, a new definition of "allocation period", to read as follows:

§ 211.62 Definitions.

* * * * *

"Allocation period" means a consecutive six-month calendar period commencing either on April 1 or October 1 of each year. The first allocation period shall be the six-month period from October 1, 1977 through March 31, 1978.

* * * * *

"Refiner-buyer" means any small refiner which is determined to be eligible for an allocation of crude oil pursuant to § 211.65.

* * * * *

"Refining capacity" means, for each refinery, the capacity thereof as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business shall be deducted from refining capacity.

* * * * *

"Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, or is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

* * * * *

2. Section 211.64 is amended to read as follows:

§ 211.64 Transactions under prior program.

Any agreement for the sale or purchase of crude oil entered into as a result of the provisions of this subpart as in effect immediately prior to October 1, 1977, shall be fully performed notwithstanding any provision of this subpart as in effect on October 1, 1977.

3. Section 211.65 is revised to read as follows:

§ 211.65 Method of allocation.

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an allocation for one or more of its refineries: *Provided,* That the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976 through August 31, 1977, (ii) was listed on the buy/sell notices during the period September 1, 1976 through August 31, 1977, with an allocation of zero (0) barrels in all four allocation quarters in that period, or (iii) as to refiners not shown on such buy/sell notices, commenced operations at the refinery as to which an allocation is sought prior to September 1, 1977, in which latter case the FEA may assign the refinery a maximum allocation of twenty-five (25%) of that refinery's refining capacity.

(2) A refinery will only be eligible for an allocation if it is not deemed to have access to imported crude oil (other than Canadian crude oil).

(3) A refinery will be deemed to have access to imported crude oil if:

(i) Twenty (20%) percent of its crude oil runs to stills (excluding crude oil purchased pursuant to this section during the period January 1, 1977 through June 30, 1977) were comprised of imported (other than Canadian) crude oil; or

(ii) It is located at a port or on a navigable inland waterway providing access to imported crude oil, unless the small refiner that owns the refinery can document that it could not receive imported crude oil for one of the following reasons:

(A) The refinery is only accessible by water for a portion of the year, in which case the FEA may assign the refinery a seasonal allocation, or

(B) The refinery was constructed to process domestic crude oil, and lacks dock and/or storage facilities that would permit it to process imported crude oil; or

(iii) It has direct access to a pipeline that routinely carries imported crude oil (other than Canadian crude oil) to in-

land refineries, unless the small refiner that owns the refinery can document that it could not receive a sufficient quantity of imported crude oil by pipeline for one of the following reasons:

(A) The refinery's volume of crude oil runs to stills (excluding crude oil processed for other refiners) have decreased by fifteen (15%) percent or more in the six months immediately preceding the refiner's application due to documented pipeline proration,

(B) The required minimum size of pipeline shipments exceeds the refinery's storage capacity, or other available storage in the immediate area, or

(C) The refiner is required to supply pipeline fill in order to use the pipeline, and the minimum pipeline fill requirements are more than one half of the refinery's storage capacity.

(4) Small refiners that desire to receive allocations for one or more of their refineries shall submit applications by August 31, 1977 for a determination of the refineries' eligibility for an allocation. Applications shall be addressed to the Program Manager, Crude Oil Allocation, FEA, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Each application shall contain the information (including documentation where appropriate) necessary for the FEA to evaluate the application under the criteria specified in subparagraph (3) of this paragraph and the data on crude oil runs to stills necessary to calculate an allocation under paragraph (b) of this section. Documentation should include copies of correspondence with pipeline companies, as well as any published requirements of pipeline companies as to required minimum shipments. Separate applications must be submitted for each refinery. The FEA may request additional information if necessary for evaluation of the application and shall notify each applicant of its determination as to eligibility of the refinery or refineries concerned by September 30, 1977.

(b) *Purchase opportunities or refiner-buyers.* (1) In each allocation period, each refiner-buyer shall be entitled to purchase, for each refinery owned by that refiner-buyer that is determined by the FEA not to have access to imported crude oil, an amount of crude oil equal to the difference between the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the corresponding period of the previous year (October 1, 1976 through March 31, 1977 for the first allocation period) and the volume of the crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery for the six month period immediately preceding the allocation period for which the allocation is being determined (calculated by utilizing the level of the crude oil runs to stills at that refinery in the first four months of the period for the entire six-month period) less the volume of the crude oil runs to stills in latter six month period attributable to crude oil purchased under this section.

(2) Crude oil allocated under this section shall be processed only at the refinery as to which the allocation was granted, and such crude oil must be processed in that refinery within thirty days following the close of the allocation period for which that crude oil was allocated.

(3) No allocation shall be made under this section which will result in crude oil supplies in excess of one hundred (100%) percent of refining capacity for any refiner-buyer's refinery.

(4) No refiner-buyer shall purchase under this section (i) crude oil imported from Canada for processing in any first priority refinery (as defined in Part 214 of this chapter) owned by that refiner-buyer or (ii) domestic crude oil for processing in any such first priority refinery in excess of the average volumes thereof purchased by that refiner-buyer for that refinery in the period September 1, 1976 to August 31, 1977.

(c) *Review of eligibility for allocations and adjustments to purchase opportunities.* (1) Upon application by a small refiner, the FEA may review the eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occurred or adjust the allocation as to a refinery to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions. Requests for review or adjustment shall be filed with FEA no less than 60 days or more than 90 days prior to the beginning of an allocation period and shall be made in accordance with the procedures established in Subpart G of Part 205 of this chapter. The FEA shall make its determination within forty five (45) days of the receipt of the application.

(2) The FEA may at any time, without application by the refiner-buyer concerned, review the eligibility of or allocation as to a refinery. Specifically, the FEA may institute such a review where it believes that significant increases in the supplies of domestic crude oil for any refinery have occurred or because of the need to reconsider the refinery's access to imported crude oil pursuant to paragraph (a)(3) of this section. The FEA may request additional information from the refiner concerned for the purposes of such a review. If appropriate, the FEA may determine that a refinery is ineligible for further allocations or may adjust the allocation of a refinery pursuant to an order issued under Subpart G of Part 205 of this chapter.

(d) *Newly or constructed expanded refineries.* No refining capacity operational after August 31, 1977 shall be eligible for allocations under this section. No reactivated refineries or refinery capacity that has not been operated for a period of six months or more shall be eligible for an allocation of crude oil under this section.

(e) *Leased or purchased refineries.* Leased or purchased refineries shall continue to be eligible for allocations on the same basis as in effect for the lessee or the previous owner, as the case may be; *Provided,* That the lessee or new refiner as to the refinery is a small refiner.

(f) *Computation of total allocation obligation.* The sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for delivery during an allocation period shall be the total alocation obligation for refiner-sellers for such allocation period.

(g) *Refiner-sellers' sales obligations*—(1) *Sales obligations of each refiner-seller.* (i) Effective for the allocation period commencing October 1, 1977 and subsequent allocation periods, the FEA shall compute a sales obligation for each refiner-seller as provided in paragraph (g) (2) and (3) of this section. The total of the sales obligations of all refiners-sellers shall be equal to the total allocation obligation for the particular allocation period as computed in paragraph (f) of this section.

(ii) Each refiner-seller shall offer for sale, directly, or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation.

(2) *Calculation of sales obligations.* (i) The sales obligation for each refiner-seller shall consist of that refiner-seller's fixed percentage share as calculated under paragraph (g)(2)(ii) of this section multiplied by the total sales obligation for all refiner-sellers adjusted by any carryovers of unsold sales obligations and FEA approved reductions in sales obligations for sales in excess of sales obligations in previous allocation periods.

(ii) A refiner-seller's fixed percentage share is its proportionate share of the total refining capicity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. Changes in refining capacity shall not subject a refiner-seller to any change in its fixed percentage share over the share identified for the first allocation period. No refined-seller shall be required to sell any of its supplies of crude oil under this section if the sale thereof would effect a reduction in the supplies of crude oil imported from Canada allocated under Part 214 of this chapter to any first priority refinery (as defined in Part 214) owned by that refiner-seller or if the sale thereof would effect a reduction in the supply levels of domestic crude oil for any such first priority refinery, except that such refiner-seller is required to offer for sale under this section the average volumes of domestic crude oil sold under this section in the period November 1, 1974, through October 31, 1975, for use at an eligible first priority refinery owned by a refiner-buyer.

(3) *Carryover of sales obligations.* (i) The volume of each refiner-seller's unsold sales obligation in an allocation period (or quarter) shall be added to that refiner-seller's sales obligation in one or more subsequent allocation periods.

(ii) The FEA shall pursuant to paragraph (k)(3) of this section, or may at its discretion in other cases, reduce a refiner-seller's sale obligation in an allocation period for sales in excess of its published sales obligation in a previous allocation period.

(h) *Buy/sell notice.* At least thirty days prior to each allocation period, the FEA shall publish a notice for that allocation period listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller will be obligated to offer for sale to refiner-buyers. Upon publication of the notice, refiner-buyers and refiner-sellers shall negotiate purchases and sales of crude oil allocated pursuant to the notice. All sales must be contracted for within thirty (30) days after the beginning of the allocation period, and all deliveries must be completed within thirty (30) days following the close of the allocation period.

(i) *Sale/purchase transaction report.* Within forty-eight hours of the completion of arrangements therefor, each transaction made to comply with this section shall be reported by the buyer and seller to the FEA. This report shall identify the selling and purchasing refiners and indicate the volumes of crude oil sold or purchased.

(j) *Conditions of sale.* (1) The terms and conditions of each sale of crude oil, other than the prices, shall be consistent with normal business practices.

(2) The crude oil offered must be suitable for processing in the refiner-buyer's refinery. Crude oil is deemed to be suitable for processing in a refinery if it has historically been processed in the refinery or if it has the same characteristics as crude oil that has historically been processed in the refinery. A refiner-seller may not be required to supply a specific type of crude oil to a refiner-buyer's refinery if the volume of the crude oil that would be sold would account for a greater percentage of the refinery's total crude oil runs to stills in the allocation period concerned than was the case for that type of crude oil during the previous twenty-four month period.

(3) The crude oil offered must be physically capable of being delivered to the refiner-buyer's refinery by transportation methods normally used to deliver crude oil to that refinery. The refiner-seller is responsible for arranging delivery of allocated crude oil to the refiner-buyer's refinery.

(4) All crude oil sold pursuant to this secton shall be priced in accordance with the provisions of Part 212 of this chapter.

(5) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this section.

(k) *Failure to negotiate transactions.* (1) Each refiner-buyer shall make its best effort to consummate the purchases of crude oil under this subpart from refiner-sellers prior to requesting assistance from the FEA. A refiner-buyer that is able to demonstrate its inability to consummate a sale despite making such effort may request, in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must be received by the FEA no later than 20 days after the publication of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Such a request must also document the refiner-buyer's inability to purchase crude oil from refiner-sellers by supplying the following information to the FEA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in transactions under this section.

(ii) Names and locations of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy-sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information FEA may request.

(2) Upon receipt of such a request, the FEA may direct one or more refiner-sellers that have not sold their required sales obligations for the allocation period to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by the FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during that allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provisions of this section.

(3) Refiner-sellers shall notify the FEA in writing within forty-eight hours of the consummation of each sale under this program. The FEA may then direct refiner-sellers to sell crude oil to refiner-buyers that have been unable to purchase their total allocations for the allocation period. In directing refiner-sellers to make such sales, the FEA shall consider the percentage of each refiner-seller's sales obligations for the allocation period that has been sold, as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in the FEA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the FEA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to paragraph (g)(3)(ii) of this section.

4. Section 211.66 is amended by deleting paragraphs (c), (e) and (f) and revising paragraph (d) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(c) [Deleted]

(d) *Monthly report.* (1) Not later than October 20, 1977, and by the twentieth day of each month following October 1977, each refiner shall file with the FEA a report containing the following information as to the immediately preceding month:

(i) The volume of the crude oil runs to stills for each of its refineries, identifying the volumes of domestic, imported and allocated crude oils so processed.

(ii) The volumes of crude oil processed for the account of other refiners in each such refinery, listed by name.

(iii) The volume of crude oil processed for the account of non-refiners in each such refinery, listed by name.

(iv) The volume of crude oil processed for the account of that refiner by other refiners, listed by name.

(v) Any change in refinery capacity since the previous report.

(vi) Purchases or sales of allocated crude oil.

(vii) Such other information as the FEA may request.

(2) Separate reports under subparagraph (1) of this paragraph for the months of June, July, and August, 1977, shall be filed by October 20, 1977.

(e) and (f) [Deleted]

5. Section 212.94 is revised to read as follows:

§ 212.94 Allocated crude pricing.

(a) *Scope*—(1) *General.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of this chapter, effective for sales obligations for the allocation period commencing October 1, 1977 and subsequent allocation periods.

(2) *Definitions.* For the purposes of this section—

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

(b) *Rule.* (1) Notwithstanding the general rules described in this subpart, the price at which low sulfur and high sulfur crude oil, respectively, shall be sold when required in § 211.65 of Part 211 of this chapter shall not exceed the weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States) of all low sulfur or high sulfur imported crude oil, respectively (other than crude oil imported from Canada), delivered to a refiner-seller in the month in which the sale is made and the two months preceding that month, plus a

handling fee of five cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in subparagraphs (2) through (4), respectively, of this paragraph (b). For purposes of calculating the weighted average per barrel landed cost of low sulfur or high sulfur crude oil under this paragraph (b) (1), a refiner-seller shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver such low sulfur or high sulfur imported crude oil to the refiner-seller's refineries. Each refiner-seller making such a sale shall calculate its price for low sulfur crude oil against its weighted average per barrel landed cost of imported low sulfur crude oil and shall calculate its price for high sulfur crude oil against its weighted average per barrel landed cost of imported high sulfur crude oil under this section and shall maintain records, which shall be made available to the FEA upon request, listing the volumes and landed cost of all imported low sulfur and high sulfur crude oil delivered to it.

(2) Actual additional expenses incurred by a refiner-seller to move crude oil to a refiner-buyer's refinery over and above the average transportation expenses included in the price determined under paragraph (b) (1) of this section shall be paid by the refiner-buyer. If domestic transportation costs are included in a refiner-seller's computation of landed costs for purposes of paragraph (b) (1) of this section, they may not be recovered as additional expenses under this paragraph.

(3) A price adjustment shall be made for gravity differential of crude oil offered for sale under § 211.65 of this chapter by adding to or subtracting from the weighted average landed costs as calculated under paragraph (b) (1) of this section three cents per barrel for each °API that the crude oil being offered for sale under §211.65 of chapter is above or below, respectively, the weighted average °API of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b) (1) of this section for the refiner-seller.

(4) A further price adjustment shall be made for sulfur content differential of crude oil offered for sale under § 211.65 of this chapter by adding to or subtracting from the weighted average landed cost as calculated under paragraph (b) (1) of this section three cents per barrel per one-tenth percent that the sulfur content by weight of the crude oil being offered for sale under § 211.65 of this chapter is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b) (1) of this section for the refiner-seller.

[FR Doc.77-21010 Filed 7-20-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 11, 21, 91]

[Docket No. 17042; Notice No. 77-13]

SPECIAL FEDERAL AVIATION REGULATION 27: EPA EXHAUST EMISSIONS (SMOKE) STANDARDS EFFECTIVE JANUARY 1, 1978

Proposed Amendment of Federal Aviation Regulations to Effect Compliance With EPA Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes amendments of its aircraft emission rules to ensure compliance with aircraft emissions (smoke) standards issued by the Environmental Protection Agency (EPA) that are effective January 1, 1978.

DATES: Comments must be received on or before September 13, 1977. Effective date of EPA regulation is January 1, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17042, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Emanuel M. Ballenzweig, Assistant Chief, High Altitude Pollution Staff, AEQ-10, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone 202-425-8933.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. However, to reflect the division of regulatory responsibility between EPA (in section 231 of the Clean Air Act, as amended, 42 U.S.C. 1857 f-9) and the Secretary of Transportation (in section 232 of that Act, 42 U.S.C. 1857 f-10), comments are not requested herein concerning the substance or the effective date of the already final requirements of 40 CFR Part 87 (EPA Part 87) that are incorporated herein. Since those comments would involve EPA's regulatory authority, they should be submitted to EPA (although FAA would appreciate information copies of such comments).

Comments that do not involve either the substance or the compliance date of the provisions of EPA Part 87 that are incorporated in this notice should identify the FAA regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. Comments, received on or before September 9, 1977, will be considered by the FAA Administrator before taking action on the proposed rules. The proposals contained in this notice (other than the incorporated provisions of EPA Part 87) may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

HISTORY

Under section 232 of the Clean Air Amendments of 1970, Public Law 91-604, the FAA has a duty to issue regulations that ensure compliance with all aircraft emission standards promulgated under section 231 of the Act, which are currently prescribed in EPA Regulations Part 87 (40 CFR Part 87) issued on July 6, 1973, and published in the FEDERAL REGISTER (36 FR 19088) on July 17, 1973.

Accordingly, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27, published in the FEDERAL REGISTER (38 FR 35437) on December 28, 1973. The purpose of SFAR 27 is to ensure compliance with aircraft and aircraft engine emission standards and test procedures issued by the EPA in EPA Part 87.

The SFAR, as orginally issued, contained only those standards and procedures in EPA Part 87 that were effective beginning February 1, 1974. On December 23, 1974, the FAA issued an amendment to SFAR 27 (Amdt. SFAR 27-1, published in the FEDERAL REGISTER on December 30, 1974, at 39 FR 45008) containing the fuel venting emission standards in EPA Part 87 that were effective beginning January 1, 1975. A second amendment to SFAR 27 was issued on November 23, 1975 (Amdt. SFAR 27-2, published in the FEDERAL REGISTER on November 28, 1975, at 40 FR 55311) containing smoke emission standards in EPA Part 87 applicable to new and in-use aircraft turbofan or turbojet engines designed for subsonic airplanes that have a rated power of 29,000 pounds thrust or greater, effective January 1, 1976.

THE PROPOSAL

The FAA now proposes to add to SFAR-27 the provisions of EPA Part 87

that apply, beginning January 1, 1978. This proposal would apply to engines specified in § 87.21(c) of EPA Part 87 (40 CFR 87.21(c)). That rule provides that the exhaust emission of smoke from each new Class T3 which, as defined in § 87.1(a) of EPA Part 87, includes engines of the JT3D Model family aircraft gas turbine engine "manufactured" on or after January 1, 1978, shall not exceed a smoke number of 25 (as determined in accordance with EPA Part 87). For the purpose of this proposal, the date of issuance of an FAA airworthiness approval tag or "other FAA approval for installation of an engine on aircraft" is proposed as the date an aircraft engine will be regarded as "manufactured" (as that word is used in EPA Part 87). This would apply to compliance with all of EPA's regulations that are framed in terms of the date of "manufacture."

In that regard, under this proposal, special provision is made under section 19 to provide (1) for the export of engines produced in the United States for use exclusively outside the United States by foreign countries that do not require emission controls and (2) for the installation of engines on aircraft that do not have standard airworthiness certificates or their foreign equivalent. In those cases, the data plate affixed to the engine must be permanently and prominently marked with a prescribed statement that emission compliance must be determined before installation on an aircraft. The FAA proposes in section 19(c) that the type certificate data plate for engines that have not been shown to comply with the emission control standards be marked with the following statement: "Need for Emission Compliance Must Be Determined Before Installation."

As is the case with respect to the current rules concerning smoke emission, compliance with the exhaust emission requirements for Class T3 engines manufactured on or after January 1, 1978, would be shown if the engines incorporate combustors of a design that has met the applicable smoke number, and are maintained in accordance with applicable maintenance requirements. Accordingly, the January 1, 1978, date would be added to section 14. In addition to this basis for assuring continued compliance with EPA's smoke emission standards, research is being conducted to determine the need for additional requirements to detect and prevent deterioration of smoke emission characteristics during the service life of an engine. If this research shows that production line testing of sample engines, periodic testing of in-use engines, or similar regulations are necessary to ensure compliance with these standards, they will be proposed by the FAA in a later rule-making action.

The reference in the proposed revision of section 19 to "other FAA approval for installation of an engine on aircraft" (in addition to airworthiness approval tags), as discussed above, is intended to reflect the fact that, under current practice, engine airworthiness approvals are issued in forms that are not limited to airworthiness approval tags. This change would apply to all engines covered by section 19, not only engines being added by this proposal. In addition, in order to assist maintenance personnel and others in determining whether a given engine may be installed on an aircraft without compliance with smoke emission standards, it is proposed that the manufacturer be required to establish an FAA-approved means of permanently identifying, on each engine, its date of manufacture. This requirement would also apply to all engines covered by section 19, not only engines being added by this proposal. To supplement this requirement, the FAA will ensure that the serial number of each engine, and information identifying whether each serial number complies with applicable emissions requirements, is recorded on the type certificate data sheet for each engine.

Applicability

As stated above, the proposed amendment would apply to Class T3 engines manufactured on or after January 1, 1978. According to the engine manufacturer, there are no orders from domestic air carriers for new production Class T3 engines for delivery on or after January 1, 1978, and orders are on hand for only a few new Class T3 engines to be delivered on or after January 1, 1978, for use on export aircraft that are not to be operated into the United States. Since the objective of EPA Part 87 and SFAR-27 is protecting public health and welfare within the United States, the FAA is working with the EPA to exclude, from the applicability of their regulation, aircraft that have standard airworthiness certificates and that will be operted within the United States only during the brief period of their delivery to purchasers outside the United States. However, as the EPA regulations presently provide no such exclusion, this proposal would apply to all new Class T3 aircraft engines manufactured on or after January 1, 1978, and aircraft using such engines, that are operted within the United States.

Drafting Information

The principal authors of this document are Emanuel M. Ballenzweig, Office of Environmental Quality, and Jack P. Zimmerman, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Special Federal Aviation Regulation (SFAR) 27 (14 CFR Parts 11, 21, 91) as follows:

SFAR No. 27—Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes, Effective February 1, 1974

1. Sec. 14(c) would be amended by consolidating the current text and by adding ", and on January 1, 1978," immediately after "January 1, 1976."

2. Sec. 15(a) would be amended, in the introductory clause by substituting "(a)(5)" in lieu of "(a)(4)", and by adding a new paragraph (a)(5) to read as follows:

Sec. 15 *Type certificates.* (a) • • •

(5) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginnning January 1, 1978.

3. Sec. 17(a) would be amended, in the introductory clause by substituting "(a)(5)" in lieu of "(a)(4)," and by adding a new paragraph (a)(5) to read as follows:

Sec. 17 *Supplemental or amended type certificates.* (a) • • •

(5) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

4. Sec. 19 would be amended by amending the section heading and introductory clause, by designating the introductory clause as paragraph (a), by designating current paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), and by adding new paragraphs (a)(3), (b), and (c) to read as follows:

Sec. 19 Airworthiness approval tags and other engine approvals. (a) Notwithstanding Part 21 of the Federal Aviation Regulations, and except as provided in paragraph (c) of this section, no airworthiness approval tag, or other FAA approval for installation of an engine on aircraft, is issued on or after—

• • • • •

(3) January 1, 1978, for an engine of Class T3 unless the engine complies with the exhaust emissions (Smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, no airworthiness approval tag, or other FAA approval for installation of an engine on aircraft, is issued for an engine unless the manufacturer of that engine has established an FAA-approved means of permanently identifying, on that engine, its date of manufacture.

(c) For engines covered by this section and for which compliance with engine emission requirements in this section has not been demonstrated, the identification plate affixed to the engine pursuant to § 45.11 of 14 CFR Part 45 must be permanently and prominently marked with the following statement—"Need for Emission Compliance Must Be Determined Before Installation."

5. Sec. 21 would be amended to read as follows:

Sec. 21 *Standard airworthiness certificates* Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of aplication, no standad airworthiness certificate is issued on and after the dates specified in paragraphs (a) through (e) of this section, for the airplanes specified therein, unless—

• • • • •

(e) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

6. Sec. 25 would be amended to read as follows:

Sec. 25 *Operation.* On and after the dates specified in paragraphs (a) through (e) of this section, no person may, within the

United States, operate an airplane specified in those paragraphs unless—

• • • • •

(e) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(Sec. 232, Clean Air Act, as amended December 31, 1970, Pub. L. 91-604 (42 U.S.C. 1857f-10), as delegated (36 FR 8733); 40 CFR Part 87 (38 FR 19088); secs. 307(c), 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45).)

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 July 15 1977.

J. E. DENSMORE,
Acting Director of Environmental Quality.

[FR Doc.77-20897 Filed 7-20-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-15]

UKIAH, CALIFORNIA

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the transition area at Ukiah, California, by establishing additional controlled airspace west of V-27 and east of V-27W between the Ukiah, California and Fortuna, California VORTAC's. This additional airspace will be used for radar vectoring of aircraft between the main and alternate airways.[1]

DATES: Comments must be received on on before August 19, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined at the following location: Federal Aviation Administration, Office of the Regional Counsel, AWE-7, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone 213-536-6182.

[1] Map filed as part of the original document.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 19, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Adminstration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list the future NRPMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Ukiah, California, transition area by adding a 5,300 foot MSL transition area to provide controlled airspace for aircraft transitioning between V-27 and V-27W northwest of Ukiah, California.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

THE PROPOSED AMENDMENT

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

UKIAH, CALIFORNIA

Following "• • • Fortuna VORTAC 110° radials." Add: • • • "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W."

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—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 Los Angeles, California on July 11, 1977.

FRANK HAPPY,
Acting Deputy Director, Western Region.

[FR Doc.77-20765 Filed 7-20-77;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 77-SO-31]

RESTRICTED AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter a restricted area identified as R-2104, Huntsville, Ala. The U.S. Army (using agency) has proposed that R-2104 be realigned to more clearly describe the areas required for their present day operations.[1]

DATES: Comments must be received on or before August 17, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77-SO-31. Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications

[1] Map filed as part of the original document.

received on or before August 17, 1977, will be considered before action is taken on the proposed amendments. 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 Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter a restricted area identified as R-2104, Huntsville, Ala. These proposed actions would: (1) Reduce the overall size of R-2104 and thereby reduce the burden on the public; (2) remove that part of R-2104 that overlies Redstone Army Airfield, thereby allowing operations at the airfield independent of activities within R-2104, and (3) permit the user to call only on that subarea (a, b, or c of R-2104) required for a specific operation, thus providing better airspace utilization of the area. Subpart D of Part 71 and Subpart B of Part 73 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 345 and 657).

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 345 and 657) as follows:

By amending § 71.151 (42 FR 345) to add the following restricted area:

R-2104C Huntsville, Ala.

By amending § 73.21 (42 FR 657) to revise R-2104A and R-2104B and add R-2104C. Huntsville, Ala., as follows:

1. R-2104A.
a. Boundaries: Beginning at Lat. 34°38'40" N., Long. 86°43'00" W., to Lat. 34°38'40" N., Long. 86°41'00" W., to Lat. 34°38'00" N., Long. 86°40'53" W., to Lat. 34°37'35" N., Long. 86°37'40" W., to Lat. 34°37'00" N. Long. 86°37'00" W., to Lat. 34°36'27" N., Long, 86°36'38" W., to Lat. 34°34'50" N. Long. 86°36'38" W., thence west along the Tennessee River; to Lat. 34°35'02" N., Long. 86°43'25" W., to Lat. 34°37'19" N., Long. 86°43'20" W., to Lat. 34°37'19" N., Long. 86°43'05" W., thence to point of beginning.
b. Altitudes: Surface to FL 300.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.
2. R-2104B.
a. Boundaries: Beginning at 34°38'53" N., Long. 86°37'40" W., to Lat. 34°37'55" N., Long. 86°35'21" W., to Lat. 34°35'05" N., Long. 86°35'24" W., thence west along the Tennessee River; to Lat. 34°34'50" N., Long. 86°36'38" W., to Lat. 34°36'27" N., Long. 86°36'38" W., to Lat. 34°37'00" N., Long. 86°37'00" W.; thence to point of beginning.
b. Altitudes: Surface to 2400 feet MSL.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.
3. R-2104C.
a. Boundaries: Beginning at Lat. 34°41'25" N., Long. 86°42'57" W., to Lat. 34°42'00" N., Long. 86°41'35" W., to Lat. 34°38'40" N., Long. 86°41'00" W., to Lat. 34°38'40" Long. 86°43'00" W., thence to point of beginning.
b. Altitudes: Surface to FL 300.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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 July 12, 1977.

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

[FR Doc.77-20584 Filed 7-20-77;8:45 am]

[14 CFR Part 39]

[Docket No. 17039]

AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of three cable assemblies on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C helicopters. This modification is required in order to prevent a failure in the electrical system which has resulted in fire in these type rotorcraft..

DATES: Comments must be received on or before September 6, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17039, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Messerschmitt-Bolkow-Blohm (MBB), Helicopter Division, 8000 Munchen-Ottobrunn, Federal Republic of Germany, or Boeing Vertol Company, Mail Stop P31-69, P.O. Box 16858, Philadelphia, Pennsylvania 19142. Telephone 215-522-2755.

FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

High contact resistance in connector plugs of the electrical power supply system has resulted in reports of an electrical fire, failure of the electrical system, and unscheduled landing of the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive requires replacement of three cable assemblies with cables not utilizing connector plugs.

DRAFTING INFORMATION

The principal authors of this document are D. C. Jacobsen, Chief, Europe, Africa, and Middle East Region, J. Kiselica, Flight Standards Service, and R. J. Burton, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

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

MESSERSCHMITT-BOLKOW-BLOHM (MBB). Applies to Model BO-105A and BO-105C helicopters, Serial Number V4 through V10 and S1 through S160, certificated in all categories.

Compliance required within the next 600 hours time in service after the effective date of this AD, unless already accomplished.

Remove socket connections 1 VED and 1 VEE from main relay box, remove plugs 110 VVa and 210 VVa together with associated receptacles and wiring bundles, and install generator wiring assembly, in accordance with subparagraph 2B of MBB Service Bulletin No. 90-11 dated April 17, 1975, or an FAA-approved equivalent.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

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 July 13, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-20924 Filed 7-20-77;8:45 am]

[14 CFR Part 121]

[Docket No. 17034; Notice No. 77-77-12]

OPERATIONS REVIEW PROGRAM NOTICE NO. 5

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to amend the requirements applicable to airmen and crewmembers, training programs, flight operations, dispatching and flight release, and records and reports of air carriers and commercial operators of large aircraft. These proposed amendments are part of the Operations Review Program that provided a comprehensive review of the Federal Aviation Regulations (FAR), taking into account the significant changes in the environment in which airmen, air agencies and aircraft operators function by updating the FAR which apply to them.

DATE: Comments must be received on or before October 19, 1977.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. ------, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., 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. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before October 19, 1977, will be considered by the Administrator before taking action on the proposed rule. 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. 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 rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular No. 11-12 which describes the application procedures.

BACKGROUND

The aviation industry in the United States and abroad has grown substantially during the last ten 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 No. 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, Virginia, 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 the 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 for the conference and with transcripts of certain plenary session speeches and were distributed to all attendees and to all persons requesting them in accordance with a Notice of Availability (Notice No. 75-9A; 41 FR 9413; March 4, 1976).

THE PROPOSALS

This notice deals with selected proposals concerning Part 121 contained in the following Operations Review Committee Workbooks:

Committee No.	*Title*
3	Aircraft operating rules.
4	Airman certification.
6	Certificated operators and agencies.
7	Flight attendants.
9	Training.

A number of the proposals contained in both the Compilation and the workbooks are not included in this notice but will be included in other notices at a later date. This notice contains the following Appendices:

Appendix I.—Those proposals which were withdrawn by their proponent during or after the conference.

Appendix II.—Those proposals which are removed from consideration.

DRAFTING INFORMATION

The principal authors of this document are W. J. Biron, Flight Standards Service, and R. B. Elwell, Office of the Chief Counsel.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

5-1. By amending the introductory clause of § 121.383(a) to read as follows:

§ 121.383 Airman: limitations on use of service.

(a) No certificate holder may use any person as an airman nor may any person serve as an airman unless that person—

* * * * * *

Explanation. This proposal would place a concurrent responsibility on the individual airman as well as the certificate holder to ensure conformance with the conditions set forth in § 121.383.

Ref. Proposal No. 488, § 121.383(a). Committee No. 6, Agenda Item 9.

5-2. By amending § 121.409 by: (a) Deleting the word "and" at the end of paragraph (b)(2) and substituting in place thereof the word "or"; (b) redesignating paragraph (b)(3) as (b)(4); and (c) adding a new paragraph (b)(3) to read as follows:

§ 121.409 Training courses using airplane simulators and other training devices.

• • • • •

(b) • • •

(3) Provides line-oriented training that—

(i) Utilizes a complete flight crew;

(ii) Includes at least the maneuvers and procedures (abnormal and emergency) that may be expected in line operations;

(iii) Is representative of the flight segment times appropriate to the operations being conducted by the certificate holder; and

• • • • •

Explanation. Airlines are concerned that a course of training which consists solely of the procedures and maneuvers in Appendix F may not provide the most meaningful recurrent simulator training session possible. This proposal would allow certificate holders to introduce tailored, operationally oriented, problem-solving learning sessions. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This proposal would also require that all crewmember positions be occupied, thus promoting the coordinated crew concept by requiring the crew to make decisions and solve problems that may arise in line operations. Training courses must be developed that stress the importance of the coordinated crew concept. This can be accomplished by utilizing the full potential of modern day simulators. Since these courses of training have to be approved by the Administrator, the FAA can control the introduction of newly devised recurrent simulator training sessions, require modification or cancellation of programs that are not judged successful and encourage the adoption by other certificate holders of the most promising new training techniques. Accomplishment of these goals will result in more efficient and meaningful training that meets both the individual and company needs. This proposal would allow both FAA and the airlines to explore new simulator training techniques and methods that may, over the long term, greatly enhance safety. This proposal is consistent with those contained in §§ 121.427(d)(1) and 121.441(a)(2).

Ref. Proposal Nos. 508, 526, 527; §§ 121.409(b)(2), and 121.427(d)(1), Committee 9, Agenda Item B–3.

5–3. By amending § 121.417 by: (a) Deleting the word "and" at the end of paragraph (b)(2)(ii); (b) amending paragraph (b)(3)(ii); (c) adding new paragraphs (b)(2)(iv), (b)(2)(v) and (b)(4); and (d) revising paragraph (c), to read as follows:

§ 121.417 Crewmember emergency training.

• • • • •

(b) • • •

(2) • • •

(iv) The additional forces that will be encountered when opening exits in the emergency mode with evacuation slide pack/raft attached and under adverse circumstances such as abnormal cabin deck angle, high wind and structural deformation; and

(v) Alternate procedures for inoperative cabin equipment such as lower lobe galley lifts, public address systems and serving cart tie downs.

(3) • • •

(ii) Fire in flight or on the surface, and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas including all galleys, service centers, lifts, lavoratories and movie screens;

• • • • •

(4) Review of previous aircraft accidents and incidents pertaining to actual emergency situations.

(c) Each crewmember must actually operate the following emergency equipment during initial training and once each 24 calendar months during recurrent training on each type aircraft in which they are to serve:

(1) Each type of emergency exits in the normal and emergency modes, including the actions required and actual forces involved and the deployment and use of emergency evacuation slides.

(2) Each type of fire extinguisher.

(3) Each type of oxygen bottle.

(d) Each crewmember must perform at least the following emergency drills using the proper equipment and procedures:

(1) Ditching, if applicable.

(2) Emergency evacuation.

(3) Fire extinguishing and smoke control.

(4) Donning and inflation of life vests and the use of other individual flotation devices.

(5) Removal of life rafts from the airplane, inflation of the life rafts, use of the life lines, and boarding of passengers and crew.

• • • • •

Explanation. The National Transportation Safety Board's Special Study, NTSB, AAS–74–3, "Safety Aspects of Emergency Evacuation from Air Carrier Aircraft", revealed that although the regulations require actual emergency training, deviations are authorized, and much of the training is done by demonstrations. The performance of the crewmembers during the evacuation, if improperly done, has a great potential for causing problems. During several accidents examined in the study, crewmembers either lacked knowledge of the aircraft emergency evacuation systems or failed to follow established procedures. A prompt evaluation of an emergency and immediate initiation of the proper action is essential if lives are to be saved, and should be stressed in training. A well trained crewmember is subject to less confusion and delay in an emergency, thus expediting evacuation.

The current rule has been interpreted to imply that visual and audio aids are totally acceptable to satisfy the training requirements of this section. Their use is not considered to be an adequate substitute for actual operation of a mechanical device. This is especially true for initial emergency training. It is also true for recurrent training if a high level of proficiency is to be maintained.

This proposal would require each crewmember to actually operate emergency exits, fire extinguishers, and oxygen bottles during initial training and once each two years during recurrent training. Crewmembers would also be instructed on the additional forces that will be encountered when opening exits in the emergency mode with evacuation slide pack attached and under adverse circumstances such as unusual cabin deck angle, high winds and structural deformation. This proposal would require alternate training procedures for use of inoperative equipment such as lower lobe galley lifts, public address systems, and serving cart tie downs.

Therefore, during initial and recurrent training, each crewmember would actually operate each type of emergency exit. Flight attendants would be required to operate cockpit exits and associated escape devices during initial and recurrent training. Automatic and manual escape chutes need not be deployed each time the associated exit is cycled. Visual presentation of chute deployment is satisfactory for recurrent training.

This proposal would continue the current requirement for each crewmember to perform emergency drills such as ditching (if applicable), emergency evacuation, fire extinguishing and smoke control with training emphasis on electrical equipment and related circuit breakers, the use of life rafts and life vests and other individual flotation devices.

Ref. Proposal Nos. 505, 514, 515, and 516; § 121.417, Committee 9, Agenda Item B–5.

5–4. By amending § 121.425(a)(2) by adding a flush paragraph at the end thereof to read as follows:

§ 121.425 Flight engineers: initial and transition flight training.

(a) • • •

(2) • • •

Flight engineers possessing a commercial pilot certificate with an instrument and type rating, and those pilots already qualified as second in command and reverting to flight engineer, may complete the entire flight check in an approved airplane simulator.

• • • • •

Explanation. This proposal would allow flight engineers possessing certain certificate and ratings, and qualified as second in command, to complete flight engineer checks in an approved simulator. Large modern turbojet airplanes have complex and numerous systems and subsystems with numerous normal, abnormal, and emergency or alternate operating procedures for all the aircraft systems. The use of an approved simulator would allow the flight engineer to demonstrate his knowledge and proficiency in nearly all of the aircraft systems, without exposure to the additional risk encountered in conducting training or flight checks in the aircraft.

Ref. Proposal No. 521, § 121.425(a)(2)(iv), Committee 9, Agenda Item B–6.

5–5. By revising the introductory text of § 121.427(d)(1) to read as follows:

§ 121.427 Recurrent training.

• • • • •

(d) • • •

(1) For pilots, flight training in maneuvers and procedures set forth in Appendix F to this Part, or in a flight training program approved by the Administrator, except as follows—

• • • • •

Explanation. For explanation of § 121.427(d)(1), see item 5–2 for § 121.409(b)(2).

Ref. Proposal Nos. 526 and 508, § 121.427(d)(1), § 121.409(b)(2), Committee 9, Agenda Item B–7.

5–6. By revising § 121.427(d)(2)(ii) to read as follows:

§ 121.427 Recurrent training.

• • • • •

(d) • • •

(2) • • •

(ii) The flight check, other than the preflight inspection, may be conducted

in an airplane simulator or other training device. The preflight inspection may be conducted in an airplane, or by using an approved pictorial means that realistically portrays the location and detail of preflight inspection items and provides for the portrayal of abnormal conditions. Satisfactory completion of an approved line-oriented simulator training program may be substituted for the flight check.

• • • • •

Explanation. This proposal would allow the operator to use an approved line-oriented training program to meet the recurrent training requirements of this part, and would also provide flight engineers the same simulator training programs flexibility provided for pilots in § 121.441. The FAA recognizes the need for the continued updating and improving of air carrier training programs. Section 121.441(a) permits a course of training to be substituted for a proficiency check provided the course of training under § 121.409(b) consists of at least four hours of training at the pilot controls of an approved aircraft simulator and includes the maneuvers listed in Appendix F, to Part 121. Appendix F prescribes procedures for evaluating the individual preformance of flight crewmembers. These procedures are well founded, but have the tendency to isolate the crewmember from the normal environment of line operations during the evaluation period. Over a period of years the items to be checked have become stereotyped and the pilot being evaluated knows beforehand what the next maneuver will be. However, in day to day line operations, the possibility of an abnormal or emergency situation occurring is always present. When it does occur, there is an integrated crew to cope with the problem. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This type of program would promote the coordinated crew concept by requiring the crew to make decisions and solve problems that can arise in line operations. This phase of training would demonstrate any deficiencies in coordination that cannot be exposed in simulated "one man" check situations, thus improving the efficiency of the crewmembers.

This proposal is one of a set of related proposals affecting §§ 121.409 and 121.441.

Ref. Proposal No. 527, § 121.427(d)(2)(ii), Committee 9, Agenda Item B–7.

5–7. By amending § 121.433a (a) and paragraph (c), to read as follows:

§ 121.433a Training requirements: handling and carriage of dangerous articles and magnetized materials.

(a) No certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials governed by Title 49 CFR, unless within the preceding 12 calendar months that person has satisfactorily completed training in a program established and approved under this subpart which includes instructions regarding the proper packaging, marking, labeling, and documentation of dangerous articles and magnetized materials, as required by Title 49 CFR and instruction regarding their compatibility, loading, storage, and handling characteristics. A person who satisfactorily completes training in the calendar month before, or the calendar month after, the month in which it becomes due, is considered to have taken that training during the month it became due.

• • • • •

(c) A certificate holder operating in a foreign country where the loading and unloading of aircraft must be performed by personnel of the foreign country, may use personnel not meeting the requirements of paragraphs (a) and (b) of this section if they are supervised by a person qualified under paragraphs (a) and (b) of this section to supervise the loading, offloading and handling of hazardous materials.

Explanation. This proposal provides a month before or a month after the due date to complete required training, thus providing the same flexibility in recurrent training for persons involved with the handling or carriage of dangerous articles and magnetized materials as is provided for flight crewmembers under § 121.401(b). This proposal would also permit the handling of hazardous materials by foreign nationals not trained in a U.S. air carrier hazardous materials training program if the carrier provided a trained person to supervise the operation. Both in Italy and Switzerland, personnel under contract to their respective governments are required, and are the only ones permitted by these governments, to handle hazardous materials on any aircraft operating in those countries. Although these persons are trained in the handling of hazardous materials, they are not trained under the approved training programs of U.S. air carriers operating in their respective countries. The addition of a new paragraph (c) was not discussed during the Operations Review Conference, and was initiated by the Flight Standards Service.

Ref. Proposal No. 530, § 121.433a, Committee 9, Agenda Item B–8.

5–8. By revising § 121.434(e) to read as follows:

§ 121.434 Operating experience.

• • • • •

(e) A flight attendant must, for at least five hours, perform the assigned duties of a flight attendant under the supervision of a flight attendant supervisor qualified under this part who personally observes the performance of these duties. However, operating experience is not required for a flight attendant who has previously acquired such experience on any large passenger carrying airplane of the same group, if the certificate holder shows that the flight attendant has received sufficient ground training for the airplane in which the flight attendant is to serve. Flight attendants receiving operating experience may not be assigned as a required crewmember.

• • • • •

Explanation. This proposal would change the current rule by stating that while a flight attendant is obtaining operating experience, that attendant must be under the supervision of a flight attendant supervisor, qualified under this part, who personally observes the performance of these duties. It would also allow this experience to be gained on any large passenger carrying airplane of the same group instead of an airplane of greater capacity, and deletes the option of requiring the operating experience by observing the performance of these duties. Requiring flight attendants to perform their duties under the personal supervision of a flight attendant supervisor would place added emphasis on training which will help to insure that flight attendants recognize their responsibility for the safety of their passengers, and understand and are able to perform the duties required to furnish maximum guidance and assistance in an emergency situation.

Ref. Proposal Nos. 535 and 537, § 121.434(e), Committee 9, Agenda Item B–8.

5–9. By revising § 121.437(b) to read as follows:

§ 121.437 Pilot qualification: certification required.

• • • • •

(b) No certificate holder may use nor may any pilot act as a pilot in a capacity other than those specified in paragraph (a) of this section unless the pilot holds at least a commercial pilot certificate with appropriate category and class ratings for the aircraft concerned, and an instrument rating.

Explanation. The present regulation does not require pilots who act as pilot in a capacity other than those specified in paragraph (a) of this section to hold category and class ratings appropriate for the type of aircraft being used. According to the present wording of § 121.437(b), a pilot holding the required commercial pilot certificate and instrument rating may act as second in command even though he holds only a rotorcraft, glider, or lighter than air category rating. It was not intended that any pilot act in a pilot capacity in Part 121 operations without holding an appropriate category and class rating.

Ref. Proposal No. 540, § 121.437(b), Committee 4, Agenda Item E.

5–10. By revising § 121.439 to read as follows:

§ 121.439 Pilot qualification: recent experience.

(a) No certificate holder may use any person nor may any person serve as a required pilot flight crewmember, unless within the preceding 90 days, that person has made at least three takeoffs and landings in the type airplane in which that person is to serve. The takeoffs and landings required by this paragraph may be performed in a visual simulator approved under § 121.407 to include takeoff and landing maneuvers.

(b) A required pilot flight crewmember who has not accomplished at least three takeoffs and landings within the preceding 90 days as provided in paragraph (a) of this section, may, within 24 calendar months thereafter, reestablish recency of experience by making at least three takeoffs and landings under the supervision of a check airman, in accordance with the following:

(1) At least one takeoff must be made with a simulated failure of the most critical powerplant.

(2) At least one landing must be made from an ILS approach to the lowest ILS minimums authorized for the certificate holder.

(3) At least one landing must be made to a complete stop.

(c) A required pilot flight crewmember who performs the maneuvers prescribed in paragraph (b) of this section in a visual simulator must—

(1) Have previously logged 100 hours

of flight time in the same type airplane in which he is to serve;

(2) Be currently qualified in another airplane of the same group; and

(3) Be observed on the first two landings made in operations under this part by an approved check airman who acts as pilot in command and occupies a pilot seat. The landings must be made in weather minimums that are not less than those contained in the certificate holder's operations specifications for Category I Operations, and must be made within 45 days following completion of simulator training.

(d) A check airman who observes the takeoffs and landings prescribed in paragraphs (b) and (c)(3) of this section, shall certify that the person being observed is proficient and qualified to perform flight duty in operations under this part, and may require any additional maneuvers that are determined necessary to make this certifying statement.

Explanation. A recent comparison study of pilots reestablishing recency of experience both in an aircraft and by participating in a visual flight simulator program was completed by American Airlines in accordance with the provisions of Exemption No. 2101 from § 121.439 of the Federal Aviation Regulations. The FAA has analyzed the reported results of that study and determined that maintaining and reinstating a pilot's recency of experience in an aircraft—takeoffs and landings as required by § 121.439—can be satisfactorily accomplished by demonstrating proficiency in an approved visual flight simulator training program. This proposal would require the maneuver or procedure to be observed by a check airman, and to include at least one takeoff with simulated powerplant failure, one landing from an ILS approach to lowest minimum, and one landing to a complete stop.

Ref. Proposal Nos. 541 and 542, § 121.439, Committee 4, Agenda Item E.

5–11. By revising § 121.441 (a)(2) and (d)(3) to read as follows:

§ 121.441 Proficiency checks.

(a) • • •

(2) For all other pilots—

(i) Within the preceding 24 calendar months either a proficiency check or the line-oriented simulator training course under § 121.409; and

(ii) Within the preceding 12 calendar months, either a proficiency check or any simulator training course under § 121.409.

• • • • •

(d) • • •

(3) The pilot being checked is currently qualified for operations under this part in the particular type airplane and flight crewmember position or has, within the preceding six calendar months, satisfactorily completed an approved training program for the particular type airplane.

• • • • •

Explanation. This proposal would allow the operator to use an approved line-oriented training program to meet the proficiency check requirements of this part. The FAA recognizes the need for the continued updating and improving of air carrier training programs. Section 121.441(a) permits a course of training to be substituted for a proficiency check provided the course of training under § 121.409(b) consists of at least four hours of training at the pilot controls of an approved aircraft simulator and includes the maneuvers listed in Appendix F to Part 121. Appendix F prescribes procedures for evaluating the individual performance of flight crewmembers. These procedures are well founded, but have the tendency to isolate the crewmember from the normal environment of line operations during the evaluation period. Over a period of years the items to be checked have become stereotyped and the pilot being evaluated knows beforehand what the next maneuver will be. However, in day to day line operation, the possibility of an abnormal or emergency situation occurring is always present. When it does occur, there is an integrated crew to cope with the problem. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This type of program would promote the coordinated crew concept by requiring the crew to make decisions and solve problems that can arise in line operations. This phases of training would demonstrate any deficiencies in coordination that cannot be exposed in simulated "one man" check situation thus improving the efficiency of the crewmembers. This proposal would also add the option of completing an approved training program within the preceding six months as a method of being currently qualified.

Refs. Proposal Nos. 545 and 546, § 121.441 (a)(2) and (d)(3), Committee 4, Agenda Item E.

5–12. By revising § 121.543 to read as follows:

§ 121.543 Flight crewmembers at controls.

(a) Except as provided in paragraph (b) of this section, each required flight crewmember on flight deck duty must remain at the assigned duty station with seat belt fastened while the aircraft is taking off or landing, and while it is enroute.

(b) A required flight crewmember may leave the assigned duty station—

(1) If the crewmember's absence is necessary for the performance of duties in connection with the operation of the aircraft;

(2) If the crewmember's absence is in connection with physiological needs; or

(3) If the crewmember is taking a rest period, and relief is provided—

(i) In the case of the assigned pilot in command, by a pilot qualified to act as pilot in command who holds an airline transport certificate and an appropriate type rating; and

(ii) In the case of the assigned second in command, by a pilot qualified to act as second in command of that aircraft during enroute operations. However, the relief pilot need not meet the recent experience requirements of § 121.439(b).

Explanation. This proposal provides an opportunity for pilots to rest in the cabin away from the continuing demand of flight deck duty, by providing a procedure that would allow qualified flight crewmembers to act as pilot in command or second in command when the required flight crewmembers leave their assigned duty station.

A period of rest helps to ensure top physical and mental capability, as well as restoring alertness for the approach and landing after a flight of long duration.

Ref. Proposal No. 565, § 121.543, Committee 3, Agenda Item D.

5–13. By revising the first paragraph of § 121.545 to read as follows:

§ 121.545 Manipulation of controls.

No pilot in command may allow any person to manipulate the controls of an aircraft during flight nor may any person manipulate the controls during flight unless that person is—

• • • • •

Explanation. This proposal would amend § 121.545 to prohibit the pilot in command from allowing an unqualified person to manipulate the aircraft controls during flight.

Under current § 121.545 enforcement action may only be taken against the unqualified person who manipulates the controls whether or not he did so with the permission of the pilot in command. However, the FAA believes that a prohibition against the pilot in command allowing an unqualified person to manipulate the controls would serve as a further deterrent to such action and provide necessary support for enforcement action.

Ref. Proposal No. 567, § 121.545, Committee 3, Agenda Item D.

5–14. By revising § 121.571(a)(1)(iii), and adding new § 121.571(a)(1)(iv) to read as follows:

§ 121.571 Briefing passengers before takeoff.

(a) • • •

(1) • • •

(iii) The use of seat belts including instructions on how to fasten and unfasten the seat belt.

(iv) The location and use of any required emergency flotation means.

• • • • •

Explanation. This proposal requires that passengers be orally briefed on how to fasten and unfasten seat belts, and the location and use of emergency flotation means. Representatives of the Association of Flight Attendants have repeatedly relayed examples where passengers were unable to unfasten seat belts because they did not know how and were too embarrassed to ask. In the event of an emergency evacuation, these persons (usually elderly persons and small children) would not be able to evacuate the aircraft expeditiously.

Section 121.340(a) requires any large airplane in overwater operations to be equipped with life preservers or an approved flotation means for each occupant. This equipment must be within easy reach of each seated occupant and must be readily removable from the airplane. Since almost all flights involve the possibility of overwater operations, the FAA believes that passengers should be briefed on the location and use of required flotation means.

Ref. Proposal Nos. 585 and 586, §§ 121.571 (a)(1)(iii) and (iv), Committee 7, Agenda Item D.

5–15. By revising § 121.573(a) to read as follows:

§ 121.573 Briefing passengers: extended overwater operations.

(a) In addition to the oral briefing required by § 121.571(a), each certificate holder operating an airplane in extended overwater operations shall ensure that all passengers are orally briefed by the appropriate crewmember on the location

and operation of life preservers, liferafts, and other flotation means, including a demonstration of the method of donning and inflating a life preserver.

• • • • •

Explanation. This proposal would require briefing on other flotation means to encompass any available emergency flotation equipment not previously referred to.

Current § 121.573 requires that passengers be briefed on the location of liferafts and on the location and operation of life preservers. A briefing on the location and operation of other flotation means is necessary since these means may be used in lieu of life preservers. During an unexpected water landing, there may not be enough time to don life preservers, therefore passengers should know of the availability of other flotation equipment such as seat cushions.

Ref. Proposal No. 590, § 121.573(a), Committee 7, Agenda Item D.

5–16. By revising § 121.576 to read as follows:

§ 121.576 Retention of items of mass in passenger and crew compartments

Means must be provided and used to prevent each item of galley equipment and each serving cart, when not in use, and each item of crew baggage, which is carried in a passenger or crew compartment from becoming a hazard by shifting under the appropriate load factors corresponding to the emergency landing conditions under which the airplane was type certificated.

Explanation. This proposal adds the words "and used" thus making it mandatory that retention means are used. The present wording requires only that means be provided but does not specifically require them to be used.

Ref. Proposal No. 597, § 121.576, Committee 6A, Agenda Item H.

§ 121.581 [Amended].

5–17. By amending § 121.581 as follows:

a. By deleting from the heading the words "air carriers".

b. By amending paragraph (a) by deleting the words "air carrier" in the first sentence, and substituting in place thereof "certificate holder" and by deleting the words "air transportation" and substituting in place thereof "air commerce."

(c). By amending paragraph (b) by deleting the words "must be made available to the Administrator" and substituting the words "or the observer's seat selected by the Administrator must be made available when complying with paragraph (a) of this section."

Explanation. This proposal would require commercial operators to provide a seat on the flight deck for occupancy by the Administrator. Current § 121.581 does not specifically apply to commercial operators or to operations in air commerce and requires only that the forward observer's seat be made available to the Administrator regardless of its suitability. The FAA believes that commercial operators and intrastate air carriers operating under this part should also be subject to this requirement.

The FAA, in carrying out its inspection responsibilities, must be able to select the position on the flight deck of an aircraft where the activities of the crewmembers may best be observed. Certain aircraft have more than one observer's seat installed and the forward observer's seat may not be the most suitable seat for conducting enroute inspections. This proposal would provide flexibility in the selection of an observer seat during enroute inspections, so that a check may be properly conducted of the entire flight crew under the "crew concept" used by some air carriers, as well as enroute checks of check airman.

Ref. Proposal No. 602, § 121.581, Committee 6A, Agenda Item H.

§ 121.633 [Reserved]

5–18. By deleting and reserving § 121.633.

5–19. By revising § 121.635 to read as follows:

§ 121.635 Dispatch to and from refueling or provisional airports: domestic and flag air carriers.

No person may dispatch an airplane to or from a refueling or provisional airport except in accordance with the requirements of this part applicable to dispatch from regular airports and unless that airport meets the requirements of the part applicable to regular airports.

Explanation. This proposal combines the requirements of §§ 121.633 and 121.635 by adding domestic air carriers to the heading of § 121.635.

Section 121.633 dispatching requirements for domestic air carriers are almost identical with § 121.635 dispatching requirements for flag air carriers. The FAA believes this redundancy is unnecessary and that the two sections could be combined into one section applicable to domestic and flag air carriers and, consequently, § 121.633 would be deleted.

Ref. Proposal Nos. 618 and 619, §§ 121.633 and 121.635, Committee 6A, Agenda Item I.

5–20. By amending § 121.645 by—

a. Redesignating paragraphs (b), (c), and (d) as (c), (d), and (e) respectively;

b. Revising paragraph (a); and

c. Adding a new paragraph (b) to read as follows:

§ 121.645 Fuel supply: turbine-engine powered airplanes, other than turbopropeller: flag and supplemental air carriers and commercial operators.

(a) Any flag air carrier operation within the 48 contiguous United States and the District of Columbia may use the fuel requirements of § 121.639.

(b) For any flag air carrier, supplemental air carrier, or commercial operator operation outside the 48 contiguous United States and the District of Columbia, unless authorized by the Administrator in the operations specifications, no person may release for flight or take off a turbine-engine powered airplane (other than a turbo-propeller powered airplane) unless, considering wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly for a period of 10 percent of the total time required to fly from the airport of departure to, and land at, the airport to which it was released;

(3) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release, if an alternate is required; and

(4) Thereafter, to fly for 30 minutes at holding speed at 1,500 feet above the alternate airport (or the destination airport if no alternate is required) under standard temperature conditions.

• • • • •

Explanation. This proposal would allow a flag air carrier when operating domestically to operate with the same fuel reserves as required for domestic carriers. Section 121.645 requires flag air carriers to have higher fuel reserves for flight within the 48 contiguous states than domestic operators flying the same routes. Many routes outside the contiguous 48 states have air traffic control facilities and weather reporting and forecasting facilities equal to or better than existing facilities in the United States.

Adding the phrase "unless authorized by the Administrator in the operating specifications" in paragraph (b) would allow an operator to apply to the FAA to use a domestic fuel reserve on selected overseas routes, e.g., New York to London.

Ref. Proposal No. 620, § 121.645, Committee 3, Agenda Item I.

§ 121.657 [Amended]

5–21. a. By amending § 121.657(c) by deleting the second and third sentences from this paragraph.

b. By amending § 121.657(d) by deleting the words "domestic and supplemental air carriers and commercial operators" from the heading.

Explanation. This proposal deletes the second sentence in § 121.657(c) which refers to "lighted airways that no longer exist". The FAA does not believe that it would be in the interest of safety to operate an aircraft on unlighted airways at 1,000 feet, therefore this sentence should be deleted.

The last sentence in § 121.657(c) specifically authorizes non-adherence to a flight altitude for supplemental air carriers and commercial operators during the time a flight is operated in accordance with § 121.657(d).

The FAA does not believe that it would be safe for operators to operate below the altitudes stipulated in this section. This proposal would delete the words domestic and supplemental air carriers and commercial operators from the heading of § 121.657(d),

thus making this paragraph applicable to all operators.

Ref. Proposal No. 625, § 121.657, Committee 6A, Agenda Item I.

5–22. By adding a new paragraph (c) to § 121.683 to read as follows:

§ 121.683 Crewmember and dispatcher record.

* * * * *

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.

Explanation. This proposal would allow operators to keep records in approved computer systems.

Computer recordkeeping has been shown to be an effective and timely method to record crew qualifications and other necessary data. This addition to the regulations recognizes the existence of computer systems and allows their use.

Ref. Proposal No. 630, § 121.683(c), Committee 6A, Agenda Item J.

APPENDIX I—MISCELLANEOUS PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by their proponents during or after the conference. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

14 CFR (FAR §)	Proposal No.	Proponent
121.403(b)(5)	506	Air Transport Association of America.
121.421(a)(2)	519	Federal Aviation Administration.
121.421(b)	520	Do.
121.425(a)	522	Air Transport Association of America.
121.425	523	Federal Aviation Administration.
121.421(b)	525	Do.
121.432	528	Do.
121.434(c)(2)	532	Do.
121.465	551	Do.
121.471 (b) (c)	553	Air Transport Association of America.
121.481	557	W. N. Hoover.
121.541	563	Federal Aviation Administration.
121.549	573	Do.
121.551	574	Do.
121.553	575	Do.
121.557	576	Do.
121.559	577	Do.
121.652	624	Air Line Pilots Association.
121.683(a)	631	Federal Aviation Administration.
121.703(a)	642	Do.
121.709	646	Do.
121 Appendix "E"	656	Air Line Pilots Association.
121 Appendix "F"	661	Do.

APPENDIX II—MISCELLANEOUS PROPOSALS REMOVED FROM CONSIDERATION FROM THE OPERATIONS REVIEW PROGRAM

Based on the FAA's review of the discussions at the Operations Review Conference, and of the information submitted by interested persons, the following proposals considered at the Operations Review Conference are removed from consideration during the Operations Review for the reasons listed.

14 CFR (FAR §)	Proposal No.	Committee No.	Agenda item	Proponent
121, subpart V	345	2	O	National Transportation Safety Board.
121.383(a)(2)	489	4	E	Air Transport Association of America.
121.391(a)	492	7	C	Transport Workers Union.
121.391(e)(f)	497	7	C	Air Transport Association of America.
121.400(b)(3)(c)(1)(2)	498	9	B–1	Association of Flight Attendants.
121.400(c)(1)(2)(3)(4)	499, 501	9	B–1	Air Transport Association of America.
121.400	500	9	B–1	Air Line Pilots Association.
121.401	502	9	B–2	Association of Flight Attendants.
121.401(e)	504	9	B–2	Air Transport Association of America.
121.405(d)	507	9	B–2	Association of Flight Attendants.
121.411(a)	509	9	B–4	Air Transport Association of America.
121.412(new)	510	9	B–4	Association of Flight Attendants.
121.413(c)	511	9	B–4	Air Transport Association of America.
121.414(new)	512	9	B–4	Association of Flight Attendants.
121.418(a)(3)	517	9	B–5	Air Line Pilots Association.
121.421(a)(2)(iii) and (c).	518	9	B–6	Do.
121.427	524	9	B–7	Association of Flight Attendants.
121.433a	531	9	B–9	Air Transport Association of America.
121.434	534	9	B–8	Association of Flight Attendants.
121.434(c)	536	9	B–8	Air Transport Association of America.
121.434(f)	539	9	B–8	Air Line Pilots Association.
121.453(a)(b)	550	4	E	Air Transport Association of America.
121.541	564	6A	H	Air Transport Association of America.
121.547	568	3	D	Do.
121.548	571	3	D	Association of Flight Attendants.
121.572	572	3	D	Do.
121.567	579	6A	H	Air Line Pilots Association.
121.569	580	9	B–9	Association of Flight Attendants.
121.571	587	7	D	Air Line Pilots Association.
121.575	595	10	B	Transport Workers Union.
121.578	600	6A	H	Association of Flight Attendants.
121.581	603	6A	H	Air Transport Association of America.
121.615(a)	607	6A	I	Do.
121.617	608	6A	I	Air Line Pilots Association.
121.627	616	3	E	Do.
121.629(b)	617	3	H	Sun Chemical Co.
121.633	629	6A	I	Air Transport Association.
121.691	634	6A	J	Air Line Pilots Association.
121.695(a)(1)	638	6A	J	Air Transport Association.
121.697(a)(1)	639	6A	J	Do.
121.701	641	6A	J	Association of Flight Attendants.
121.705(d)	645	2	P	Association of Flight Attendants.
121.Appendix "A"	648	1	C–6	Association of Flight Attendants.
121.Appendix "E"	651	9	C–1	Air Transport Association.
121.Appendix "F"	654	9	C–1	Do.

Proposal 345. This proposal would have amended Subpart V of 14 CFR Part 121 to require a maintenance surveillance program on emergency evacuation slide systems. The FAA believes this proposal is not required as § 121.309(b) adequately covers inspection programs for all emergency equipment including evacuation slide systems.

Proposal 489. This proposal would have amended § 121.383(a)(2) to restrict airmen with any limitations or restriction on their medical certificates from cockpit duties. The FAA believes this amendment is not justified in that § 67.19 adequately covers the use of medical certificates.

Proposal 492. This proposal would have amended § 121.391 to require FAA airmen certificates for flight attendants. This proposal would require legislation to amend the Federal Aviation Act of 1958.

Proposal 497. This proposal would have amended § 121.391 to allow a flight requiring flight attendants to continue to a "domicile", instead of the next regularly scheduled stop with an incapacitated flight attendant on board. The FAA believes that there is insufficient justification for this change since it would result in a lower level of safety than that provided by the present regulation.

Proposal 498. This proposal would have amended § 121.400 to establish an additional grouping of aircraft, "Group III Turbojet Jumbo Aircraft". The FAA believes that current regulations adequately cover initial transition or differences training requirements for all turbojet powered aircraft and this additional grouping is unnecessary.

Proposals 499, 501. These proposals would have amended § 121.400 by deleting the words "and served" from this part. The current rule does not require that the applicant must have "served" prior to acquiring a type rating. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 500. This proposal would have added new paragraph (c)(5) to § 121.400, requiring additional training for crewmembers who must maintain multiple aircraft qualifications for more than 90 days. The FAA believes that current regulations adequately provide for multiple aircraft qualification.

Proposal 502. This proposal would have added a new paragraph to § 121.401 that would require operators to provide enough flight attendant training and simulator instructors, as well as check flight attendants, to conduct ground and inflight training. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 504. This proposal would have eliminated programmed hours of training in § 121.401. All ground and flight training would be accomplished to defined levels of proficiency. The FAA does not believe that this change is feasible.

Proposal 507. This proposal would have deleted authorized reduction in programmed

hours of training as provided in § 121.401, and would apply to all training programs and not just flight attendant emergency training. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 509. This proposal would have amended § 121.411 to allow pilots to act as simulator instructors and check airmen without a third-class medical certificate. The FAA believes that all check airmen should hold at least a Class III medical certificate so that they may regularly fly the aircraft.

Proposal 510. This proposal would have set standards for flight attendant instructors and check flight attendant supervisors. This proposal would have also prohibited the use of instructors who are not qualified for line operation. The FAA has determined that there was insufficient justification presented for these changes.

Proposal 511. This proposal would have amended § 121.413 to allow check airmen to become fully qualified by receiving their training in flight or in an approved simulator. The FAA is opposed to allowing check airmen to receive their qualification training solely in a simulator, and believes that a check airman must maintain proficiency in an aircraft.

Proposal 512. This proposal would have added new § 121.414, providing training requirements for check flight attendants and flight attendant instructors. The FAA believes that current rules are adequate.

Proposal 517. This proposal would have outlined specific requirements for dual or multiple equipment qualification. The FAA believes that current regulations adequately provide for the training program.

Proposal 518. This proposal would have required that additional training emphasis be placed on electrical equipment located in the cabin and galley area, eliminated the reduction of training time and established Group III aircraft. The FAA believes that the proposed revision to § 121.417 adequately covers electrical equipment training and that elimination of reduction in training hours under § 121.405 would eliminate the incentive to develop better training methods. The FAA believes the present regulations are adequate to cover training in turbojet powered aircraft.

Proposal 524. This proposal would have included Group III aircraft (jumbo aircraft) in the training program. The FAA believes the present regulations are adequate to cover training in all turbojet powered aircraft.

Proposal 531. This proposal would have eliminated the requirement for annual recurrent training required by § 121.433a. The FAA believes that recurrent training in the handling of hazardous materials is necessary.

Proposal 534. This proposal would have required added flight attendant training, including flying at least two flight segments and five flight hours of operating experience. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 536. This proposal would have deleted the requirement for operating experience for flight engineers upgrading to second in command. The FAA believes that crewmembers upgrading to second in command from flight engineer status are not necessarily prepared to perform second in command duties and operating experience is necessary.

Proposal 539. This proposal would have required operating experience be accomplished within 60 days following completion of training. The FAA believes that there is insufficient justification to support adoption of this proposal.

Proposal 550. This proposal would have amended § 121.453 to allow flight engineers to obtain the 50-hours' flight-time required in the past six months in the same group of aircraft rather than a particular type airplane within a group. The FAA believes that this proposal would result in lowering proficiency or recency of experience to an unacceptable level.

Proposed 564. This proposal would have deleted § 121.541. The proponent has not presented sufficient justification for the deletion of the current rule and failed to show how the requirement for realistic scheduling would be accomplished.

Proposal 568. This proposal would have amended § 121.547 by deleting the requirement that certificate holders obtain approval from the Administrator for flight deck authority. The FAA believes there is a continuing need for restriction on persons carried on the flight deck as the additional persons could be a distraction to the flight crew.

Proposal 571. This proposal would have amended § 121.548 to require an FAA air carrier inspector to present his credentials to the pilot in command and senior flight attendant to gain access to the flight deck. The FAA believes the current rule, requiring the FAA inspector to present his credentials to the pilot in command, is adequate.

Proposal 572. This proposal would have amended § 121.549 to require portable flashlights at each aircraft exit. This subject is covered in Notice No. 75-26 (40 FR 24802; June 10, 1975).

Proposal 579. This proposal would have required that the normal touchdown target must be clearly in view at or prior to decision height or minimum descent altitude. The FAA believes the current regulations are adequate. This proposal would, in effect, negate all of the research and development associated with Category II and III approaches.

Proposal 580. This proposal would have required the carriers to provide crewmembers with differences training on in-cabin equipment and an FAA approved competency test. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 587. This proposal would have deleted the oral briefing requirement when the seat belt sign is turned off. The present rule is based on the concept that there is reasonable assumption that oral briefings are received and understood by passengers. The FAA believes that oral briefings are required in the interest of safety.

Proposal 595. This proposal would have amended § 121.575 by limiting the number of alcoholic beverages served to inflight passengers. The FAA believes that this proposal is too vague and is subject to misinterpretation.

Proposal 600. This proposal would have placed specific restrictions on the times when certificate holders could serve, or continue to serve food or beverages. The FAA believes that the proposal is related to passenger service only and there is insufficient justification for rule change.

Proposal 603. This proposal would have allowed a flight to depart with the observer's seat inoperative due to a mechanical problem. Justification presented in written and oral comments did not support a regulatory change. FAA inspectors are instructed whenever possible to plan enroute inspections and make arrangements for the observer seat far in advance so that conflict will not occur on scheduled use of the seat or for other reasons.

Proposal 607. This proposal would have given an air carrier the option of dispatching a flight on an extended overwater operation based on a time factor rather than the weather at destination. The proponents explanation and justification fails to show why the present rule is inadequate or has an adverse affect on current operations from either a safety or economic standpoint. The FAA believes the present rule is adequate and provides the desired level of safety.

Proposal 608. This proposal would have reduced the takeoff alternate airport requirement for wide bodied jet aircraft. The proponent's explanation and justification did not include sufficient facts or specifics. The FAA believes that the present rule is adequate.

Proposal 616. This proposal would have amended § 121.627 to specify a place where repairs must be made. The intent was to prevent abuses of minimum equipment list. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 617. This proposal would have required removal of frost, snow, or ice from selected aircraft items before takeoff. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 629. This proposal would have deleted the requirement for the aircraft dispatcher or pilot to sign the flight release. The dual signature requirement provides an assurance that all factors in the dispatching process are considered. The FAA believes that the present rule is adequate and provides the desired level of safety.

Proposal 634. This proposal would have required automatic weight and balance equipment to be installed but not used in lieu of normal weight and balance methods. This proposal does not adequately show that there is an air carrier safety problem related to weight and balance computations. The FAA believes the existing rule provides appropriate requirements for weight and balance procedures and operations.

Proposals 638 and 639. These proposals would have deleted the requirement for correct load manifest on the aircraft before takeoff. The FAA believes that these proposals would not provide an adequate level of safety, in that the pilot in command must have available for all takeoffs of transport category aircraft a suitable document providing the weight and balance information of the aircraft. The deletion of the requirement for a document to be replaced with the less stringent requirement for only a radio check of the required weight and balance information is felt to be an unwarranted relaxation of safety and is not justified.

Proposal 641. This proposal would have added a new paragraph (c) to § 121.701 to require a cabin discrepancies log, and to require that this log be incorporated into the aircraft's permanent log. Section 121.563 now provides for entry in the maintenance log of "each mechanical irregularity". The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 645. This proposal would have required an operator to submit a mechanical interruption summary report following an evacuation of an aircraft. The FAA does not believe that this amendment is required in that if a flight is interrupted under § 121.705 and an evacuation occurs, this event is always reported. If an evacuation occurs for non-mechanical reasons, § 121.703 is the appropriate section.

Proposal 648. This proposal would have allowed the use of pneumatic splints, and would have increased the number of first aid kits required for aircraft with over 250 passenger seats. Concerning the use of pneumatic splints, the preamble to Amendment 121-107 (38 FR 35233; December 26, 1973), stated that consideration was given to allowing the use of inflatable splints, but tests conducted during decompression revealed that this type of splint can be hazardous for use in airplanes due to changes in the cabin pressure. The proponent did not provide adequate justification to change the

first aid kit criteria, particularly as to the proposal to use a different formula for aircraft seating beyond 200 passengers. The present rules do not restrict first aid kits from the flight decks or lower galley areas.

Proposal 651. This proposal would have changed the word "if" to "when" in Appendix E to this part, permitting zero flap landings to be excluded unless the FAA makes an affirmative decision that the maneuver is required. The FAA has determined that insufficient justification was presented to justify a rule change.

Proposal 664. This proposal would have moved the "B" designator from the visual simulator column to the non-visual simulator column. The FAA does not believe that this maneuver is practical or may be effectively conducted in a non-visual simulator. A pilot's proficiency may not be properly assessed when conducting this maneuver in a non-visual simulator.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in Washington, D.C., on July 13, 1977.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77-20764 Filed 7-20-77;8:45 am]

RENEGOTIATION BOARD

[32 CFR Part 1453]

MANDATORY EXEMPTIONS FOR RENEGOTIATION

Notice of Proposed Rulemaking

AGENCY: The Renegotiation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Renegotiation Board is soliciting comments on a proposed amendment to its regulations which will state that contracts awarded pursuant to the Foreign Military Sales Act of 1968 are not exempt from renegotiation. This proposal is necessitated by reason of a change in interpretation of this section of the Board's regulations. The Board also intends to delete a "Note" to the same section of its regulations concerning the responsibility of the procuring Departments to inform contractors of the exempt status of contracts. This "Note" is obsolete and has caused inconsistent application.

DATES: Comments must be received on or before August 29, 1977.

ADDRESS: Comments should be submitted to the General Counsel, Renegotiation Board, 2000 M Street, NW., Washington, D.C. 20446.

FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, The Renegotiation Board, 2000 M Street, NW., Washington, D.C. 20446, 202-254-8277.

SUPPLEMENTARY INFORMATION: Section 106(a)(6) of the Renegotiation Act exempts from renegotiation any contract which the Board determines does not have a direct and immediate connection with the national defense. This provision also states that "[t]he Board shall prescribe regulations designating those classes and types of contracts which shall be exempt * * *." Pursuant to this statutory directive, the Board has determined in § 1453.5(b)(3)(i) of its regulations that contracts with named Departments are exempt from renegotiation to the extent that (1) they obligate funds of an agency other than a named Department, or (2) the contracting Department is to be reimbursed by such agency or another person.

In § 1453.5(b)(3)(ii) the Board has excluded from this exemption contracts which obligate appropriated funds for military assistance under foreign aid programs. Interpretation No. 80, adopted by the Board on September 1, 1976, concluded that contracts awarded pursuant to the Foreign Military Sales Act of 1968 were not within the exclusion as provided in § 1453.5(b)(3)(ii) of the regulations, and, thus, were exempt from renegotiation. On June 20, 1977, the Board rescinded Interpretation No. 80 (42 FR 32339, June 24, 1977).

Because the Foreign Military Sales Act of 1968 requires a Presidential finding prior to sale that the furnishing of defense articles and defense services to any country or international organization will strengthen the security of the United States, the Board notes that contracts awarded pursuant to the act could not be said to have no direct and immediate connection with the national defense.

The Board further notes that such contracts when made by the Department of Defense are entered into by Procurement Contracting Officers acting under authority delegated to them by the Secretary of Defense, with the aid of the full range of departmental services available to the PCO. The executed contracts are administered by the Administrative Contracting Officer organizations, including use of the full range of departmental services available to ACO's. Finally, such contracts are subject to price analysis by the Defense Contract Audit Agency prior to their execution and to the full range of audit and recommendations by DCAA after the contracts have been entered into. Thus, the negotiation, administration, and audit of these contracts is in all essential respects indistinguishable from the negotiation, administration and audit of contracts made by the Department of Defense for supplies and services for its own use.

The proposal would amend the limitation in § 1453.5(b)(3)(ii) of the regulations to make clear that all contracts awarded pursuant to the Foreign Military Sales Act of 1968 are not exempt from renegotiation.

The proposal would also delete the "Note" to § 1453.5 (b)(2) and (b)(3). Imposing the responsibility on the contracting Department to interpret this exemption has, on occasion, resulted in inconsistent application of it.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of General Counsel, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446. Comments received before August 29, 1977, will be considered by the Board in taking final action on this proposal. Copies of all written documents received will be available for public inspection in the Board's Public Information Office, Room 4310, Renegotiation Board, 2000 M Street NW., Washington, D.C. during normal business hours.

NOTE.—The Renegotiation Board 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.

Dated: July 13, 1977.

GOODWIN CHASE,
Chairman.

This part is amended in the following respects:

1. 32 CFR 1453.5(b)(3)(ii) is revised to read as follows:

§ 1453.5 Contracts that do not have a direct and immediate connection with the national defense.

* * * * *

(b) * * *

(3) * * *

(ii) Contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs, insofar as such funds are obligated for military assistance, and contracts awarded pursuant to the Foreign Military Sales Act of 1968 (22 U.S.C. §§ 2761-2764) are not exempt under this subparagraph (3) of this paragraph.

(2) The "Note" to 32 CFR 1453.5 (b)(2) and (b)(3) is deleted.

(Sec. 109, 65 Stat. 22; 50 U.S.C., App. Sec. 1219)

[FR Doc.77-20882 Filed 7-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 765-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control, State of Arizona, Pima County Rules and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comment on revisions to the Pima County Air Pollution Control District Rules and Regulations which were submitted to EPA by the Arizona Department of Health Services for inclusion in the Arizona State Implementation Plan. These revisions were submitted on

April 4, 1977. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to August 22, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, Arizona-Nevada-Pacific Islands Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Erik Hauge (415–556–7595).

SUPPLEMENTARY INFORMATION: The April 4, 1977, submittal contained revisions to the following rules:

Regulation I, Rule 2—Definitions.
Regulation I, Rule 11—Emissions Monitoring.
Appendix C—Minimum Emission Monitoring Requirements.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations which were submitted as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Relevant comments received on or before August 22, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Pima County Health Department, 151 West Congress, Tucson AZ 85701.
Arizona Department of Health Services, 1740 West Adams Street, Phoenix AZ 85007.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

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

Dated: July 11, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77–21022 Filed 7–20–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[41 CFR Part 9–4]

SPECIAL TYPES AND METHODS OF PROCUREMENT

AGENCY: Energy Research and Development Administration (ERDA).

ACTION: Proposed regulation.

SUMMARY: This proposed regulation establishes procedures for the submission, evaluation, justification and award of contracts to Federal Contract Research Centers (FCRCs). FCRCs are not-for-profit organizations established to provide scientific, engineering, and technical analysis services to Government agencies. The services of FCRCs are utilized by agencies because of needs for objectivity, freedom from conflicts of interest, intimate familiarity with the sponsoring agency's activities and needs, a high degree of expertise and interdisciplinary capability and a capacity to provide a quick response to a sponsor's needs. Organizations which compete for contracts and subcontracts for hardware manufacture or software production are not considered FCRCs for purposes of this proposed regulation.

DATES: Comments on or before September 19, 1977.

ADDRESSES: Martin Kestenbaum, Division of Procurement, Rm. C–167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Martin Kestenbaum (301–353–4541).

SUPPLEMENTARY INFORMATION: This proposed regulation is published in the FEDERAL REGISTER for comment. Interested parties wishing to have their comments considered prior to final publication of the regulation must submit their comments to the addressee no later than September 19, 1977.

Delete existing Subpart 9–4.50 and insert the following:

Subpart 9–4.50—Federal Contract Research Centers (FCRC's)

§ 9–4.5000 Scope.

This subpart prescribes policies and procedures to be followed in contracting with Federal contract research centers (FCRCs).

§ 9–4.5001 Applicability.

The provisions of this regulation are applicable to ERDA Headquarters and field organizations in the procurement of nonpersonal services from Federal contract research centers and are applicable in lieu of IAD 9100–5 dated November 18, 1976, entitled "Contracts for Support Services." This policy does not apply to the establishment, review and termination of federally funded research and development centers (FFRDCs), management and operation of major ERDA laboratories and production facilities, nor to on-site service contracts of a continuing nature.

§ 9–4.5002 Nature of FCRC's.

(a) Federal contract research centers are not-for-profit organizations, established to provide scientific, engineering, and technical analysis services to Government agencies.

(b) The services of FCRCs are utilized by agencies because of needs for objectivity, freedom from conflicts of interest, intimate familiarity with the sponsoring agency's activities and needs, a high degree of expertise and interdisciplinary capability, and a capacity to provide a quick response to a sponsor's needs.

(c) Organizations which compete for contracts and subcontracts for hardware manufacture or software production are not considered FCRCs for purposes of this regulation.

§ 9–4.5003 Definitions.

(a) *Program planning.* Provides assistance (recommendations) in planning a new or on-going program whereby alternative strategies, budget levels and major projects require analysis and recommended action.

(b) *Systems analysis.* Technical and economic—provides analysis (recommendations) to support ERDA decision makers in arriving at decisions on future direction for those energy systems included in program approval documents (PADs) and technical development plans.

(c) *Systems engineering.* That process, for a major system, that analyzes all interactions, impacts and contingencies which might arise during the life of the system.

(d) *Technical monitoring.* Provides independent technical monitoring of the progress of R&D. Includes early warning of potential technical difficulties and cost growth and assesses alternatives (recommendations) to meet these problems.

(e) *Test and evaluation.* Provides independent, authoritative and objective test and evaluation of developing technologies to augment in-house and laboratory capabilities.

§ 9–4.5004 Policy.

It is ERDA policy to make maximum practicable use of invitations for bids, requests for proposals, program opportunity notices and program research and development announcements in order to solicit competitive proposals. Because present and future needs demand fullest possible use of all resources in exploring alternative energy sources and technologies, it is ERDA policy to permit the use of FCRCs on a noncompetitive award basis when fully justified, and monitored to ensure that the contract is appropriate for such organization. Because FCRCs may occupy unique positions in their relationships to ERDA and ERDA's other contractors in the performance of work under the contract, use of their services must conform to the subpart of this policy entitled "criteria for use of FCRCs." When the use of an FCRC has been justified, procuring organizations are then required to obtain competition among FCRCs to the extent feasible.

§ 9–4.5005 Criteria for use of FCRC's.

(a) The following criteria are factors which may justify an award of a contract to an FCRC.

(1) When, in order to avoid a potential conflict of interest, it is necessary to obtain the goods or services from an FCRC.

(2) When it has been determined that the FCRC has unique skills, capabilities and experience, and the nature of the work involves important ERDA projects and programs requiring support limited

to the areas of program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation, or

(3) When there are valid reasons for obtaining the required goods or services on an urgent basis and these goods or services cannot be obtained in a timely manner within the Government or from any other firm.

(b) While the foregoing criteria provide a basis for awarding contracts to FCRCs, it is necessary to be continuously aware of these criteria to ensure their proper application and to limit the use of FCRCs. Therefore, FCRCs shall not be used under the following circumstances:

(1) To perform routine technical, administrative or management tasks;

(2) When the purpose is to provide personal services rather than the performance of specific nonpersonal technical tasks in support of designated programs;

(3) When it will place them in competition with commercial firms, or where the nature of the work requires the manufacturer of hardware or production of software;

(4) When it is determined they are performing work for commercial firms that might tend to place them in a conflict of interest situation;

(5) When the nature of the work does not involve program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation;

(6) When it involves the Government's fundamental responsibility for decision making;

(7) When the work involves the day-to-day direction of FCRC personnel by ERDA;

(8) When the work involves FCRC direction of ERDA personnel.

§ 9–4.5006 Procedure.

(a) This regulation establishes procedures for the submission, evaluation and selection for award of proposals offered by FCRCs to ERDA to provide services in the area of program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation. When an ERDA Headquarters or field office considers that the services of an FCRC are appropriate, it shall prepare a memorandum entitled "Justification for Use of FCRC" addressed to the approving official designated in Subpart 9–4.5008 of this regulation. The procurement request, justification for noncompetitive procurement (JNCP), proposed contract terms and conditions and statement of work shall be attached to the memorandum. The memorandum, as a minmum, shall address the following:

(1) The criteria for use of FCRCs.

(2) Dollars, by fiscal year, obligated in any current contracts with the FCRC.

(3) Description of all ERDA contract tasks, including current status, undertaken since first contract was awarded to the FCRC.

(4) Man-months and dollars, by task, for current FCRC contract.

(5) Estimated length of the proposed and any future contract with this FCRC.

(6) Other factors considered of value to support the continued or initial use of the FCRC.

The memorandum shall be submitted by the initiating office in accordance with Subpart 9–4.5008 to the office responsible for coordinating the review, concurrences and approval.

(b) DOE–PR Subpart 9–4.5008 sets forth the required concurrences and approval levels for the memorandum predicated upon the estimated dollar amount of the proposed action. Once the required concurrences and approvals have been obtained the initiating office can then arrange, through the appropriate procurement office, for the renegotiation and award of a contract to an FCRC.

§ 9–4.5007 Ground rules for contracts with FCRC's.

(a) Fixed fee shall be determined in accordance with ERDA–PR Temporary Regulation No. 17 dated April 2, 1976, Subpart 9–3.808–51 entitled "Contracts with not-for-profit organizations (other than educational institutions)."

(b) Contracts will generally be written for no more than a three year period and usually funded on an annual basis to permit flexibility as to whether to proceed with the following year.

(c) It is suggested that 60 days prior to the annual funding date, the contractor be required to submit a written status report indicating progress to date versus planned accomplishments, man-years expended to date versus planned and an explanation of any variations. This report shall be submitted to the program office with an information copy to the Director of Procurement.

§ 9–4.5008 Review and approval.

The "Justification for use of FCRC" shall, as a minimum requirement. be reviewed and approved as follows:

(a) $500 to $10,000: *Approve.*—Assistant Administrator (or designee) or the head of the staff office (or designee) (Headquarters), the Field Office Manager (or designee), or the Energy Research Center Director (or designee).

(b) $10,000 to $5 million: *Concur.*—Headquarters—Assistant Director of Procurement for Program Support, General Counsel and Controller. Field—Legal Counsel. *Approve.*—Assistant Administrator (or designee) or the head of the staff office or designee) (Headquarters), the Field Office Manager (or designee), or the Energy Research Center Director (or designee).

(c) $5 to $10 million: *Concur.*—Division Director (Headquarters) or Field Office Manager, General Counsel, Controller and Assistant Director of Procurement for Program Support. *Approve.*—Assistant Administrator or the head of the staff office.

(d) Greater than $10 million: *Concur.*—Division Director (Headquarters) or Field Office Manager, Director of Procurement, General Counsel, Controller, the Assistant Administrator, the Assistant Administrator for Administration, and t he Assistant Administrator for Field Operations. *Approve.*—Administrator.

(Sec. 105 of the Energy Research Reorganization Act of 1974 (Pub. L. 93–438).)

Dated: July 12, 1977.

WILLIAM A. PARKER,
Acting Director,
Division of Procurement.

[FR Doc.77-20984 Filed 7-20-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 175]

[Docket No. HM–131; Notice No. 75-10]

CARRIAGE BY AIRCRAFT

Proposed Inspection and Monitoring Requirements for Radioactive Materials—Withdrawal of Notice

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Withdrawal of Notice of proposed rulemaking.

SUMMARY: The purpose of this notice it to withdraw Docket No. HM–131, Notice No. 75–10 which proposed certain inspection and monitoring requirements for radioactive materials shipped by air.

DATES: Effective July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington. D.C. 20590 (202–426–0656).

SUPPLEMENTARY INFORMATION: On December 11, 1975, the Materials Transportation Bureau (MTB) published Docket No. HM–131, Notice No. 75–10 in the FEDERAL REGISTER (40 FR 57688). This notice modified an earlier Federal Aviation Administration (FAA) rulemaking action which prescribed inspection requirements to be carried out by air carriers for hazardous materials shipments. The FAA notice (Docket No. 13668) was published on April 25, 1974. (39 FR 14612), issued with certain revisions as an amendment on February 4. 1975, (40 FR 5140), and was to have become effective March 7, 1975. Among the requirements were specific monitoring procedures to be followed, including specifications for the radiation monitoring equipment to be used. As a result of numerous comments, the monitoring requirements for radioactive materials packagings were deleted from the FAA amendment, and Docket No. HM–131 was published by MTB for the purpose of clarifying the instrument specifications and implementing the monitoring requirements. The comment period for Docket No. HM–131 expired on February 17, 1976.

Strong objections have been received regarding the impositions upon air car-

riers caused by the requirements proposed in Docket No. HM-131. Several carriers and carrier associations have pointed out the additional costs which would be incurred in the procurement of the required instruments, and in the training of personnel to carry out the monitoring operations. They questioned the feasibility of training personnel to the level of competency required. Also, many shippers objected to the delays in the transporting of their materials which could be caused by the new requirements. Numerous carriers and shippers contended that responsibility for compliance with the restrictions on maximum permitted radiation levels would more appropriately rest with the shipper, and that the carrier should be allowed to rely upon the shipper's certification, except in cases involving apparent damage or leakage.

Alternatives to the requirements proposed in Docket No. HM-131 were suggested by some commenters. They included central monitoring stations operated by a Federal agency, or the registration of shippers of radioactive materials.

Therefore, after thoroughly considering the comments received, the MTB is withdrawing its proposals under Docket No. HM-131, Notice No. 75-10 for the following reasons:

1. The proposed requirement could result in increased exposure to cargo handlers, particularly since many carriers assign relatively few of their personnel to handling such activities, and the monitoring operation would extend the period of time during which an individual is subject to exposure.

2. Since the publication of the FAA notice on April 25, 1974, implementation of Section 108 of the Hazardous Materials Transportation Act (P.L. 93-633) has restricted the carriage of radioactive materials to those used or intended for use in research, or medical diagnosis or treatment. This substantially reduces the likelihood of inadvertent exposures to the public.

3. A Notice of proposed rulemaking appears elsewhere in this issue of the FEDERAL REGISTER which, in response to recommendations from the Nuclear Regulatory Commission (NRC), proposes amendments to reduce the maximum radiation level permitted for packages of radioactive materials aboard passenger aircraft, and would increase the required separation distance between passengers and radioactive cargo. The changes discussed in paragraph 2 represent significant increases in the Federal regulatory control of the carriage of radioactive materials by aircraft. If these changes, together with the visual inspection requirements now specified, are eventually used in conjunction with the proposed changes discussed in this paragraph, then it is the judgment of the MTB that these measures will increase safety in the air transportation of radioactive materials more effectively than would the monitoring requirements proposed in Docket No. HM-131.

An additional consideration is the possibility that the medical use of radiopharmaceuticals could be interrupted as a result of: (1) delays in handling of the materials due to the monitoring requirements; and (2) possible increased transportation costs due to the costs of the proposed instrument and personnel training requirements.

Primary drafters of this document are B. D. Devine and A. W. Grella of the Office of Hazardous Materials Operations, Technology Division, J. N. Stottlemyer of the Office of Hazardous Materials Operations, Regulations Development Branch, and G. W. Tenley of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, by this notice the MTB is withdrawing its proposals under Docket No. HM-131, Notice No. 75-10.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

Issued in Washington, D.C. on July 12, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-20676 Filed 7-20-77;8:45 am]

[49 CFR Part 175]

[Docket No. HM-152; Notice No. 77-6]

CARRIAGE BY AIRCRAFT

Requirements for Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposed amendment to Part 175 of the Hazardous Materials Regulations is to: (1) reduce the maximum and average radiation level in the passenger compartment of passenger-carrying aircraft by increasing the separation distance required between any package of radioactive materials and the passenger compartment, and by reducing the maximum allowable transport index from 10.0 to 3.0 for any package of radioactive materials carried on a passenger-carrying aircraft; (2) provide for a system of predesignated areas ("spacing out") for stowage of radioactive materials packages aboard passenger-carrying aircraft based on the size and configuration of the particular aircraft involved; (3) increase the allowable amount of radioactive materials aboard cargo-only aircraft when carried in accordance with specified loading requirements; (4) restrict the carriage of radioactive materials aboard passenger-carrying aircraft to those with a radioactive half-life of 30 days or less; and (5) establish provisions for combining radioactive materials packages in overpacks. These proposed revisions are based primarily on a study conducted by the U.S. Atomic Energy Commission (see Supplementary Information in this document) which recommended a reduction in the exposure to radioactive materials for passengers aboard aircraft.

DATES: Comments by: September 20, 1977.

ADDRESS COMMENTS TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

A. W. Grella or B. D. Devine, Office of Hazardous Materials Operations (OHMO), Technology Division, 2100 2nd Street SW., Washington, D.C. 20590 (202-426-2311).

SUPPLEMENTARY INFORMATION: In July of 1974, the U.S. Atomic Energy Commission (AEC) transmitted to the Federal Aviation Administration (FAA) of the Department of Transportation several recommendations regarding the transportation of radioactive materials aboard civil aircraft ("Recommendations for Revising Regulations Governing the Transportation of Radioactive Material in Passenger Aircraft," July, 1974, on public file in the Section of Dockets, Office of Hazardous Materials Operations, 2100 2nd Street, SW., Washington, D.C.). These recommendations have been under review and have been the subject of discussions between the staffs of the two agencies and the successors to the AEC, the U.S. Nuclear Regulatory Commission (USNRC) and the Energy Research and Development Administration (ERDA). The MTB has evaluated these recommendations and the several discussions held thereon, and believes that they provide a basis for the proposals in this document to reduce the radiation exposure to persons aboard aircraft transporting radioactive materials.

The proposed rules would revise § 175.700, applicable only to passenger-carrying aircraft, to restrict the carriage of radioactive materials packages required to bear a Radioactive Yellow-III label to those with a transport index of 3.0 or less. Additionally, in order to insure the least amount of potential exposure to passengers, the proposed rules would require each radioactive material package required to bear a Radioactive Yellow-II or Radioactive Yellow-III label to be stowed on the floor of the cargo compartment of the aircraft. Furthermore, a package required to bear either of those labels could be carried on a passenger-carrying aircraft only if the radioisotope it contains has a radioactive half-life that does not exceed 30 days. Exceptions to the half-life restriction would be provided for radioactive materials that are susceptible to rapid chemical deterioration (such as those requiring dry ice refrigeration), those having a half-life exceeding 10^8 years (such as natural or depleted uranium), and certain export or import shipments as specifically approved by the Director, OHMO.

A new § 175.701 is proposed, setting forth minimum spacing distances be-

tween people or animals and packages of radioactive materials carried aboard passenger-carrying aircraft. This section would replace the required separation distances contained in existing § 175.700.

The proposed new § 175.701 would permit the aircraft operator to develop a system of predesignated areas for the stowage of packages of radioactive materials aboard passenger-carrying aircraft. The specific details of the proposed use of such a "spacing out" system by an aircraft operator would be required to be approved by the Director, MTB. Under this proposal, a system of predesignated areas would be approved by the Director if it were designed to assure that: (1) the packages are placed in each predesignated area in accordance with § 175.-701 (a); and (2 the predesignated areas are laterally separated from each other by at least four times the applicable distance specified in the table in § 175.701 (b) (2) as measured in accordance with § 175.701(b) (1). These proposals are intended to preclude any radiation level "peaking" from the cumulative effect of radiation emitted from each predesignated area.

Proposals to amend §§ 175.75(a) (3) and 175.702 would provide for an increase in the amount of radioactive material permitted to be carried aboard a cargo-only aircraft, and would set forth the requirements for stowage in such situations. Current § 175.75(a) (3) limits the maximum quantity of radioactive materials that may be carried aboard an aircraft to an amount that totals a transport index of 50. It is proposed to amend § 175.75(a) to increase the maximum amount that may be carried aboard a cargo-only aircraft to a total transport proposed § 175.702, when the total transindex of 200. More specifically, under port index does not exceed 50, the separation distance requirements applicable to passenger-carrying aircraft would apply to cargo-only aircraft. However, when the transport index of all packages exceeds 50, the proposal would require a minimum separation distance of 30 feet (9 meters). Additionally, in such cases, groups of packages would be limited to a transport index of 50, with each group separated from every other group by not less than 20 feet (6 meters). When packages of fissile radioactive materials are being carried, the total transport index for any aircraft would be limited to a maximum of 50, rather than 200, to assure nuclear criticality safety.

A new § 175.703 is proposed to incorporate the existing requirements of § 175.700 for separation of radioactive materials packages from undeveloped film. The new section would also provide conditions for overpacking or "bagging" or properly marked and labeled packages of radioactive materials within an outer enclosure such as a heavy gauge plastic bag or a fiberboard box. Present requirements for labeling and transport index determinations do not address this situation. The proposed procedures would specify the conditions for such use.

The provisions of present § 175.710 would be incorporated into proposed new § 175.103. Therefore, it is proposed that § 175.710 be deleted.

The Office of Hazardous Materials Operations has determined that there will be no adverse effect on the environment resulting from the changes proposed herein. This position is supported by the Battelle Pacific Northwest Laboratories Study, "Assessment of the Environmental Impact of the FAA Proposed Rulemaking Affecting the Conditions of Transport of Radioactive Materials on Aircraft" (BNWL–B–421), on file in the Section of Dockets, Room 6500, Office of Hazardous Materials Operations, Department of Transportation, 2100 2nd Street SW., Washington, D.C.

Primary drafters of this document are B. D. Devine and A. W. Grella of the Office of Hazardous Materials Operations, Technology Division, J. N. Stottlemyer of the Office of Hazardous Materials Operations, Regulations Development Branch, and G. W. Tenley of the Office of the Assistant General Counsel for Materials Transportation Law.

The following is a summary of existing radioactive materials regulatory provisions and those which are being proposed:

Item	Existing regulations	Proposed regulations
Package: Maximum transport index:		
Passenger	10 (sec. 173.393(i))	3 (sec. 175.700).
Cargo	Same	No change.
Stowage: Total T. I. per aircraft:		
Passenger	50 (sec. 175.75)	No change.
Cargo	Same	200 (sec. 175.75). (50 for fissile materials.)
Configuration:		
Passenger	Separation table (sec. 175.700).	Separation table or predesignated area (sec. 175.701). Yellow labeled packages on floor only (sec. 175.700.)
Cargo	Same	Separation table for single group (sec. 175.701) or multiple groups (sec. 175.702).
Film protection	Separation table (sec. 175.700).	No changes (sec. 175.703).
Overpack T. I.:		
Passenger	Not addressed	3 (sec. 175.703).
Cargo	do	10 (sec. 175.703).
Half life	do	Less than or equal to 30 d, with exceptions (sec. 175.700).
End use:		
Passenger	Research or medical use only (sec. 175.30).	No change.
Cargo	No restriction	No change.

In consideration of the foregoing, Part 175 of Title 49 Code of Federal Regulations would be amended as follows:

1. Part 175 Table of Sections would be amended by revising § 175.700, adding new §§ 175.701. 175.702, and 175.703, and § 175.710 would be deleted:

Sec.
175.700 Special limitations; radioactive materials packages in passenger-carrying aircraft.
175.701 Separation distance requirements for packages containing radioactive materials in passenger-carrying aircraft.
175.702 Requirements for carriage of packages containing radioactive materials in cargo-only aircraft.
175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.

2. Section 175.75 paragraph (a) (3) would be revised to read as follows:

§ 175.75 Quantity limitations aboard aircraft.

(a) • • •

(3) Packages containing radioactive materials when their combined transport index number (determined by adding together the transport index numbers shown on the labels of the individual packages)—

(i) In passenger-carrying aircraft, exceeds 50.

(ii) In cargo-only aircraft, exceeds 200 (For fissile radioactive materials, see § 175.702(b) (3)).

• • • • •

§ 175.85 [Amended]

3. Section 175.85 paragraph (d) would be amended by changing the section reference 175.700 in the last line to read "§ 175.701."

4. Section 175.700 would be revised to read as follows:

§ 175.700 Special limitations; radioactive materials packages in passenger-carrying aircraft.

(a) No person may carry in a passenger-carrying aircraft any package required to be labeled in accordance with § 172.403 (c) or (d) of this subchapter unless—

(1) Where the package is required to be labeled Radioactive Yellow–II, the transport index does not exceed 1.0;

(2) Where the package is required to be labeled Radioactive Yellow–III, the transport index does not exceed 3.0;

(3) The package is carried on the floor of the cargo compartment;

(4) The package is carried in the aircraft in accordance with §§ 175.85(d), 175.701 and 175.703(c); and

(5) Except as provided in paragraph (b) of this section, the radioisotope specified on the label—

(i) Has a half-life not exceeding 30 days;

(ii) Has a half-life exceeding 10⁹ years; or

(iii) Is a material that is susceptible to rapid chemical deterioration, as shown by a shipper's statement to that effect on the shipper's certificate.

(b) The Director, Office of Hazardous Materials Operations may approve specific export or import shipments of radioactive materials which do not meet the requirements of paragraph (a)(5) of this section.

(c) In addition to the reporting requirements of § 175.45, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials and shipments. Aircraft in which radioactive materials have been spilled may not again be placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hours and there is no significant removable radioactive surface contamination as determined in accordance with § 173.397 of this subchapter. When contamination is present, the package or materials must be segregated as far as practicable from personnel contact. If radiological advice or assistance is needed, the U.S. Energy Research and Development Administration must also be notified. In case of obvious leakage, or if it appears likely that the inside container may have been damaged, care must be taken to avoid inhalation, ingestion, or contact with the radioactive materials. Any loose radioactive materials must be left in a segregrated area pending disposal instructions from qualified persons.

5. A new § 175.701 would be added to read as follows:

§ 175.701 Separation distance requirements for packages containing radioactive materials in passenger-carrying aircraft.

(a) *General.* No person may carry in a passenger-carrying aircraft any package required by § 172.403 of this subchapter to be labeled Radioactive Yellow–II or Radioactive Yellow–III unless the package is placed in the aircraft in accordance with the minimum separation distances prescribed in paragraph (b) or (c) of this section.

(b) *Separation distances.* (1) Except as provided in paragraph (c) of this section, the minimum separation distances prescribed in paragraph (b)(2) of this section are determined by measuring the shortest distance between the surfaces of the radioactive materials package and the surfaces bounding the space occupied by passengers or animals. If more than one package of radioactive materials is placed in a passenger-carrying aircraft, the minimum separation distance for each individual package shall be determined in accordance with paragraph (b)(2) of this section on the basis of the sum of the transport index numbers of the individual packages.

(2) The following table prescribes minimum separation distances for the carriage of packages containing radioactive materials labeled Radioactive Yellow–II or Radioactive Yellow–III in passenger-carrying aircraft:

Transport index or sum of transport indexes of all packages in the aircraft	Minimum separation distances	
	Inches	Centimeters
0.1 to 1	12	30
1.1 to 2	20	50
2.1 to 3	28	70
3.1 to 4	34	85
4.1 to 5	40	100
5.1 to 6	46	115
6.1 to 7	52	130
7.1 to 8	57	145
8.1 to 9	61	155
9.1 to 10	65	165
10.1 to 11	69	175
11.1 to 12	73	185
12.1 to 13	77	195
13.1 to 14	81	205
14.1 to 15	85	215
15.1 to 16	89	225
16.1 to 17	93	235
17.1 to 18	97	245
18.1 to 20	102	260
20.1 to 25	118	300
25.1 to 30	130	330
30.1 to 35	142	360
35.1 to 40	154	390
40.1 to 45	166	420
45.1 to 50	177	450

(c) *Predesignated areas.* A package required by § 172.403 of this subchapter to be labeled Radioactive Yellow-II or Radioactive Yellow-III may be carried in a passenger-carrying aircraft in accordance with a system of predesignated areas established by the aircraft operator. Each aircraft operator that elects to use a system of predesignated areas shall submit a detailed description of the proposed system to the Director, Office of Hazardous Materials Operations for approval prior to implementation of the system. A proposed system of predesignated areas is approved if the Director determines that it is designed to assure that—

(1) The packages can be placed in each predesignated area in accordance with the minimum separation distances prescribed in paragraph (b)(2) of this section; and

(2) The predesignated areas are laterally separated from each other by a minimum distance equal to at least four times the distance required by paragraphs (b)(1) and (b)(2) of this section for thep redesignated area containing packages with the largest sum of tarnsport indexes.

6. A new § 175.702 would be added to read as follows:

§ 175.702 Requirements for carriage of packages containing radioactive materials in cargo-only aircraft.

(a) As used in this section, the term "group of packages" means packages that are separated from each other in an aircraft by a distance of 20 feet (6 meters) or less.

(b) No person may carry in a cargo-only aircraft any package required by § 172.403 of this subchapter to be labeled Radioactive Yellow-II or Radioactive Yellow-III unless—

(1) When the total transport index for all of the packages does not exceed 50.0, the package is carried in accordance with § 175.701(a).

(2) When the total transport index for all of the packages exceeds 50—

(i) The separation distance between the surfaces of the radioactive materials package and the surfaces bounding the space occupied by persons or animals is at least 30 feet (9 meters);

(ii) The transport index for any group of packages does not exceed 50.0; and

(iii) Each group of packages is separated from every other group in the aircraft by not less than 20 feet (6 meters), measured from the outer surface of each group.

(3) For fissile radioactive materials, the total transport index for all packages does not exceed 50.0.

7. A new § 175.703 would be added to read as follows:

§ 175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.

(a) No person may carry in an aircraft any package of radioactive materials required by § 172.403 of this subchapter to be labeled Radioactive Yellow-II or Radioactive Yellow-III closer than the distances shown in the following table to any package marked as containing undeveloped film:

Transport index	Minimum separation distance in feet to nearest undeveloped film for various times of transit				
Index	Up to 2 h	2 to 4 h	4 to 8 h	8 to 12 h	Over 12 h
None	0	0	0	0	0
0.1 to 1.0	1	2	3	4	5
1.1 to 5.0	3	4	6	8	11
5.1 to 10.0	4	6	9	11	15
10.1 to 20.0	5	8	12	16	22
20.1 to 30.0	7	10	15	20	29
30.1 to 40.0	8	11	17	22	33
40.1 to 50.0	9	12	19	24	34

(b) No person may accept for carriage in an aircraft packages of radioactive materials contained in a rigid or non-rigid overpack, including a fiberboard box or plastic bag, unless—

(1) The packages of radioactive materials contained within the overpack comply with the packaging, marking, and labeling requirements of this subchapter; and

(2) The overpack is labeled as prescribed in § 172.403 of this subchapter and complies with the following requirements:

(i) If the radiation dose rate for the overpack exceeds 1.0 millirem per hour at 3 feet (0.9 meters) from any surface, the Radioactive Yellow-III label prescribed in § 172.440 of this subchapter must be applied. The "contents" entry on that label must state "mixed radioactive materials."

(ii) For a non-rigid overpack, a single required label together with required markings must be affixed to the overpack by means of a securely attached, durable tag. The transport index must be determined by adding together the transport indexes of the radioactive materials packages contained therein.

(iii) For a rigid overpack, the transport index must be determined by—

(A) Adding together the transport indexes of the radioactive materials packages contained in the overpack; or

(B) Except for fissile radioactive materials, direct measurement as prescribed in § 173.389(i)(1) of this subchapter.

(iv) The overpack with the inner packages contained therein, must be capable of withstanding the compression test prescribed in § 173.398(b)(3)(v) of this subchapter.

(v) The overpack must be marked as prescribed in Subpart D of Part 172 and § 173.25(a) of this subchapter.

(vi) The transport index of the overpack my not exceed 3.0 for passenger-carrying aircraft shipments, nor 10.0 for cargo-only aircraft shipments.

(vii) The overpack is considered a single package for purposes of the shipping paper requirements in Subpart C of Part 172 of this subchapter.

(viii) The overpack may not contain packages consolidated from more than one original shipper.

(c) No person may carry in an aircraft any package containing Fissile Class III radioactive materials (as defined in § 173.389(a)(3) of this subchapter), except—

(1) In a cargo-only aircraft which has been assigned for the sole use of the shipper for the specific shipment of fissile radioactive material. Instructions for the sole use must be developed by the shipper and carrier, and the instructions issued with the shipping papers; or

(2) In an aircraft in which there are no other packages required to bear a radioactive label as prescribed in § 172.403 of this subchapter. Specific arrangements must be made between the shipper and carrier, with instructions to that effect issued with the shipping papers; or

(3) In accordance with any other procedure specifically approved by the Director, Office of Hazardous Materials Operations.

§ 175.710 [Deleted]

8. § 175.710 would be deleted.

(49 U.S.C. 1803, 1804, 1807, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on July 12, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-20677 Filed 7-20-77;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Parts 581 and 575]

[Docket No. 73-19, 74-11; Notices 18, 21]

DAMAGEABILITY REQUIREMENTS AND CONSUMER INFORMATION

Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This notice corrects an inadvertent error in the application sections of two of the proposed alternative regulations contained in the FEDERAL REGISTER notice published on June 16, 1977 (42 FR 30655), concerning motor vehicle bumper requirements.

FOR FURTHER INFORMATION CONTACT:

Mr. Bob Mewhinney, Office of Crashworthiness, Motor Vehicle Programs, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590 (202-755-8896).

SUPPLEMENTAL INFORMATION: On June 16, 1977, the National Highway Traffic Safety Administration (NHTSA) published a notice (42 FR 30655) proposing three alternative amendments to Part 581, *Bumper Standard*, two of which would include the establishment of a consumer information program. The application sections contained in Alternatives II and III of the notice (Part 575.107) inadvertently indicated that the consumer information program would be applicable to all passenger motor vehicles. The applicability of the program should be limited ot passenger motor vehicles other than multipurpose passenger vehicles. The notice is therefore revised to reflect the intended application.

Section 575.107(c) of Alternatives II and III of the notice is revised by inserting "other than multipurpose passenger vehicles" after "passenger motor vehicles."

The principal author of this notice is Karen Dyson, Office of Chief Counsel.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); sec. 102, 201, Pub. L. 93-513, 86 Stat. 947 (15 U.S.C. 1912, 1941); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on July 15, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77-21009 Filed 7-20-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order No. 77-7-19, Docket No. 27573; Agreement C.A.B. 26723; Agreement C.A.B. 26724, R-1 through R-4]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority, July 7, 1977.

Agreement have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements extend three specific commodity rates under existing commodity descriptions and add two new rates with new specific commodity descriptions as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between May 21 and May 27, 1977.

Agreement CAB	Specific commodity item No.	Description and rate [1]
26723	1021	Greyhounds: 113.00 U.K. pence [2]/kg, minimum weight 500 kg. Sydney to Guam.
26724:		
R-1	1952	Empty Ostrich Eggs: [3] 350 c/kg, minimum weight 100 kg. 300 c/kg, minimum weight 250 kg. Johannesburg to New York/Montreal.
R-2	4109	Aircraft Engines and Parts of Aircraft: 315 c/kg, minimum weight 100 kg. 275 c/kg, minimum weight 200 kg. 220 c/kg, minimum weight 500 kg. New York/Montreal to Addis Ababa.
R-3	8227	Wood-Wind Instruments: [3] 170 c/kg, [4] minimum weight 200 kg. 150 c/kg, [4] minimum weight 500 kg. Tel Aviv to New York/Montreal.
R-4	6810	Plastic Articles: 130 c/kg, minimum weight 500 kg. Auckland to Los Angeles.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Equivalent to approximately 294 c.
[3] New description.
[4] Expires December 31, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered*, That: Agreements C.A.B. 26723 and C.A.B. 26724, R-1 through R-4, are approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20997 Filed 7-20-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

AGE DISCRIMINATION

Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1975, as amended, 42 U.S.C. § 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. § 6101 et seq. (1976). The hearing will be held on August 22 and August 23, 1977, at the Dade County Court House, Room 250, 73 West Flager Street in Miami, Florida. The hearing will begin each day at 8:30 a.m. An Executive Session, if appropriate, will be convened on August 22 at the same location as the hearing.

The purpose of the hearing is to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The hearing will focus particular attention on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation; Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid, and selected areas within Education.

Dated at Washington, D.C., July 14, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-20914 Filed 7-20-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Wednesday, August 10, 1977, at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production and technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including

technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on logic analyzers.

(4) Review of findings of the Microprocessor Instrumentation Subcommittee with respect to microprocessors.

(5) Review of August 9 joint meeting of five Technical Advisory Committees with respect to microprocessors.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington. D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 28, 1976 (41 FR 56377).

Dated: July 18, 1977.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

Economic Development Administration

JBC CO. OF MADERA, INC.

Petition for a Determination of Eligibility to Apply for Trade Adjustment Assistance

A petition by JBC Co. of Madera, Inc., 97-99 Main Street, Madera, Pa. 16661, a producer of men's and boys' pants, was accepted for filing on July 14, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

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

[FR Doc.77-20935 Filed 7-20-77;8:45 am]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Issuance of Permit

On April 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 21132), that an application had been filed with the National Marine Fisheries Service by Milwaukee County Zoological Park, 10001 West Bluemound Road, Milwaukee, Wis. 53226, for a Permit to take six (6) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on July 11, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to the Milwaukee County Zoo subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

JULY 11, 1977.

[FR Doc.77-20944 Filed 7-20-77;8:45 am]

ATLANTIC TUNA FISHERIES

Atlantic Bluefin Tuna Purse Seine Quota Reallocation

On June 23, 1977, on page 31824, a notice was published in the FEDERAL REGISTER closing the purse seine fishing season for Atlantic bluefin tuna weighing between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight. The closure was effective 0001 June 22, 1977.

The total annual quota for Atlantic bluefin tuna that weigh between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight caught by purse seines was established at 1,000 short tons (910 metric tons). Of this 1,000 short tons, 800 short tons were made available for capture during the open season and 200 short tons were reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project (see § 285.13, FEDERAL REGISTER, June 14, 1977, p. 30373).

Preliminary catch statistics of Atlantic bluefin tuna caught in the purse seine fishery indicate that more than 800 short tons of Atlantic bluefin tuna were taken. Accordingly, pursuant to § 285.13 (d) the Director, National Marine Fisheries Service has made a determination to reallocate catch quotas. The following reallocation is hereby announced. The amount of Atlantic bluefin tuna weighing between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project is hereby reduced from 200 short tons to 100 short tons.

Such reduction will operate to keep the amount of fish captured near the 1,000 short ton annual quota. This reallocation is effective 0001 July 12, 1977.

Issued at Washington, D.C. and dated July 6, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-20899 Filed 7-20-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 45-1, Amdt. 3]

ECONOMIC DEVELOPMENT ADMINISTRATION

Establishment; Correction

In FR Doc. 77-19540, appearing on page 35672, in the issue of Monday, July 11, 1977 make the following change:

On page 35672, the correct middle initial for the Approved: signature should be "Elsa A. Porter".

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-20937 Filed 7-20-77;8:45 am]

[Dept. Organization Order 30-7A, Amdt. 2]

NATIONAL TECHNICAL INFORMATION SERVICE

Delegation of Authority; Correction

In FR Doc. 77-19539, appearing on page 35674, in the issue of Monday, July 11, 1977 make the following change:

On page 35674, the correct middle initial for the signature should be "Elsa A. Porter".

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-20936 Filed 7-20-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC HEARINGS

Notice is hereby given of two public hearings of the Commission on Federal Paperwork to be held in the States of Washington and Oregon. The hearings will be held on August 8, 1977, in The Hilton Hotel, The Pavilion Room, 921 S.W. Sixth Street, Portland, Oreg. and on August 9, 1977, in The Federal Building, 915 Second Avenue, North Auditorium, 4th Floor, Seattle, Wash.

The Portland hearing will commence at 9 a.m. and continue until 3 p.m., with a recess from 11 a.m. to 1 p.m. At the hearing, the Commission will receive comments concerning Health, Small Business, the Oregon State Paperwork Commission, and Education. The Seattle hearing will commence at 9 a.m. and end at 12 noon. During this hearing, the Commission will receive comments concerning Public Works, Segments of Business, Procurement, Welfare, and Title XX.

Testimony presented at these hearings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the hearings should contact the Commission on Federal Paperwork located at 1111 20th Street NW., Room 2000, Washington, D.C. 20582, telephone—202-653-5400.

FRANK HORTON,
Chairman.

[FR Doc.77-20986 Filed 7-20-77;8:45 am]

PUBLIC MEETING

Notice is hereby given of the fourteenth regular meeting of the Commission on Federal Paperwork to be held on July 29, 1977, in Room 2154, Rayburn House Building, Washington, D.C.

The meeting will begin at 9 a.m. and will continue until approximately 12 noon. The meeting will be open to the public. The Commission will review progress on approved projects, including reports in the following areas: Statistics, Information Management, Role of Congress, Confidentiality, Clearance Process, Records Management, and Impact on Business.

Anyone wishing to attend the meeting is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Washington, D.C. 20582, telephone—202-653-5400.

FRANK HORTON,
Chairman.

[FR Doc.77-20987 Filed 7-20-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

PREFERRED ALTERNATIVE LOCATION FOR A FLEET BALLISTIC MISSILE (FBM) SUBMARINE SUPPORT BASE, KINGS BAY, GA.

Public Hearings and Availability of Draft Environmental Impact Statement

Notice is hereby given pursuant to the National Environmental Policy Act, Pub. L. 91-191 of 1969 and the Council on Environmental Quality Guidelines, 40 CFR 1500, that a series of public hearings at three different locations will be held for the purpose of providing the public with relevant information on the Preferred Alternative Location for a Fleet Ballistic Missile (FBM) Submarine Support Base to be located at the present United States Army Military Ocean Terminal, Kings Bay, Ga., (MOTKI), and to afford the public an opportunity to present their views on the proposed Navy project. These hearings will be a joint effort with the United States Army Corps of Engineers who will also take comments relative to the dredging requirements proposed for this site as part of their procedures to issue a dredging permit. Hearings will be on the following dates, at the locations and times specified:

AUGUST 15, 1977

Kingsland Women's Club, Highway 40 East, Kingsland, Ga.

The hearing will begin at 7 p.m.

AUGUST 16, 1977

Civic Auditorium, The Theater, 3000 West Water Street, Jacksonville, Fla.

The hearing will begin at 7 p.m.

AUGUST 17, 1977

United States Courthouse, Rm. 318, 56 Forsyth Street NW., Atlanta, Ga.

The afternoon session of the hearing will begin at 1 p.m., and the evening session will begin at 7 p.m.

Public hearings are being held at three sites in order that all persons/municipalities, agencies and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearings concerning the site will be conducted by Commander Paul Klinedinst, United States Navy, and will include a presentation of the Navy's proposed action, expected environmental impact, alternatives and what may be expected for the future.

This proposed project provides for the construction and operation of an Atlantic Fleet submarine refit site at Kings Bay, Ga. The proposed action is the basing of one submarine squadron supported by a submarine repair shop (tender) and a floating drydock. It also considers the possibility of future expansion of operations at the site to accommodate two submarine squadrons (two tenders and two floating drydocks), as well as the possible construction and operation of an ashore refit facility to support either one or two submarine squadrons. A representative of the United States Corps of Engineers will be available to receive comments concerning dredging requirements.

The following procedures will be followed during the public hearings. For record purposes, all persons attending the hearings will be asked to provide their names upon entering the hearing. Individual speakers wishing to comment at the hearing will have four minutes each, and group spokespersons will have six minutes each to summarize and present their views. Each speaker will identify himself and any organization he may be representing. One speaker may not relinquish time to another. Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by August 8, 1977, or such statements may be presented to the Hearing Officer during the hearing. Pre-registration of speakers is desired, and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The name and title of the speaker for organizations should be included in the pre-registration. The closing date for including additional written statements in the Navy hearing record is 10 calendar days after the date of each individual hearing. Speaker pre-registration and submission of written statements should be addressed to:

Strategic Submarine Division (OP-21), Office of the Chief of Naval Operations, Washington, D.C. 20350, Attn.: Captain W. H. Purdum.

Anticipated environmental impacts resulting from the proposed project are documented in the Draft Environmental Impact Statement (DEIS) for the proposed project as announced in the FEDERAL REGISTER on July 1, 1977, at page 33789. Copies of the DEIS have been widely distributed and are available to the public at the following locations should perusal of the subject document be desired:

1. Chief of Naval Information, The Pentagon Press Room, Washington, D.C. 20350.
2. *Libraries:* Waycross Libraries, Brunswick Libraries, Hoboken Libraries, Nahunta Li-

braries, St. Marys Libraries, Woodbine Libraries, Kingsland Libraries, Folkston Libraries, Homeland Libraries, Jacksonville Libraries, Fernandina Beach Libraries, Callahan Libraries.

3. *Colleges:* West Georgia College, Carrolton, Ga.; University of Georgia, Athens, Ga.; University of Georgia Marine Institute, Sapeld, Ga.; University of Florida; Skidaway Institute of Oceanography, Skidaway Island, Ga.
4. Navy Information Office, St. Marys, Ga.

For further information concerning this notice, contact Captain W. H. Purdum, U.S. Navy, Strategic Submarine Division, Polaris/Poseidon Branch (OP-212), Office of the Chief of Naval Operations, Washington, D.C. 20350, telephone number 202-695-2460.

Dated: July 18, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-20991 Filed 7-20-77;8:45 am]

DELAWARE RIVER BASIN COMMISSION

[Docket No. D-75-128]

DOW CHEMICAL CO., BULK CHEMICAL STORAGE AND DISTRIBUTION FACILITY, BORDENTOWN TOWNSHIP, N.J.

Draft Environmental Impact Statement

In accordance with the National Environmental Policy Act of 1969 and the Delaware River Basin Commission's Rules of Practice and Procedure, notice is hereby given of the availability of a draft environmental impact statement, dated July 15, 1977, which discusses the impact of the chemical storage and distribution terminal proposed by the Dow Chemical Co. for construction at Delaware River Mile 127 in Bordentown Township, Burlington County, N.J. The draft environmental impact statement was prepared by the Delaware River Basin Commission based upon an Environmental Report prepared by S. T. Hudson Engineers, Inc., and the Commission's staff analysis of the proposed action.

The proposed development includes construction of 65 storage tanks varying in size from 250 barrels (10,000 gallons) to 50,000 barrels (2,100,000 gallons). Construction would include removal of about 307,000 cubic yards of sand, gravel, and river silt to provide adequate channel depth and a berthing area for tankers of up to 36,000 deadweight tons. A pier and marginal berthing facilities would extend a maximum of 500 feet channelward from the existing mean high water line. Facilities would include a dry bulk transfer system, a storage and packaging warehouse, and an administration building.

Copies of the draft environmental impact statement and the applicant's environmental report and supplements may be examined in the library at the office of the Delaware River Basin Commission, 25 State Police Drive, West Trenton, N.J., during normal business hours. Copies of the application and draft environmental impact statement are available for distribution to persons or agencies upon request.

A public hearing on the action proposed by Dow Chemical Co. will be held by the Delaware River Basin Commission on August 24, 1977, at 2 p.m. The hearing will take place in the Hall of Flags, West, Sheraton Hotel, 17th and Kennedy Blvd., Philadelphia, Pa. Testimony will be received on the proposed project and the draft environmental impact statement.

Written comments on the draft environmental impact statement will be received by the Delaware River Basin Commission from interested agencies or individuals. To be considered by the Commission in formulating a final environmental impact statement, such written comments must be received no later than September 5, 1977.

W. BRINTON WHITALL,
Secretary.

JULY 15, 1977.

[FR Doc.77-20946 Filed 7-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated a reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0677-021, "Monitor Labs Model 8440R Nitrogen Oxides Analyzer," operated on a 0-0.5 ppm range (position 2 of range switch) with a time constant setting of 20 seconds and with or without the following options:

Option TF—Sample particulate filter with TFE filter element.
Option VT—Zero/span valves and timer.
Option V—Zero/span valves.
Option FM—Flowmeters.
Option DO—Status outputs.
Option R—Rackmount.

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, March 25, 1977, page 16175. The method is available from Monitor Labs, Inc., 4202 Sorrento Valley Boulevard, San Diego, Calif. 92121.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them with 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers

is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmnetal Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

JULY 15, 1977.

[FR Doc.77-21016 Filed 7-20-77;8:45 am]

[FRL 765-6]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0777-022, "Bendix Model 8101-C Oxides of Nitrogen Analyzer", operated on a 0-0.5 ppm range with a teflon sample filter (Bendix P/N 007163) installed on the sample inlet line.

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, April 6, 1977, page 18298. The method is available from The Bendix Corporation, Environmental and Process Instruments Division, P.O. Box 831, Lewisburg, W. Va. 24901.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicacable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

JULY 18, 1977.

[FR Doc.77-21017 Filed 7-20-77;8:45 am]

[FRL 762-1]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

Delegation of Authority to the State of New Jersey on the Behalf of the Department of Environmental Protection

On December 23, 1971 (36 FR 24876), March 8, 1974 (39 FR 9308), August 6, 1975 (40 FR 33152), September 23, 1975 (40 FR 43850), January 15, 1976 (41 FR 2232), January 26, 1976 (41 FR 3826), and May 4, 1976 (41 FR 20659), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations codified in 40 CFR Part 60 establishing standards of performance for certain categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 FR 8820), October 14, 1975 (40 FR 48292), and March 2, 1977 (42 FR 12127), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate authority to implement and enforce the standards to any state which submits an adequate procedure therefor. The Administrator retains concurrent authority to imple-

ment and enforce the standards following delegation of authority to a state.

On July 27, 1973, the Regional Administrator, Region II, forwarded to the State of New Jersey information setting forth the requirements for an adequate procedure for implementing the NSPS and NESHAPS. On June 29, 1976, the Honorable David J. Bardin, Commissioner of the New Jersey Department of Environmental Protection, submitted a request for delegation of authority to implement and enforce the NSPS and certain aspects of the NESHAPS program. A subsequent letter from the State, dated September 1, 1976 served to supplement the terms of the original request in certain minor respects.

Upon examination of the State of New Jersey's request, the Regional Administrator found the procedures proposed to be employed by the Department of Environmental Protection to be adequate and, by means of a letter to Commissioner Bardin, formally delegated to the State of New Jersey (per the Department of Environmental Protection) certain aspects of the existing federal authority to implement and enforce the NSPS and NESHAPS programs.

What follows is the entire text of the Regional Administrator's letter, which describes fully the delegated aspects of the relevant programs, and articulates the conditions and understandings upon which delegation was based.

Commissioner DAVID J. BARDIN,
New Jersey Department of Environmental Protection, P.O. Box 1390, Trenton, New Jersey 08625.

DEAR COMMISSIONER BARDIN: On June 29, 1976 you submited the State of New Jersey's formal request for delegation of federal authority for the implementation and enforcement of the Standards of Performance for New Stationary Sources ("NSPS") and the National Emission Standards for Hazardous Air Pollutants ("NESHAPS") pursuant to §§ 111(c)(1) and 112(d)(1) of the Clean Air Act, respectively. This request was supplemented and clarified by a further submission from the State on September 1, 1976. The Environmental Protection Agency ("EPA") hereby makes its formal response to your request.

(A) We have reviewed the relevant laws of New Jersey, and the rules and regulations of the New Jersey Department of Environmental Protection ("NJDEP") and have determined that these laws, rules, and regulations provide an adequate and effective procedure for implementation and enforcement of the NSPS against all sources. We have further determined that such laws, rules, and regulations provide an adequate and effective procedure for implementation and enforcement of the NESHAPS against those sources the construction of which will commence subsequent to the effective date of this delegation, and an adequate and effective procedure for the administrative and technical implementation of NESHAPS against all other sources subject to such regulations. Therefore, we hereby grant delegation of NSPS and NESHAPS to the State of New Jersey on behalf of the NJDEP as follows:

(1) Authority for all sources located in the State of New Jersey subject to the Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of the date of this delegation. The categories of new sources covered by this delegation are fossil fuel fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry: superphosphoric acid plants; phosphate fertilizer industry: diammonium phosphate plants; phosphate fertilizer industry: triple superphosphate plants; phosphate fertilizer industry: granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and steel plants: electric arc furnaces. NJDEP shall, in the exercise of such authority, be the agent of the Administrator within the meaning of § 114 of the Clean Air Act.

(2) Authority, as described and limited in subparagraphs (a) and (b) herein, for implementation and enforcement of any category of the NESHAPS regulations promulgated in 40 CFR Part 61, as of the date of this delegation, with the exception of those categories regarding the operation of asbestos waste disposal sites (40 CFR § 61.22(1) and § 61.25), the application of asbestos insulation (40 CFR § 61.22(l)), the demolition or renovation of buildings or structures containing asbestos (40 CFR § 61.22(d)), the spraying of asbestos (40 CFR § 61.22(e)), and the emission of vinyl chloride (40 CFR § 61, Subpart F).

(a) EPA hereby delegates the authority to implement and enforce such regulations against those sources located in the State of New Jersey which are constructed or modified subsequent to the date of this delegation, and which are required by State law or regulation to obtain a permit to construct or a permit to operate.

(b) EPA hereby delegates authority for the technical and administrative implementation of such regulations against all sources located within the State which have been constructed prior to the effective date of this delegation and which are not required by State law or regulation to obtain a permit to construct or a permit to operate. NJDEP shall, in its exercise of such authority, be the agent of the Administrator of EPA within the meaning of § 114 of the Clean Air Act.

(B) This delegation is based on the following conditions:

(1) Quarterly reports shall be submitted to EPA by the NJDEP which shall include a statement as to the number of sources in compliance, the number of sources of unknown compliance, the number of sources inspected, the number of sources in violation, the number of enforcement actions taken, the number of permits issued, and the number of sources tested. As to any violations reported, the State shall identify the source involved and shall describe the legal action taken against such source.

(2) The NJDEP and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding the compliance status of the subject sources and interpretation of the regulations.

(3) This delegated authority shall be implemented by the diligent exercise of the regulatory powers and authority possessed by NJDEP.

All substantive emission limitations associated with the NSPS standards hereby delegated or any more stringent emission limitations imposed by State law or regulation, all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 60 shall be strictly enforced by NJDEP's attaching such requirements as conditions to its permits to construct and permits to operate, and by any other appropriate means.

All substantive emission limitations associated with the NESHAPS standards hereby delegated, or any more stringent emission limitations imposed State law or regulation, and all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 61 shall be enforced as follows:

(a) As to those sources required by State law or regulation to obtain a permit to construct or permit to operate, such limitations and requirements shall be imposed and strictly enforce as conditions to such permits by NJDEP.

(b) As to those sources not required by State law or regulation to obtain a permit to construct or permit to operate, NJDEP shall, pursuant to its authority and to the authority hereby granted to it as the Administrator's agent within the meaning of § 114 of the Clean Air Act, conduct all inspection and monitoring activities necessary to determine compliance with the standards hereby delegated. It shall, in addition, require strict compliance with all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 61.

In the event that NJDEP discovers a violation of any substantive emission limitation associated with the NESHAPS standards hereby delegated, or in the event that any source subject to such regulations fails to comply with any notification, recordkeeping, record retention, reporting or selfmonitoring requirements imposed by 40 CFR Part 61, NJDEP shall immediately report such noncompliance to EPA which will thereupon take whatever enforcement action it deems appropriate.

(4) The test methods and procedures set out in 40 CFR Part 60, Appendix A and Part 61, Appendix B shall be employed in determining compliance with the standards herein delegated, as appropriate for the particular source involved; except as follows:

(a) NJDEP may utilize the test methods and procedures set forth in N.J.A.C. 7:27 B-1.1 et seq. to determine the level of particulate emissions from manufacturing processes, from the combustion of fuels, and from incinerators. NJDEP shall insure, however, that in utilizing such methods and procedures, the minimum time that readings will be taken at each sampling point during source sampling will be, in accordance with its present practice, two minutes.

(b) NJDEP may utilize the procedures set forth in N.J.A.C. 7:27 B-2.1 et seq., for the visual determinations of emissions from sources.

(c) Test methods that have been formally approved by the Administrator as "equivalent" or "alternative" methods pursuant to 40 CFR § 60.8(b) or § 61.14(a) (as limited by § 61.14(c)), may be employed in lieu of the analogous EPA reference method.

(5) Enforcement of NSPS and NESHAPS will, with the exceptions set forth in this letter of delegation, be the primary responsibility of the NJDEP. If NJDEP or the State determines that enforcement of the NSPS and NESHAPS in the State of New Jersey as set forth herein is not feasible, and so notifies EPA, or where NJDEP or the State acts in a manner inconsistent with the terms of this delegation. EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act with respect to sources located within the State of New Jersey subject to NSPS and NESHAPS.

(6) The State or the NJDEP shall at no time grant a variance or waiver from compli-

ance with NSPS and NESHAPS. Furthermore, the State of New Jersey and the NJDEP are not delegated hereby the Administrator's authority pursuant to 40 CFR § 61.11 to grant waivers of compliance to sources subject to the NESHAPS regulations. Should the State or the NJDEP grant such a waiver or variance, EPA will consider the grantee source to be in violation of the applicable federal regulation, and may initiate enforcement proceedings against such source pursuant to Section 113 of the Clean Air Act. The granting of the variance, waiver or dispensation shall also constitute grounds for revocation of delegation by EPA.

(7) If, subsequent to this delegation, a circumstance arises wherein a citizen requests certain information regarding a source subject to the NSPS or NESHAPS regulations which must, in accordance with the provisions of Section 110(a)(2) of the Clean Air Act be disclosed, and NJDEP determines that it is unable, under the applicable law of the State to release such information, the following mechanism shall be employed to effect disclosure in a timely manner:

(a) NJDEP shall forward to the EPA Region II Office, within ten (10) days of receipt of any such request:

(1) A copy of the citizen's request for information;

(2) Copies of all reports and test results previously submitted by the subject source, or prepared by the NJDEP, in connection with the NSPS or NESHAPS programs, as relevant to the request.

(b) In addition, NJDEP shall forward to the EPA Region II Office, within ten (10) days of dispatch to the addressee, a copy of the NJDEP response to the citizen's request for information.

(c) Upon receipt of the above, an immediate examination of the material submitted will be initiated by the New York Regional Office of the EPA. If, upon examination of the relevant request, and the NJDEP's response thereto, it is determined by the Regional Office that EPA's responsibilities for providing information to the public require the disclosure of other or additional information, such other or additional information will be thereupon provided by the Regional Office.

(C) The delegation effected herewith is further subject to the following understandings between the Agency and the State of New Jersey:

(1) Acceptance of this delegation of certain NSPS and NESHAPS standards does not commit the State and the NJDEP to accept delegation of other standards and requirements. A new request for delegation will be required for any standards and requirements not included in the June 29, 1976 request to which this letter of delegation specifically responds.

(2) This delegation to the State of New Jersey and the NJDEP does not include the authority to implement or enforce the NSPS or NESHAPS against federal facilities located within the State. This understanding in no way relieves any federal facility from meeting the requirements of 40 CFR §§ 60 and 61 or any New Jersey regulations.

(3) If the Regional Administrator should determine at some future time that a State or NJDEP procedure for enforcing or implementing the NSPS or NESHAPS is inadequate or is not being effectivly carried out, this delegation may be revoked in whole or part, and any such revocation shall be effective as of the date specified in the notice of revocation.

A Notice concerning this delegation will be published in the FEDETAL REGISTER in the near future. This Notice will state, among other things, that, effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the State of New Jersey should be submitted to the NJDEP Office at John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625. Any such reports which have been or may be received by the Region II Office of EPA will be promptly transmitted to the NJDEP.

Since this delegation is effective as of the date of this letter, there is no requirement that you notify EPA of acceptance. Unless EPA receives a written notice of any objections within ten (10) days of receipt of this letter, the State of New Jersey will be deemed to have accepted all of the terms, conditions, and understandings associated with this delegation.

Sincerely yours,

GERALD M. HANSLER, P.E.,
Regional Administrator.

Copies of the requests for delegation of authority are available for public inspection at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Effective immediately, copies of all reports required by the delegated NSPS and NESHAPS should be submitted to the office of the State of New Jersey Department of Evironmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. § 1857c-6 and 7).

Dated: New York, New York; June 10, 1977.

G. M. HANSLER,
Regional Administrator,
U.S. Environmental Protection Agency, Region II.

[FR Doc.77-21018 Filed 7-20-77;8:45 am]

[OPP-180122; FRL 762-7]

WASHINGTON STATE AND OREGON STATE DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemption To Use Amitraz To Control Pear Psylla

The Environmental Protection Agency (EPA) has granted specific exemptions to the Washington State and Oregon State Departments of Agriculture (hereafter called "Washington State" and "Oregon") to use BAAM[1] for the control of Pear Psylla on pears grown commercially in those two States. Although there were two separate specific exemptions issued, both exemptions were almost identical except for the acreage involved and the potential amount of the pesticide to be used. Therefore, this notice will discuss both exemptions with emphasis on those differences. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460.

According to both Washington State and Oregon, Pear Psylla (*Psylla pyricola*) is one of the most serious and difficult to control pests on pears in the Northwest. This aphid-like insect overwinters as an adult under the bark of pear trees and emerges in the spring to deposit eggs on the bark and the buds of the host tree. Eggs hatch in two weeks to one month, producing nymphs which suck the sap from buds, blossoms, leaves, shoots, and fruit. Nymphs reach maturity in about one month. Three to five generations will infect the orchard during a typical season. Uncontrolled populations of the Pear Psylla cause fruit russet which lowers the quality of both processed and fresh market fruit. This insect has also been implicated as a contributing factor to pear decline, a condition which takes pear trees out of production over a short period of time and causes the trees to suddenly wilt and die under periods of low moisture (inadequate rainfall, summer drought, etc.). Healthy trees would normally not be affected by a temporary lack of available soil moisture, but trees which have pear decline would be adversely affected by even a temporary denial of adequate soil moisture.

In Washington State, the areas treated will be limited to the commercial pear growing orchards east of the crest of the Cascade Mountains. In Oregon, all commercial pear growing areas will be treated; this involves the Willamette Valley, Hood River Valley, and Rogue River Valley.

At the present time, there are ten (10) available insecticides registered for use in the Northwest for the control of Pear Psylla. Four (4) of these are organophosphates and when used by themselves or in combination with other insecticides are providing little economic control of this pest. There appear to be only two pesticides which provide some control during the growing season—Endosulfan and Dithane M-45. Endosulfan is effective against the early nymphal stages; however, due to the overlays of generations of this pest, economic control of the pest is not achieved by this insecticide during the summer. Dithane M-45, an ethylene bisdithiocarbamate, is also only effective against early nymphs. Therefore, the main problem is the present unavailability of an effectivc insecticide that will control the Pear Psylla during the summer growing season. Chlordimeform, recently withdrawn from the market by its producers, has been effective for control of this pest during the summer season; however, while Chlordimeform is still registered for this use, it will not be available to pear growers this year.

Washington State and Oregon will use BAAM, which will be imported and distributed by the Upjohn Co. This pesticide was used experimentally in 1976 for the control of Pear Psylla in Washington

[1] Contains 19.8 percent N'-(2,4-dimethelyphenyl) -N- [[(2,4-dimenthylphenyl) imino] methyl]-N-methylmethanimidamide, which has the common name Amitraz.

State under EPA experimental use permit No. 1023-EUP-346, and proved to be very effective against the pest. The proposed control programs were as follows:

1. In Washington State, BAAM would be applied by airblast sprayers at a dosage rate of 1.25 to 2 pounds active ingredient per acre per application using either an emulsifiable concentrate (EC) or wettable powder (WP) formulation. One to three applications would be made beginning at petal fall and up to one day of harvest, if possible. It was estimated that up to 100,000 pounds active ingredient might be needed.

2. In Oregon, the same schedule and method of treatment was proposed, but a maximum dosage rate of 1.5 pounds active ingredient per acre was requested. It was estimated that up to 105,750 pounds active ingredient might be needed.

3. Applications would be made by commercial applicators and qualified growers as determined by the States. Information concerning this program would be provided by the Upjohn Company and the Washington State and Oregon University Extension Services.

EPA has evaluated the losses expected to occur as a result of not having a suitable pesticide (specifically BAAM) available to pear growers in both States this year; a loss in crop value of up to $13,225,000 could occur. This economic loss predicted for 1977 was based on two considerations: (1) there would be an increased cost of $4,406,000 if "second-choice" pesticides were used instead of BAAM and (2) the value of the pear crop would be reduced by $8,819,000 (due to downgrading and culling) if second-choice pesticides were used instead of BAAM. These figures represent an overall review of the economic impact to pear growers as a whole in both States. To the individual grower, total pesticidal and application costs could run as high as $1,780, based on an average orchard consisting of 20 acres, if pesticides other than BAAM were used. This additional cost could pose an economic hardship to the individual grower, particularly when the reduced benefits of using second-choice pesticides are considered. Because of the mild winter condition in the Northwest this year, it is expected that heavy populations of Pear Psylla will be present in Washington State and Oregon, which rank number 2 and number 3, respectively, in the nation in pear production. In addition, the economic impact estimated above does not consider the economic loss attendant to the potential longterm production declines resulting from damage to the trees.

In terms of possible adverse effects on man and the environment, the issue of risk concerns the potential oncogenic hazard of BAAM to man. As previously indicated, Chlordimeform was voluntarily withdrawn from the market by its manufacturers; this was because of a toxicological study that demonstrated that Chlorimeform may have induced the formation of tumors in mice. BAAM is closely related to Chlordimeform.

The EPA is currently investigating BAAM as a potential oncogen (see FEDERAL REGISTER of April 6, 1977, p. 18299). The Carcinogen Assessment Group (CAG) of EPA has made a preliminary evaluation of the cancer risk to humans from the one pear proposed use of BAAM on pears. CAG indicated that the "evidence of carcinogenicity cannot be dismissed as negligible although it is weak." The CAG also indicated that if BAAM is assumed to be a human carcinogen, a crude estimation of the magnitude of the cancer risk to the entire U.S. population of 220 million people based on the estimated exposures to BAAM by eating contaminated pears could range from essentially zero for the log probit extrapolation model to about 20 extra cancer cases for the linear extrapolation model. This constitutes an excess risk of cancer for the average individual of less than 1 in 10 million.

No permanent tolerance has been established for the use of BAAM on pears in this pattern. However, EPA has determined that BAAM residues on pears at harvest are not likely to exceed 3 parts per million (ppm). Residue data from the experimental use permit last year indicated that the highest residue obtained was about 2.3 ppm.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of Pear Psylla have occurred; (b) there is no pesticide presently registered and available for use to effectively control the Pear Psylla in Washington State and Oregon; (c) significant economic problems may result if the pest is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this us. The Administrator has weighed the risks and benefits of this use of BAAM on pears in relation to both economics and the hazard to man. As a result of the pesticide not being available until July 1, 1977, sound pest management techniques will have to be conducted by Washington State and Oregon to reduce early summer damage by Pear Psylla. This will include the judicious use of existing pesticides registered for this insect. Accordingly, Washington State and Oregon have been granted specific exemptions to use the pesticide noted above until October 30, 1977, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The Upjohn product BAAM which contains 1.5 pounds Amitraz per gallon will be used;

2. The dosage rate will be three (3) to four (4) quarts of product (1 to 1.5 pounds active ingredient) per acre;

3. Applications are to be made by ground application only (airblast sprayers or handguns);

4. Only State-certified commercial or private applicators may apply this pesticide;

5. The use of BAAM is authorized only when an emergency condition is found to exist. The criteria to be used in making this determination are as follows: (1) the judicious use of currently registered pesticides for Pear Psylla are not providing adequate control of this pest and (2) in a particular orchard, a majority of the trees sampled have ten (10) percent or more of the shoots in the scaffolding infested with nymphs of the Pear Psylla. For each orchard a minimum of ten (10) trees must be sampled;

6. Only State-licensed pest control consultants are authorized to determine when an emergency condition exists (using the criteria in paragraph 5). Determinations will be made on an orchard by orchard basis. Upon a determination that an emergency condition is present, the consultant will sign a State-approved form which authorizes the grower to purchase BAAM. This form will include the name of the grower, number of acres to be treated, amount of BAAM authorized to be purchased, and the dosage rate to be applied (this dosage rate will be 1 to 1.5 pounds active ingredients per acre);

7. In Oregon, up to 23,500 acres of pears may be treated. In Washington State, up to 26,000 acres of pears may be treated. Two (2) applications are authorized. However, if in the judgment of the State, an extreme circumstance is present which warrants an additional application, this may be made. If a third application is made, the State shall inform EPA of this, along with a brief description of the circumstances thereof;

8. Pesticide dealers will not be allowed to sell BAAM to any grower or applicator unless the signed authorization form is presented;

9. Pesticide distributors will be responsible for keeping accurate records of the amount of BAAM received from Upjohn and the amounts which are sold to dealers. Dealers will also maintain accurate records of the amounts of BAAM received and sold;

10. Agricultural workers will not reenter any orchard sprayed with BAAM until the foliage is completely dry;

11. Applicators must wear protective clothing and masks;

12. There will be a preharvest interval of not less than 7 days;

13. Pears with a residue level of Amitraz not exceeding 3 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

14. As agreed to in a meeting in Seattle on April 5, 1977, the Oregon and Washington State Departments of Agriculture and the UpJohn Co. will participate in residue studies to determine the residue level of BAAM in pears at harvest, during storage, and in the processed fruit. Reports will be submitted to EPA upon completion of these studies;

15. Final reports on each exemption will be submitted to EPA which outline the acreage that was treated, the total amounts of BAAM applied, the results of the programs, and any adverse effects (such as phytotoxicity) by the end of 1977;

16. All label precautions will be followed;

17. All unused, unopened containers of BAAM will be returned to the manufacturer at the end of the growing season;

18. These exemptions apply only to the preharvest application of BAAM; and

19. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 14, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-21015 Filed 7-20-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-368; C-86630]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

JULY 18, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Report No. I-362, dated 6-27-77, file No. 501-DSE-P/L-77 application for United States Cablevision Corp., Douglas County, Georgia is to be removed from that notice on that date. But error of Commission staff the application was accepted.

Report No. I-367, dated 7-11-77, file No. SSA-13-77 application for Western Union Telegraph Company is to be removed from the notice on that date. By error of Commission staff the application was accepted.

Report No. I-362, dated 6-27-77: 493-DSE-P/L-77 Rentavision of Brunswick, Inc., Brunswick, Georgia. Amended to request permission to receive signals from the Home Box Office and the Christian Broadcasting Network and WTCG-TV, Ch. 17, Atlanta, Georgia.

Report dated 10-06-75, file No. 63-DSE-P/L-76. RCA Alaska Communications, Inc: Point Hope, Alaska is amended to change co-ordinates to: Lat. 63°20'51", Long. 166°44'16", and to make other technical changes.

Report dated 10-14-75, file No. 69-DSE-P-76 RCA Alaska Communications, Inc. Point Lay, Alaska is amended to change co-ordinates to: Lat. 69°44'30", Long. 163°00'33", and to make other technical changes.

534-DSE-MP-L-77 Television Transmission Co. (WD50), Peru, Illinois. Modification of Construction permit to permit the use of a 4.5 meter antenna instead of the 10 meter one originally applied for.

535-DSE-P/L-77 Clearview Cable TV., Valdosta, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°51'39", Long. 83°-19'03". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 5 meter antenna.

536-DSE-P-77 Satellite Business Systems, Research Triangle Park, N.C. For authority to construct a transmit/receive satellite earth station at this location for operation with the SBS Phase II Pre-Operational Program. Lat. 35°54'42", Long. 78°51'20". Rec. freq: 3700-4200 MHz. Trans freq: 5925-6425 MHz. Emission 36000F9. With a 13 meter antenna.

537-DSE-P/L-77 Alert Cable TV of South Carolina, Georgetown, S.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°25'-58", Long. 79°16'16". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

538-DSE-MP/L-77 Western Tele-Communications, Inc. (KD45), Issaquah, Washington. Modification of construction permit/license to convert the facility applied for, file No. 437-DSE-P/L-76; to a transmit/receive facility.

[FR Doc.77-20945 Filed 7-20-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-39, AOR 1977-32]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-32 has been made public at the Commission. Copies of AOR 1977-32 were made available on July 13, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request written ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-32: May a trade association political action committee solicit the executive and administrative personnel of its municipal corporate members without having first obtained specific approval from the member municipal corporations under 2 U.S.C. § 441b (b)(4)(D)?

Requested by John J. Flynn of APTA-PAC, the political action committee of the American Public Transit Association, Washington, D.C.

Dated: July 14, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-20908 Filed 7-20-77;8:45 am]

[Notice 1977-40]

CLEARINGHOUSE ON ELECTION ADMINISTRATION, CLEARINGHOUSE ADVISORY COMMITTEE

Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A-63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:

Name: Federal Election Commission Clearinghouse Advisory Panel.

Date: July 25-26, 1977.

Place: Senate Room, Capitol-Hilton, 16th and K Streets NW., Washington, D.C.

Time: 0900-1200; 1400-1630 on July 25, 1977; 0900-1200; 1400-1630 on July 26, 1977.

Proposed Agenda: Discussion sessions addressing research priorities, topics and projects in election administration including: Planning and management; registration; balloting; tabulation and records.

Purpose of the meeting: The Panel will review past Clearinghouse research efforts, discuss present problems in the administration of federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future research program.

to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463.

Dated: July 15, 1977.

JOAN D. AIKENS,
Vice Chairman, Federal Election Commission.

[FR Doc.77-20907 Filed 7-20-77;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreements and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 10, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of Agreement filed by: John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Agreement No. 7680–36, entered into by the member lines of the American West African Freight Conference, modifies the approved agreement by adding new subparagraphs (b) and (c) to Article 1, to permit the conference to engage in intermodal service from interior United States and Canadian points to West African ports, whereby the conference may enter into arrangements with other modes of transportation for the establishment of through routes, rates or charges applicable thereto. Any member line may publish its own intermodal tariff in the conference trade until such time as the conference files an intermodal tariff covering the same commodities and through routes as published by the member line. In such event and upon receipt of such notice, the member line shall cancel its tariff, effective upon the filing of the conference's tariff. Paragraphs (b) and (c) of Article 1 as the agreement now reads are renumbered as paragraphs (d) and (e), respectively.

By Order of the Federal Maritime Commission.

Dated: July 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77—20989 Filed 7-20-77;8:45 am]

SOUTH CAROLINA STATE PORTS AUTHORITY AND THE ITALIAN LINE

Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 10, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:
Marion S. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, S.C. 29402.

Agreement No. T–3484, between South Carolina Ports Authority (Authority) and The Italian Line (Line) provides for the five-year lease with renewal options to Line of approximately six acres of land. Line shall be given the opportunity to lease an additional area of 2.6 acres with certain limitations, as provided for in the agreement. In addition, Line is granted preferential use of a berth for one designated day each week (parties have agreed to Saturday). As compensation, Line will pay Authority a fixed monthly rental of $3,847.50 for each of the first four months of the agreement and $4,470 for each of the remaining months during the agreement. For the option to decide whether or not to lease the additional 2.6 acres, Line shall pay $390 each month. In the event this area is leased by Authority to Line, the monthly rental shall increase by $1,950. The leased premises will be used by Line for its maritime operations in Charleston Harbor, including containership, ro-ro and lo-lo operations. A minimum annual tonnage of 150,000 short tons of cargo is guaranteed. Authority will receive payment for all services provided in accordance with its published tariff, with the stipulation that Line will be entitled to certain discounts on wharfage as detailed in the agreement.

Dated: July 18, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-20988 Filed 7-20-77;8:45 am]

FEDERAL TRADE COMMISSION

RULES, REGULATIONS, STATEMENTS, AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

Advisory Opinion

AGENCY: Federal Trade Commission.

ACTION: Advisory Opinion to Keller, Thoma, Toppin & Schwarze, P.C., Detroit, Mich.

SUMMARY: By letter dated September 13, 1976, Keller, Thoma, Toppin & Schwarze, P. C. of Detroit, Mich., requested an advisory opinion concerning Sections 101(1) and 110(f) of the Magnuson-Moss Warranty Act (the Act) 15 U.S.C. 2301 et seq. Specifically, Keller, et al. asked whether modular housing is a "consumer product" within the meaning of Section 101(1) so that warranties on such housing would be covered by the Act. Keller, et al. also asked whether a manufacturer of mobile homes is a warrantor for purposes of Section 110(f) of such items of equipment as air-conditioners, furnaces, and water heaters if the mobile home manufacturer simply passes on a written warranty given by the manufacturer of the equipment and indicates to buyers that such equipment is covered by a manufacturer's warranty.

The Commission has determined that modular housing, as defined in the letter below, is not a "consumer product" for purposes of the Act. The Commission has also affirmed that a mobile home manufacturer is not a warrantor under Section 110(f) of the Act if he or she simply passes on warranties offered by the manufacturers of equipment installed in a mobile home.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT.

Stephen Leach, Attorney, 202–724–1145, Division of Special Statutes, Bureau of Consumer Protection, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The text of the Commission's opinion is as follows:

This is in reply to your request of September 13, 1976, for an advisory opinion concerning Sections 101(1) and 110(f) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., as they apply to factory-built housing. Your request takes the form of three questions, but because the first one is compound in nature, the Commission has dealt with it as two separate inquiries. Therefore, the questions involved in your request are as follows:

(1) Is a modular house, excluding such items of equipment as air-conditioners, furnaces, and water heaters, a "consumer product" within the meaning of Section 101 (1) of the Magnuson-Moss Warranty Act?

(2) Does the classification of a modular house under Section 101(1) of the Magnuson-Moss Warranty Act in any way turn upon whether it is delivered to a real property foundation as a completed structure or in component parts?

(3) Does the classification of a modular house under Section 101(1) of the Magnuson-Moss Warranty Act in any way turn upon whether it is sold first to a builder or instead is sold directly to an ultimate consumer.

(4) Is the manufacturer of a mobile home a "warrantor" for purposes of Section 110(f) of the Magnuson-Moss Warranty Act of such items of equipment as air-conditioners, furnaces, and water heaters if the mobile home manufacturer simply "passes on" the written warranty given by the manufacturer of the equipment and indicates to buyers that such equipment is covered by a manufacturer's warranty?

The Commission has carefully considered the matters set forth in your letter. It is the Commission's conclusion that:

(1) A modular house which meets one of the sets of uniform home construction codes set forth in the appendix to this letter or a construction standard established by a state for modular homes, as distinct from mobile homes as they are defined by the state, is real property and should, therefore, be excluded from the Section 101(1) definition of "consumer product." The sets of uniform codes are widely used in the construction of conventional, "stick-built" homes, which are real property. These codes are usually the basis for any distinct state modular housing codes. Thus, a factory built house which satisfies one of these sets of codes or a separate state modular code is essentially of the nature of real property and should, therefore, be excluded from coverage of the Act. On the other hand, a factory built dwelling that fails to satisfy one of the specified sets of codes or a separate state modular code must comply with the requirements of the Act.

(2) Whether a modular house is delivered to a foundation site as a completed structure or in component parts is irrelevant to the determination that it is or is not a consumer product under Section 101(1) of the Magnuson-Moss Warranty Act. The essential question is the nature of the finished product, not the location of its final assembly. If a manufactured dwelling satisfies one of the sets of uniform codes in the appendix or a state modular code, it is real property for purposes of the Act. If it fails to satisfy one of the sets of codes or a state modular code, it falls within the scope of Section 101(1) as a consumer product.

(3) Whether a modular house is sold first to a builder or instead to an ultimate consumer is irrelevant to the determination that it is or is not a consumer product under Section 101(1) of the Magnuson-Moss Warranty Act. The fundamental question is again the nature of the dwelling sold, not the identity of the initial purchaser. If a structure is personal property, normally used for personal, family, or household purposes, it is a consumer product under Section 101(1) regardless of who first purchases it from the manufacturer.

(4) A manufacturer of mobile homes who simply passes on a written warranty given by the manufacturer of equipment installed in a mobile home and indicates to buyers that such equipment is covered by a manufacturer's warranty is not a warrantor under Section 110(f) of the Magnuson-Moss Warranty Act. The Commission answered this question previously in Section 700.4 of the "Proposed Interpretations" of the Act, 41 FR 34654 (August 16, 1976). Section 700.4 applies to all consumer products. This includes all consumer products sold with mobile homes, which are themselves consumer products (See Implementation and Enforcement Policy, Section 2, 40 FR 25721 (June 18, 1975)), and those consumer products sold with modular homes and traditional real property structures.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

APPENDIX

The Commission has concluded that a modular house which satisfies any one of the following home construction standards is real property and should, therefore, be excluded from the Magnuson-Moss Warranty Act definition of "consumer product."

(1) The codes published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA):

(a) BOCA Basic Building Code—1975;
(b) BOCA Basic Industrialized Dwelling Code—1975;
(c) BOCA Basic Mechanical Code—1975;
(d) BOCA Basic Plumbing Code—1975;
(e) National Electrical Code—NFPA 70—1975.

(2) The codes published by the Southern Building Code Congress (SBCC) and the NFPA:

(a) Standard Building Code—1976;
(b) Standard Gas Code—1976;
(c) Standard Mechanical Code—1976;
(d) Standard Plumbing Code—1975, with 1976 revisions;
(e) National Electrical Code—NFPA 70—1975.

(3) The codes published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAMPO), and the NFPA:

(a) Uniform Building Code—1973; (b) Uniform Mechanical Code—1975; (c) National Electrical Code—NFPA 70—1975; (d) Uniform Plumbing Code—1973 (IAMPO).

(4) The codes jointly published by BOCA, SBCC, ICBO, the American Insurance Association, and the NFPA:

(a) One and Two-Family Dwelling Code—1975; (b) National Electrical Code—70—1975.

(5) The codes published by the American Insurance Association, (NFPA), (BOCA), (SBCC), (ICBO), (IAPMO), and the National Association of Plumbing-Heating-Cooling Contractors (NAPHCC):

(a) The National Building Code—1976; (b) National Electrical Code—NFPA—70—1975; (c) BOCA Basic Plumbing Code—1975 or Standard Plumbing Code with 1976 revision or Uniform Plumbing Code (IAPMO)—1973 or National Standard Plumbing Code (NAPHCC)—1973.

(6) The standards published in a Federal Housing Administration (FHA) Structural Engineering Bulletin and FHA Minimum Property Standards and the structure meets all eligibility requirements for long-term financing under Section 203(b) of the National Housing Act, 12 U.S.C. 1701 et seq

(7) A home construction code established by a state for modular homes, as distinct from mobile homes, as each type of housing is defined by the State.

[FR Doc.77-20900 Filed 7-20-77;8:45 am]

FEDERAL TRADE COMMISSION

CIGARETTE ADVERTISING AND OTHER PROMOTIONAL PRACTICES

Hearing and Invitation for Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of informal hearings.

SUMMARY: As part of its investigation of cigarette advertising and other promotional practices, the staff of the Federal Trade Commission will hold informal, informational hearings to allow interested persons to comment on "Consumer Beliefs and Behavior With Respect to Cigarette Smoking: A Critical Analysis of the Public Literature" by Martin Fishbein, Ph. D. (May 1977). Oral and written comments are invited on Dr. Fishbein's report and its ramifications.

DATES: The hearings will be held on October 11, 1977; requests to testify and all written comments must be submitted by September 21, 1977.

ADDRESSES: The hearings will be held in Room 532 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. All submissions and inquiries should be addressed to Mark D. Gordon, Attorney, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580 (202-724-1560).

SUPPLEMENTARY INFORMATION: The time for oral presentations will be limited to ten (10) minutes for each witness, unless a specific exception is made by the staff members of the Commission administering the hearing. Accordingly, witnesses are invited to submit detailed written comments for the record, and to highlight or summarize the contents of their written comments in their oral presentations.

Witnesses may be asked questions by members of the Commission staff. All responses, of course, are voluntary.

Written comments may be submitted for the record by those who do not wish to appear at the hearings. In order for the staff to be apprised of the substance of the testimony to be presented and to schedule that testimony, witnesses must submit their requests to testify and their written comments by the dates indicated above. Requests for more than ten (10) minutes should be made at this time. Written comments by those who do not wish to testify must also be submitted by the dates indicated above.

Written submissions will be placed on the public record and made available to the public in Room 130 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

A copy of Dr. Fishbein's report can be obtained from Mark D. Gordon, Attorney, at the above-listed address.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-21050 Filed 7-20-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579) as prescribed in 5 U.S.C. 552a(e)(4), the following notices of systems of records that the Department of Health, Education, and Welfare plans to establish are published as set forth below. ew system reports were filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, the President of the Senate, and the Chairman of the Privacy Protection Study Commission on July 18, 1977. The new systems are as follows: SSA—PP—RSR 477.00, entitled "The 1978 Survey of Disabled and Non-Disabled (Statistics)", and 09-35-0043, entitled "Curricula vitae of Consultants to the National Center for Health Statistics (NCHS) DHEW/HRA/NCHS".

Consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing on or before August 22, 1977. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, South Portal Building, at the above address. The routine uses for the new systems will be adopted as of the closing date of the comment period unless comment resulting in a contrary determination is received and a revised notice published.

Dated: July 18, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

SSA PP RSR 0477.00

System name:

The 1978 Survey of the Disabled and Nondisabled (Statistics).

Security class (if none, so state):

None.

System location:

Bureau of the Census, Suitland, Maryland 20233. Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of Individuals covered by the system:

Sample of noninstitutionalized adults categorized as nondisabled, disabled nonbeneficiaries or disabled persons receiving disability benefits from the Social Security Administration.

Categories of records in the system:

Demographic characteristics, health impairment and activity limitations, employment history, benefit status, income and assets, work attitudes.

Authority for maintenance of the system:

Section 702 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

A. Storage:

During field survey and editing phases, hard copy questionnaires will be kept in secure storage areas. Completed data tapes will be maintained in secure storage areas at Bureau of the Census and in the Office of Data Development, SSA.

B. Retrievability:

File is indexed by Census—assigned case number and cross-referenced by social security number.

C. Safeguards (access controls):

After data are processed by Census Bureau and transferred to the Social Security Administration all magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Office of Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. Any magnetic tapes prepared for research purposes for persons outside of the Division of Disability Studies will be stripped of all identifying names and numbers.

For computerized records, safeguards established in accordance with Department Standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

D. Retention and disposal:

Hard copy questionnaires will be destroyed when survey reports are completed. Magnetic tapes with identifiers will be retained in secure storage areas as long as needed for SSA program analysis. Need for retaining data will be evaluated two years after survey is completed.

System manager(s) and address (including zip code):

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Notification procedure:

An individual who requests notification of or access to his data record should write to the systems manager and provide his social security number (on a voluntary basis), and for verification purposes, name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) FEDERAL REGISTER), October 8, 1975, page 47410).

Contesting record procedures:

Contact the systems manager at the address specified and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411).

Record source categories:

Master Beneficiary Record, Summary Earnings Record, Survey—data collected by Census Bureau for the Social Security Administration.

Systems exempted from certain provisions of the Act (if none, so state):

None.

09-35-0043

System name:

Curricula Vitae of Consultants to the National Center for Health Statistics (NCHS DHEW/HRA/NCHS).

Security class (if none, so state):

None.

System location:

1. Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

2. In offices of contractors employed to develop and maintain curricula vitae on consultants to NCHS. Contractor location will be available upon request directed to the System Manager.

Categories of individuals covered by the system:

Persons who are current or potential consultants to NCHS. These are persons with special expertise who may be able to assist NCHS on a consultant basis in the planning and conducting of surveys, studies, statistical reporting programs, statistical analyses of data, or in providing training and technical assistance, or assisting in conducting conferences.

Categories of records in the system:

Information relating to the professional training and experience of the consultant. This includes address, current position, employer, duties, place, time, and length of education, degrees received, honors received, former positions and work experiences, memberships in professional organizations, special committee and task force assignments, offices held, publications, references, health condition, availability for, and interest in travel and accepting certain assignments, compensation required, etc.

Authority for maintenance of the system:

Public Health Service Act, Section 304(b) (42 U.S.C. 242b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The following routine uses from Appendix B of the Department Regulations (45 CFR Part 5b) published in the FEDERAL REGISTER, October 8, 1975, page 47415, are applicable to this system of records:

(1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) Where federal agencies having the power to subpoena other federal agencies records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(3) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(100) To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

(101) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(102) To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The information is contained on paper records although computer-readable tape may be employed in the future.

Retrievability:

Information is retrieved by name, address, specialty, and by other characteristics. The data is used by staff of NCHS or its contractors for selecting consultants to assist in projects or conducted or sponsored by NCHS.

Safeguards (access controls):

Records are kept in locked metal cabinets or in a locked room when not in use. Records will be used only by staff authorized to use them for the purpose for which they were obtained.

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal:

Records are maintained indefinitely. Records may be removed and destroyed upon the consultant's death, disability for consultant work, or request that his/her records be removed from the file.

System manager(s) and address (include zip code):

Director, National Center for Health Statistics, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Notification procedure:

Director, National Center for Health Statistics, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Information needed consists of name of individual. This notification procedure is in accordance with the Department Regulations, as published in the FEDERAL REGISTER of October 8, 1975, page 4710 (45 CFR, Part 5b.5).

Record access procedures:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR, Part 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410).

Contesting record procedures:

Write to the Official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Part 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411).

Record source categories:

Records are obtained from the consultants themselves, except that references may be obtained from present and former employers or supervisors of the consultants, or from individuals given as references by the consultants.

Systems exempted from certain provisions of the act (if none, so state):

None.

[FR Doc.77-21000 Filed 7-18-77;4:07 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-509 FDAA-3038-EM]

ARIZONA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Arizona (FDAA-3038-EM), dated April 15, 1977.

DATED: June 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Arizona dated April 15, 1977, and amended on April 20, 1977, and June 6, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 15, 1977:

The Counties of:

Apache	Mohave
Cochise	Navajo
Coconino	Yavapai

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Asistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-20942 Filed 7-20-77;8:45 am]

CALIFORNIA

[Docket No. NFD-505; FDAA-3023-EM]

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of California (FDAA-3023-EM), dated January 20, 1977.

DATED: June 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of California dated January 20, 1977, and amended on February 2, 1977, February 15, 1977, March 10, 1977, April 20, 1977, and June 6, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The County of Siskiyou.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-20938 Filed 7-20-77;8:45 am]

[Docket No. NFD-507 FDAA-3041-EM]

NEVADA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Nevada (FDAA-3041-EM), dated June 11, 1977.

DATED: JUNE 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Nevada dated June 11, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 11, 1977:

The Counties of:

Eureka	Lander

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-20940 Filed 7-20-77;8:45 am]

[Docket Nos. NFD-508; FDAA-3015-EM]

SOUTH DAKOTA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of South Dakota (FDAA-3015-EM), dated June 17, 1976.

DATED: June 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of South Dakota dated June 17, 1976, and amended on July 8, 1976, October 18, 1976, January 27, 1977, February 15, 1977, and June 14, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Meade	Perkins

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective June 17, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-20941 Filed 7-20-77;8:45 am]

[Docket No. NFD-506; FDAA-3014-EM]

WISCONSIN

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Wisconsin (FDAA-3014-EM), dated June 17, 1976.

DATED: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Wisconsin dated June 17, 1976, and amended on July 29, 1976, September 7, 1976, September 30, 1976, December 30, 1976, January 14, 1977, January 28, 1977, and February 11, 1977, is hereby further amended to extend the termination date for the following counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Door	Oneida
Florence	Vilas
Forest	

The purpose of this designation is to continue to provide emergency livestock feed assistance only in the aforementioned affected areas effective June 16, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-20939 Filed 7-20-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 32670]

MONTANA

Filing of Plat of Survey and Order Providing for Opening of Lands

The plat of survey of an omitted island in the Yellowstone River described below will be officially filed at the Montana State Office effective 10 a.m. on August 29, 1977.

PRINCIPAL MERIDIAN, MONTANA

T. 1 S., R. 10 E.,
Sec. 32: Lot 3.

The area described contains 2.88 acres in Park County.

The plat of survey for the following island in the Yellowstone River was offi-

cially filed in this office on January 10, 1975:

PRINCIPAL MERIDIAN, MONTANA

T. 1 S., R. 10 E.,
Sec. 33: Lot 10.

The area described contains 52.59 acres in Park County.

The surveyed islands are situated in the Yellowstone River about four miles northeast of Livingston, Montana. During early spring runoff, these islands are prone to flooding; but they have potential for non-intensive open space recreation purposes. They will be managed for multiple resource use in accordance with the Federal Land Policy and Management Act of 1976 (43 USC 1712) with the nearby public lands.

At 10 a.m. on August 29, 1977, the above described public lands shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provision of existing withdrawals and classifications, and the requirements of applicable laws. These public lands have been and will continue to be open to location and entry under the United States mining laws, and to leasing under the mineral leasing laws.

Inquiries concerning these lands should be addressed to Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EDNA A. HAVERLAND,
Chief, Branch
of Records and Data Management.

[FR Doc.77-20909 Filed 7-20-77;8:45 am]

[M 32698]

MONTANA

Filing of Plat of Survey and Order Providing for Opening of Lands

JULY 13, 1977.

The plat of survey of an island in the Yellowstone River described below will be officially filed at the Montana State Office effective 10 a.m., on August 29, 1977.

PRINCIPAL MERIDIAN, MONTANA

T. 12 N., R 50 E.,
Sec. 13: Lot 9.

The area described contains 21.39 acres in Prairie County.

The surveyed island is situated in the Yellowstone River about two and one-half miles west of Terry, Montana. During early spring runoff, it is prone to flooding. It has potential for non-intensive open space recreation purposes. It will be managed for multiple resource use in accordance with the Federal Land Policy and Management Act of 1976 (43 USC 1712) with the nearby public lands.

At 10 a.m. on August 29, 1977, the above described land shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provision of existing withdrawals and classifications, and the requirements of applicable laws. These public lands have been and will continue to be open to location and entry under the United States mining laws, and to leasing under the mineral leasing laws.

Inquiries concerning these lands should be addressed to Bureau of Land Management, P.O. Box 30157. Billings, Montana 59107.

EDNA A. HAVERLAND,
Chief, Branch
of Records and Data Management.

[FR Doc.77-20910 Filed 7-20-77;8:45 am]

[CA 1729]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 11, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. CA 1729 on March 27, 1974, for a withdrawal in relation to the following described lands:

Eldorado National Forest

MOUNT DIABLO MERIDIAN, CALIF.

T.10 N., R 12 E.,
Sec. 13, SW¼NE¼SE¼SE¼, S½NW¼SE¼SE¼, and W½SE¼SE¼SE¼.

The area described aggregates 22.50 acres.

The applicant desires that the land be reserved for the location of a reservoir and related facilities to be built as a part of the Federally constructed El Dorado Irrigation District distribution system.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 14, 1974, page 40178, F.R. Doc. 74-26685.

Pursuant to sec. 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 to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 22, 1977. 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 August 22, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2), 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 undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of
Lands and Minerals Operations.

[FR Doc.77-20947 Filed 7-20-77;8:45 am]

[CA 3652]

CALIFORNIA

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 12, 1977.

The National Park Service, U.S. Department of the Interior, filed application Serial No. CA 3652 on April 22, 1976, for a withdrawal of the mineral estate in the following described lands:

Pinnacles National Monument

MOUNT DIABLO MERIDIAN, CALIF.

T. 17 S., R. 7 E.,
Sec. 13, E½NE¼ and NE¼SE¼.

The area described aggregates 120 acres in San Benito County, Calif.

The applicant desires that the land be reserved for the purpose of protecting the scenic and environmental values of the land until proposed legislation (H.R. 7209) is enacted, authorizing the expansion of the Pinnacles National Monument.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 1, 1976, page 27097, FR Doc. 76-19078.

Pursuant to Sec. 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 to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 23, 1977. 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 August 23, 1977.

The mineral estate in the above described lands is temporarily segregated

from all forms of appropriation under the United States mining laws (30 U.S.C., Ch. 2) and from leasing under the 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 undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77-20948 Filed 7-20-77;8:45 am]

[Group 658]

CALIFORNIA

Filing of Plats of Survey

JULY 15, 1977.

1. The plats of survey described below will be officially filed in the California State Office, Bureau of Land Management, Sacramento, Calif., effective at 10 a.m. on September 2, 1977.

SAN BERNARDINO MERIDIAN

T. 11 N., R. 21 E.,
A dependent resurvey of a portion of the Second Standard Parallel North through Range 21 East and a portion of the subdivisional lines.

T. 10 N., R. 22 E.,
A dependent resurvey of a portion of the former boundary of the Fort Mohave Indian Reservation, portions of the subdivisional lines and a portion of the right bank of the Colorado River with the survey of the corrected north, south, and west boundaries of the Fort Mohave Indian Reservation, the completion survey of sections 28 through 27 and the survey of the subdivision of sections 25 and 26.

The plat of T. 11 N., R. 21 E., in one sheet and the plat of T. 10 N., R. 22 E., in two sheets were accepted on March 2, 1977.

2. If protests against the surveys, as shown on these plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protests. These plats will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

3. The plats will be placed in the open files of the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825, and will be available to the public as a matter of information only. Copies of the plats in three sheets may be obtained from that office upon payment of $1 per sheet.

4. A person or party who wishes to protest against the survey must file with the State Director, Bureau of Land Management, Sacramento, Calif., a notice that he wishes to protest prior to the proposed official filing date given above. A statement of reasons for the protest may be filed with the notice of protest to the State Director or with the Director, Bureau of Land Management, Washington, D.C. 20240. The statement of reasons must be filed with the Director within 30 days after the proposed official filing date.

ED HASTEY,
State Director.

[FR Doc.77-20949 Filed 7-20-77;8:45 am]

[Colorado C-029008-A, C-029008-B, & C-029008-C]

WESTERN SLOPE GAS CO.

Pipeline Application

JULY 14, 1977.

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), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way to be located in Garfield County, Colorado. The right-of-way will consist of three (3) 4-inch natural gas gathering lines to be connected to applicant's Carbonera Field Gathering System, approximately 3,100 linear feet, across the following public lands:

SIX PRINCIPAL MERIDIAN, COLORADO

T. 7 S., R. 104 W.,
Sec. 23, NW¼SW¼;
Sec. 27, S½NE¼;
Sec. 29, SE¼SE¼;
Sec. 32, E½NE¼;
Sec. 33, W½NW¼.

The facility will enable applicant to meet the increasing demands for adequate supplies of natural gas in the Grand Junction, Colorado market area to meet residential, commercial, and industrial requirements.

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 objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

THOMAS HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-20950 Filed 7-20-77;8:45 am]

NEW MEXICO

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 12, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application NM 27417 on January 5, 1976 for a withdrawal in relation to the following described land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 26 E.,
Sec. 16, SW¼NW¼.

The area described aggregates 40 acres in Eddy County, New Mexico.

The applicant desires the land for use in connection with the Brantley Dam and Reservoir Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on February 5, 1976, Volume 41, page 5325; FR Doc. 76-3442.

Pursuant to Sec. 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, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501, on or before August 22, 1977. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. 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 August 22, 1977.

The above-described land is temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated land 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 undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

July 12, 1977.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-20951 Filed 7-20-77;8:45 am]

[NM 30794]

NEW MEXICO

Application; Correction

JULY 13, 1977.

In FEDERAL REGISTER Doc. 77-17277, appearing on page 30694 in the issue of June 16, 1977, the following correction is hereby made:

The township in the land description is correctd from "T 13 N.," to "T 31 N.,".

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-20925 Filed 7-20-77;8:45 am]

[OR 338]

OREGON

Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 24 S., R. 43 E.,
Sec. 20, S½SW¼ and SW¼SW¼;
Sec. 29, W½E½, E½W½, W½NW¼ and NW¼SW¼.

The area described contains 560 acres in Malheur County.

2. All minerals in the SW¼SE¼ of Sec. 20 and in the SW¼NW¼, NW¼SW¼, E½SW¼, and W½SE¼ of Sec. 29 were and continue to be in United States' ownership and are already open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The United States did not acquire any mineral rights with the land in the S½SW¼ of Sec. 20 and in the W½NE¼, E½NW¼, and NW¼NW¼ of Sec. 29.

4. The subject land is located approximately 37 miles southwest of the town of Vale. Elevation averages 3,900 feet above sea level, and the topography varies from level to moderately steep. Vegetation consists primarily of sagebrush and native grasses. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

5. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraphs 2 and 3 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m., August 19, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-20953 Filed 7-20-77;8:45 am]

[OR 6252]

OREGON

Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 40 S., R. 35 E.,
Sec. 22, NW¼SE¼.

The area described contains 40 acres in Harney County.

2. The subject land is located in southern Harney County approximately six miles north of the Nevada border. Elevation averages 4,300 feet above sea level, and the topography varies from gently rolling to fairly steep. Vegetation consists primarily of sagebrush and native grasses. In the past, the land had been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. August 19, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

LELAND D. MORRISON,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-20954 Filed 7-20-77;8:45 am]

[Roseburg 022911]

OREGON

Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of the Act of July 31, 1939, 53 Stat. 1144, the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 7 S., R. 6 W.,
Sec. 34, SW¼SE¼.

The area described contains 40 acres in Polk County, Oregon.

2. The subject land is administered under the policy of sustained-yield forest management which governs the administration of the revested Oregon and California Railroad lands.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of law applicable to revested Oregon and California Railroad lands, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10 a.m., August 19, 1977, shall be considered as simultaneously field at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

LELAND D. MORRISON,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-20955 Filed 7-20-77;8:45 am]

[W-53415—Amendment]

WYOMING

Notice of Application

JULY 12, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Glacier Park Company of Billings, Mont., filed an application for an amendment to existing right-of-way Wyoming 53415 to construct a 6-inch pipeline parallel to and 15 feet west of the existing 4-inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDAN, WYO.

T. 46 N., R. 63 W.
Sec. 2, SE¼SW¼.

The pipeline will transport crude oil from Butte Pipe Line Station in sec. 2, T. 46 N., R. 63 W., Weston County, Wyo., to the Glacier Park Co. refinery located in sec. 23, T. 46 N., R. 63 W., and carry unfinished crude oil consisting of a blend of naphtha and fuel oil from the Glacier Park Co. refinery to Butte Pipe Line Station.

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, P.O. Box 2834, Union and Overland Blvd., Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-20956 Filed 7-20-77;8:45 am]

[Wyoming 59830]

WYOMING

Notice of Application

JULY 12, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Stauffer Chemcal Co. of Green River, Wyo., filed an application for a right-of-way to construct a 12-inch and 8-inch pipeline, and 3-inch, 4-inch, and 6-inch lateral lines across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

Sweetwater and Lincoln Counties

T. 20 and 21 N., R. 109 W.
T. 21 N., R. 110 W.
Tps. 21, 22 and 23 N., R. 111 W.
Tps. 21, 22 and 23 N., R. 112 W.

The lateral lines will convey natural gas from wells located at points in secs. 30 and 31, T. 23 N., R. 111 W., sec. 6, T. 22 N., R. 111 W., secs. 10 and 14, T. 21 N., R. 112 W., and sec. 32, T. 23 N., R. 112 W., to points of connection with the 8-inch pipeline, which joins the 12-inch pipeline, and the 12-inch pipeline. The natural gas will then be conveyed through the 12-inch pipe-line from a point in sec. 11, T. 21 N., R. 112 W., to a point on Stauffer's existing pipeline in sec. 23, T. 20 N., R. 109 W., in 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, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-20957 Filed 7-20-77;8:45 am]

[Wyoming 59893]

WYOMING

Application

JULY 15, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Co. of Casper, Wyo., filed an application for a right-of-way to construct a 6⅝ inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 44 N., R. 77 W.,
Sec. 2, lot 3.
T. 45 N., R. 77 W.,
Sec. 15, SW¼SW¼;
Sec. 22, W½W½;
Sec. 27, W½NW¼;
Sec. 28, SE¼NE¼ and E½SE¼;
Sec. 33, E½NE¼;
Sec. 34, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 35, SW¼.

The pipeline will transport crude oil from wells in sec. 2, T. 44 N., R. 77 W. and sec. 35, T. 45 N., R. 77 W. to present facilities in sec. 16, T. 45 N. R. 77 W., in Johnson 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, Union and Overland Blvd., P.O. Box 2834, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-20958 Filed 7-20-77;8:45 am]

[Wyoming 59871]

WYOMING

Notice of Application

JULY 13, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Cities Service Gas Co. of Oklahoma City, Okla., filed an application for an 8-inch natural gas pipeline and appurtenant facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 19 N., R. 93 W.,
Sec. 2, lot 3, S½NE¼, NE¼SE¼.
T. 20 N., R. 93 W.,
Sec. 28 NE¼NE¼;
Sec. 34, NE¼, NE¼SE¼.

The pipeline will transport natural gas from a point in sec. 1, T. 19 N., R. 93 W., Carbon County, Wyo., to a point of connection with an existing pipeline in sec. 16, T. 20 N., R. 93 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, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-20959 Filed 7-20-77;8:45 am]

[Wyoming 59867]

WYOMING

Notice of Application

JULY 13, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), Northern Gas Co. of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch natural gas gathering pipeline and a 200 ft. x 200 ft. compressor station across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 24 N., R. 88 W.,
Sec. 6.
T. 25 N., R. 88 W.,
Secs. 20, 21, 29, and 32.

The natural gas gathering pipeline, together with the necessary dehydration, compression and metering facilities, will gather, dehydrate, compress, and deliver natural gas from the Sherard Dome Field in Carbon County, Wyo., to an existing compressor station 8-inch transmission line.

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, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-20960 Filed 7-20-77;8:45 am]

Office of the Secretary

SAN LUIS UNIT TASK FORCE

Hearings

Pub. L. 95-46 provides for the creation of a Task Force to review the management, organization and operation of the San Luis Unit of the Central Valley Project, California, to determine the extent to which they conform to the Reclamation Acts of June 17, 1902 and June 3, 1960. Section 2(a) of Pub. L. 95-46 requires the Task Force to conduct at least three public hearings of which at least two shall be within the State of California. A report of the Task Force is due no later than January 1, 1978.

Notice is hereby given that, in accordance with the requirements of Pub. L. 95-46, the San Luis Unit Task Force will hold public hearings as follows:

Fresno, CA: Fresno City College Theatre, 1101 E. University Street, August 3, 1977, 9 a.m. to 5:30 p.m.

Sacramento, CA: State Resource Building, 1416 9th Street, August 4, 1977, 9 a.m. to 5:30 p.m.

Press arrangements should be made through Pat Taylor in Fresno, telephone 209–442–4600 ex-8702 and through Ms. Addie Grubs in Sacramento, telephone 916–445–3758.

The purpose of the hearings is to gather initial data and information for the Task Force for formulation of preliminary reports and to offer interest groups and the general public the opportunity to make their views known. Additional hearings to review preliminary reports will be announced at a later date. Those wishing to testify are requested to provide information on any of the 10 issues described in Pub. L. 95–46 for study by the Task Force. They are as follows:

(1) A detailed accounting of funds expended for planning or construction of facilities utilized by landowners within the San Luis Unit, and the specific legislative authority for each feature of the project;

(2) An analysis of the compatibility of the present design and plan of the San Luis Unit with the original feasibility report, environmental impact statement, and cost estimates;

(3) An analysis of existing repayment obligations, including rates and types of repayment, the duration of repayments, and the desirability of maintaining present repayment timetables or of modifying them in order to ensure that an equitable burden of repayment falls on all project beneficiaries;

(4) A review of the contractual commitments for water delivery to water districts of the unit, and the developments of new methods for calculating and, on a periodic basis, recalculating all future water services charges;

(5) The fiscal and future environmental impacts of the completion, under current plans, of the San Luis interceptor drain north of Kesterson Reservoir, and recommendations as to the feasibility of implementing alternative uses of waste water such as reclamation for agricultural or industrial reuses;

(6) A procedure to provide greater public awareness of and participation in the design and review of future water delivery contracts by all potentially affected parties by means of public notice and the opportunity for a public hearing;

(7) The adequacy of present levels of authorization for completing the unit and recommendations for funding such completion, such as indexing of authorization or periodic reauthorization;

(8) The record of enforcement of the requirements concerning the disposition of excess lands by persons receiving Federal water or major project benefits, and the residency requirement of the Act of June 17, 1902 (32 Stat. 388), to the extent required by law, and an evaluation of the success of the project in fostering family farms, including the adequacy of present legislation and departmental rules and regulations pertaining to these provisions;

(9) The impact of the commitment of water from the Sacramento-San Joaquin Delta in excess of that obligated in the existing long-term contract, for delivery to the unit under future contracts;

(10) The fiscal and agricultural impacts of extending the project to encompass federally constructed ground water integration operations. It would be appreciated if witnesses would identify the specific issues to which they address their testimony.

An Administrative Law Judge of the Office of Hearings and Appeals, Department of the Interior, will preside at the hearings. Members of the Task Force will sit as a panel. Members of the Task Force are:

NAME AND OFFICE

Chairman, Guy R. Martin, Assistant Secretary—Land & Water Resources, Department of the Interior.
Leo M. Krulitz, Solicitor, Department of the Interior.
Keith Higginson, Commissioner, Bureau of Reclamation, Department of the Interior.
Richard J. Wood, Associate Director, General Accounting Office.
Anthony Kline, Office of the Governor, State of California.
Richard E. Raminger, Director, Department of Food and Agriculture, State of California.
Adolph Moskovitz, Attorney representing Westlands Water District.
Eerge Bulbulian, President, National Land for People.
John Garamendi, California State Senator.
Larry Moss, Planning and Conservation League.
Rose Ann Vuich, California State Senator.
Curtis Lynn, Tulane County Agriculture Extension Agent.

Organizations and individuals wishing to make oral statements will be allowed 10 minutes each in representative order to achieve balance and fairness.

At a first organizational meeting on July 8, 1977, the Task Force concluded that to achieve adequate coverage and structure of these fact-finding hearings, special time allotments should be made to primary interest and representative groups. These include: The State of California, the Westlands Water District, National Land for People, Association of California Water Agencies, California Rural Legal Assistance, and panels representing Delta area interests, environmental interests, consumer groups, and Eastside Central Valley Project interests. Those desiring to participate on panels or to testify at either of the hearings should communicate immediately with Marcel Veilleux, Office of the Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C., 20240, Telephone: 202–343–5413 or 343–6606. A coordinator will be designated by the Department to organize panels.

Written statements of any length are encouraged and may be filed with the Task Force at the hearings or sent to the address above.

Dated: July 14, 1977.

GUY R. MARTIN,
Assistant Secretary,
Land and Water Resources.

[FR Doc.77–20979 Filed 7–20–77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77–217]

INCOAL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Incoal Coal Company, Langley, Kentucky 41645, has filed a petition to modify the application of 30 CFR 75.-1710–1, cabs or canopies, to its Mine No. 2, located in Knott County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 32 to 36 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

4 Elkhorn industrial scoop, model AR4, 27 inches high.
1 Galis roof bolter, model 300, 28 inches high

3. In addition to the fact that the seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery actually would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77–20967 Filed 7–20–77;8:45 am]

[Docket No. M 77–204]

JONES & LAUGHLIN STEEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Jones & Laughlin Steel Corporation, 9 North, 3 Gateway Center, Pittsburgh, Pennsylvania 15263, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Vesta No. 4 Mine, located in Washington County, Pennsylvania.

The substance of Petitioner's statement is as follows:

1. Petitioner's Mine is old with many worked-out areas. The return air entries for the location in question, Richeyville Shaft to E Face–F Face of Vesta No. 5 Mine, were developed approximately 55 years ago before the advent of roof bolting to control roof conditions. The timbers that had been installed for roof support during the mining cycle have deteriorated. Thus, there have been numerous roof falls in the subject return airways.

2. The return air entries at issue were not traveled prior to the Federal Coal Mine Health and Safety Act of 1969 because of the conditions noted in Paragraph 1 above. However, air and methane readings can be taken in certain areas along the return airways to assure that the return air is traveling in its proper course and usual volume, so that methane does not accumulate beyond legal limits. The return air courses in question are located in non-coal producing areas.

3. The subject return air courses are not capable of being traveled today. To restore these returns to a travelable condition would be an almost impossible task requiring exorbitant expenditures of money and years of work under potentially hazardous conditions.

4. A practical and feasible alternative to the application of the mandatory safety standard would be the establishment of six air measuring stations from Richeyville Shaft to E Face–F Face of Vesta No. 5 Mine. The six air measuring stations would assure that the criteria outlined in 30 CFR 75.305 would be satisfied. The return air in question would at no time have any effect on the present workings. Furthermore, with respect to the use of the six air measuring stations, Petitioner agrees to comply with the following provisions:

A. Methane determinations and air readings shall be taken daily at each measuring station by a certified, competent person.

B. Methane shall not be permitted to accumulate in the return air courses beyond legal limits, as determined at the six underground measuring stations.

C. The access to and the vicinity of the measuring stations shall be maintained in a safe and travelable condition.

D. A date board shall be located at each measuring station. Air quantities and methane determinations shall be taken and recorded with the certified person's initials, date and time required to be affixed to the date board.

E. A mine map showing the area around the measuring station with the direction of air flow shall be posted at each station.

F. The results of the daily air measurements and methane determinations shall be recorded in a book provided for that purpose on the surface.

G. If there is a marked variation in air quantity or an increase in methane content of 0.5 percent or more, immediate action shall be taken to determine the cause and appropriate action taken when necessary.

H. The number of employees working in the subject area will be minimal and each person working in the area will be and is required to carry a one-hour self-rescuing device on his person at all times.

I. All persons required to take measurements at the underground stations shall be certified on the basis of state examinations.

J. The location of the six monitoring stations shall be shown on the ventilation map to be submitted in accordance with the regulation at 30 CFR 75.316.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20968 Filed 7-20-77;8:45 am]

[Docket No. M 77-213]

KENTUCKY CARBON CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentucky Carbon Corporation, c/o C. Lynch Christian III, P.O. Box 553, Charleston, West Virginia, has filed a petition to modify the application of 30 CFR 75.1103–1, automatic fire sensors, to its Kencar No. 1 Mine, located in Phelps, Kentucky.

The substance of Petitioner's statement is as follows:

1. The coal mined in the Kencar No. 1 Mine is transported from the working faces to a tipple where the impurities and other mine refuses are separated out. This refuse is then carried from the tipple to a collecting bin by a conveyor belt system approximately 2,200 feet in total length. This system is comprised of two conveyor belts, the second of which is approximately 1,300 feet in length. This second belt, which is the subject of this petition, travels 1,200 feet underground in a straight entry before reaching the dumping point at the refuse collection bin.

2. Three switches for turning the belt on and off are provided along the underground portion of the belt at approximately 400-foot intervals. Cut-off switches are also located at the belt's tailpiece near the tipple and at the dumping point over the refuse collection bin. Additionally, a telephone is located near the tailpiece.

3. No mining activity is carried on in the immediate area of the belt entry and the underground portion of the belt can be reached only by entry at the points where the belt enters and exits the ground. One man is assigned to operate and maintain this belt on the B shift. At all other times there is no need for employees to travel the belt entry.

4. The belt entry is regularly rock dusted by Petitioner and firefighting equipment is provided at both ends of the belt. In addition, there is a water source provided for firefighting purposes within 300 feet of the belt tailpiece at the tipple. These precautions are taken despite the fact that the material carried on the belt is normally wet and muddy and not ignitable.

5. On June 2, 1977, a federal mine inspector issued to Petitioner a "notice" for an alleged violation of 30 CFR 75.-1103–1. Such notice requires that Petitioner provide a fire-censor system along this belt conveyor in order that an automatic warning including audible and visual signals would be given if a fire occurs on the belt. The alleged violation is to be totally abated by 8 a.m. on June 16, 1977.

6. After a thorough investigation by Petitioner, it has been determined that its present system of fire protection along this particular belt conveyor is an alternative method which at all times will guarantee no less than the same measure of protection afforded the miners of the Kencar No. 1 Mine as would be afforded by 30 CFR 75.1103–1.

7. No danger is involved. Petitioner requests that in lieu of the mandatory standard contained in 30 CFR 75.1103–1, that it be permitted to continue to operate the conveyor belt here in question in the manner described above.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20969 Filed 7-20-77;8:45 am]

[Docket No. M 77-214]

KENTUCKY CARBON CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentucky Carbon Corporation, c/o Lynch Christian III, P.O. Box 553, Charleston, West Virginia, has filed a petition to modify the application of 30 CFR 75.1100–2(b), quantity and location of firefighting equipment, belt conveyors, to its Kencar No. 1 Mine, located in Phelps, Kentucky.

The substance of Petitioner's statement is as follows:

1. The coal mined in the Kencar No. 1 Mine is transported from the working faces to a tipple where the impurities and other mine refuse are separated out. This refuse is then carried from the tipple to a collecting bin by a conveyor belt system approximately 2,200 feet in total length. This system is comprised of two conveyor belts, the second of which is approximately 1,300 feet in length. This second belt, which is the subject of this petition, travels 1,200 feet underground in a straight entry before reaching the dumping point at the refuse collection bin.

2. Three switches for turning the belt on and off are provided along the underground portion of the belt at approximately 400-foot intervals. Cut-off switches are also located at the belt's tailpiece near the tipple and at the dumping point over the refuse collection bin. Additionally, a telephone is located near the tailpiece.

3. No mining activity is carried on in the immediate area of the belt entry and the underground portion of the belt can be reached only by entry at the points where the belt enters and exits the ground. One man is assigned to operate and maintain this belt on the B shift. At all other times there is no need for employees to travel the belt entry.

4. The belt entry is regularly rock dusted by Petitioner and firefighting equipment is provided at both ends of the belt. In addition, there is a water source provided for firefighting purposes within 300 feet of the belt tailpiece at the tipple. These precautions are taken despite the fact that the material carried on the belt is normally wet and muddy and not ignitable.

5. On June 6, 1977, a federal mine inspector issued to Petitioner a "notice" for an alleged violation of 30 CFR 75.-1100–2. Such notice requires that Petitioner provide water lines parallel to the entire length of this belt equipped with firehose outlets at 300-foot intervals. The notice also requires that Petitioner provide 500 feet of fire hose at strategic locations along this water-line system for connection to the outlet valves. The alleged violation is to be totally abated by 8 a.m. on June 16, 1977.

6. After a thorough investigation by Petitioner, it has been determined that its present system of fire protection along this particular belt conveyor is an alternative method which will at all times guarantee no less than the same measure of protection afforded the miners of the Kencar No. 1 Mine as would be provided by 30 CFR 75.1100–2(b).

7. No danger is involved. Petitioner requests that in lieu of the mandatory standard contained in 30 CFR 75.1100–2 (b), that it be permitted to continue to operate the conveyor belt here in question in the manner described above.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20970 Filed 7-20-77;8:45 am]

[Docket No. M 77-209]

LIGON PREPARATION CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Ligon Preparation Company, P.O. Box 47, Drift, Kentucky 41619, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its G–65 Mine, located in Floyd County, Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 35 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

1—Elkhorn industrial scoop, model AR4, 29 inches high.
1—Acme roof bolter, model D1, 30 inches high.

3. In addition to the fact that Petitioner's seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to get adequate vision. Petitioner believes that the addition of canopies to its machinery actually would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20971 Filed 7-20-77;8:45 am]

[Docket No. M 77-208]

PEERLESS EAGLE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Peerless Eagle Coal Co., Farmers and Merchants Bank Building, Summersville, West Virginia 26651, has filed a petition to modify the application of 30 CFR 75.1710–1, cabs or canopies, to its Mine 2A and Mine No. 3, located in Nicholas County, West Virginia.

The substance of petitioner's statement is as follows:

1. *Mine 2A.* Total seam height is 30 to 46 inches. The electric face equipment subject to the regulation in this mine consists of the following:

A. (2) Joy 11 Ru coal cutters.
B. (2) S&S Una-A-trac scoops.
C. (2) Joy 14 BU 10–11 AE loaders.
D. (4) Galis 300 roof drills.
E. (4) Joy 18 SC shuttle cars.
F. (2) Joy RBD15 converted coal drills.

2. *Mine No. 3.* Total seam height is 32 to 38 inches. The electric face equipment subject to the regulation in this mine consists of the following:

A. (1) Joy 11RU coal cutter.
B. (1) Joy 14 BU 10–11AE loader.
C. (2) Joy 18SC shuttle cars.
D. (3) Galis 300 roof drills.
E. (1) Joy RBD15 converted coal drill.
F. (2) S&S Una-A-trac scoop.
G. (1) S&S battery tractor.
H. (1) Lee Norse 245 continuous miner.
I. (2) Jay 21 SC shuttle cars.

3. Petitioner has not applied to the Assistant Administrator — Technical Support for an approval of devices to be used in lieu of cabs or canopies as permitted by 30 CFR 75.1710–1(f) since Petitioner is without knowledge of any alternate device which would be safe and otherwise suitable for use in these mines.

4. Petitioner feels that the application of 30 CFR 75.1710–1 to these mines will result in a dimunution of safety to the operator of the equipment and also to any other miner nearby.

5. With canopies installed operators will not have as good vision as they would have without the cabs or canopies. They will tend to lean out from the cab or canopy and possibly be dragged off, or fall off, the equipment. They will not be able to see their fellow miners as well and therefore endanger them. The cabs or canopies will drag on check curtains or line curtains and cause improper ventilation. They will be tearing down hanging trailing cables and possible fires will result, burning the miners. Canopies will be shearing off roof bolts or dislodging other roof support and endangering the operator and other miners by falling rock.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must

be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20972 Filed 7-20-77;8:45 am]

[Docket No. M 77-200]

PYRO MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pyro Mining Co., Inc., P.O. Box 267, Sturgis, Kentucky 42459, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Pyro No. 11 Mine, located in Union County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The Petitioner is applying for modification of the standard because the use of canopies or cabs on electric face equipment will result in diminution of safety to its miners.

2. The mining height, compared to the size of the equipment, is the most evident reason for the diminution of safety to the miners.

3. The average height of the coal is 54 inches and therefore there is a mining height of 42 inches.

4. The clearance between the equipment and the normal roof (excluding any other objects and/or cross bars) will not permit the safe use of canopies or cabs. Canopies have been taken off, or torn off, due to the size of the equipment compared to the mining height of the coal.

5. At this time the following number and types of electric face equipment, including shuttle cars, are being used:

Equipment	Type	Number
Shuttle car	6L-68 (FMC)	2
Cutting machine.	15RU-5BN (Joy)	1
Loading machine.	14BU10-11BH (Joy)	1
Coal drill	CDB-2000-4D (Schroder)	1
Roof bolters	320 (FMC)	2

6. The two most valuable assets a miner possesses are hearing and sight. He depends on sight more than hearing for his safety. The canopies or cabs reduce his vision by approximately 72 percent.

7. Installation of canopies or cabs would cause more injuries, and perhaps death, than would occur if they were not used at all. There have been several deaths that were directly attributed to canopies or cabs since the enforcement of this safety standard. One such accident occurred on February 3, 1976. This accident claimed the life of a car driver in West Virginia. The coal height was 48 inches to 56 inches, respectively.

8. The immediate roof is hard limestone which averages 6 feet in thickness with 0 to 1 foot of hard black shale on top of the coal.

9. The average roof at Pyro No. 11 Mine is the best in this mining area. The mine was closed from April 1969 to April 1977. During this time the mine was full of water. The mine has since resumed production and there has not been a single fall of roof in the entire mine from April 1969 to May 24, 1977.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20973 Filed 7-20-77;8:45 am]

[Docket No. M 77-210]

PYRO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pyro Mining Co., P.O. Box 267, Sturgis, Ky. 42459, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies to its Pyro No. 6 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. The Petitioner makes application to modify these standards for the reason that the use of canopies or cabs on electric face equipment will result in diminution of safety to the miners in Pyro No. 6 Mine.

2. The mining height compared to the size of the equipment is the most evident reason for the diminution of safety to the miners.

3. The average height of the coal is 42 inches and, therefore, there is a mining height of 30 inches.

4. The clearance between the equipment and the normal roof (excluding any other objects and/or cross bars) will not permit the safe use of canopies or cabs.

5. The following number and types of electric face equipment, including shuttle cars, will be used on each working section. The following equipment consists of the lowest models (in size) currently being manufactured by the companies noted:

Equipment	Type	Number
Shuttle car	21SC-56AXHE-1	2
Cutting machine.	15RV-AH (Joy)	1
Loading machine.	14A W10-11 (Joy)	1
Coal drill	CDR 2000 A-49 (Schroder)	1
Roof bolters	300 (FMC)	2

6. The two most valuable assets a miner possesses are hearing and sight. He depends on sight more than hearing for his safety and canopies or cabs reduce his vision by approximately 72 percent.

7. Installation of canopies or cabs would cause more injuries, and perhaps death, than would occur if cabs or canopies were not used at all. There have been several deaths, that were directly attributed to canopies or cabs, since the enforcement of this safety standard.

8. The immediate roof is hard black shale averaging 2.4 feet in thickness.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20974 Filed 7-20-77;8:45 am]

[Docket No. M 77-211]

SEWELL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sewell Coal Co., Nettie, W. Va. 26681, has filed a petition to modify the application of 30 CFR 75.1105, housing of underground transformer stations, battery-charging stations, to its Sewell No. 4 Mine, located in Nicholas County, W. Va.

The substance of Petitioner's statement is as follows:

1. Petitioner's Sewell No. 4 Mine has a permanent pump station located near the No. 1 Shaft and the 5 West Entries adjacent to the supply track.

2. This pump is ventilated directly by intake air. Only a very small portion of the air passing through the entries where the pump is located would reach any working areas.

3. Petitioner proposes to ventilate this pump in the manner aforesaid rather than causing the air ventilating the pump to be directly coursed into the return airway. In addition to this ventilat-

ing plan, Petitioner will cause the pump to be protected by automatic heat sensors which will activate a 20-pound dry-type chemical fire suppression device located in the fireproof structure. This automatic fire suppression device satisfies the requirements of section 75.1107 of the regulations.

4. Additionally, the following safeguards will be employed:

(a) The motor will be provided with overload and short-circuit protection as required in safety standard 30 CFR 75.518.

(b) A metal door will be provided for the enclosure, hinged on the top, and a chain or similar linkage will be connected to a thermal heat link located over the motor that would open, on not more than 155 degrees F, and close door.

(c) A switch will be provided and interconnected into the electrical system so that when the metal door closed, the power circuit would be deenergized at the beginning of branch circuit.

(d) Firefighting equipment required by safety standard 30 CFR 75.1100-2(e) will be provided.

5. Petitioner states that the proposed method of ventilating the pump, together with the additional fire protection installed thereon, would, at all times guarantee no less than the same measure of protection as would be provided by the application of the mandatory standard. The addition of the extraordinary fire suppression system in this pump station would, in fact, improve the safety measures provided in Petitioner's mine beyond that required by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20975 Filed 7-20-77;8:45 am]

[Docket No. M 77-218]

SLY BRANCH COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sly Branch Coal Co., Box 126, Langley, Ky. 41645, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its No. 1 & 2 Section Mines, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 32 to 36 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

3 S&H scoops, model 105A, 27 inches high.
1 Galis roof bolter, model 300, 27 inches high.
1 Acme roof bolter, model D-1, 27 inches high.
1 Wilcox continuous miner, model 20PU, 24½ inches high.

3. In addition to the fact that the seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20976 Filed 7-20-77;8:45 am]

[Docket No. M 77-212]

SOUTH-EAST COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), South-East Coal Co., c/o James W. Craft, 7-10 Bank Building, Whitesburg, Ky. 41858, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 406, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:

1. The following equipment is used in Petitioner's mine: continuous miners, Elkhorn scoops, Long-Airdox coal drills, Joy shuttle cars, Galis roof bolting machines.

2. The application of the mandatory standard would constitute a danger to the operators of the equipment listed herein since the coalbed height is such that a canopy would diminish the vision of the operators of such equipment to such an extent that they would endanger the lives of other men working in the mine because they would not have adequate vision to properly control their machines.

3. A canopy cannot be placed on this equipment without greatly increasing the possibility that such equipment would strike the roof supports, dislodge them, and thereby create a danger of a roof fall.

4. Petitioner has investigated the possibility of fitting the aforesaid equipment with canopies in accordance with the requirements of 30 CFR 75.1710 and such an investigation has been done in good faith, in an effort to comply with the requirements of the aforesaid statute. To date, no satisfactory canopy has been found which would not diminish the safety of the operator and the other men working in the mine.

5. There have been no serious injuries or fatalities, as a result of roof falls, suffered by any of the operators of the equipment in this mine since the mine was put into production in 1974.

6. Attached hereto, and made a part hereof, is a copy of a Notice signed by the Safety Director of South-East Coal Company which has been posted at conspicuous places at the entrance to the mine.[1]

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20977 Filed 7-20-77;8:45 am]

[Docket No. M 77-198]

V. J. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), V. J. Coal Co., Van, Letcher County, Ky. 41857, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 2 Mine, located in Letcher County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on its equipment will create a hazard to operators.

2. Petitioner's equipment consists of the following;

	Inches
1 Paul's roof bolter	36
1 14 Joy loader	40
1 cutting machine	42

3. The No. 2 Mine is in the Hazard No. 4 seam which averages 46 inches in

[1] The attached notice is available for inspection at the address listed in the last paragraph of this petition.

height. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contributes to the difficulty of using canopies.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20978 Filed 7-20-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-215]

ABD&G COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), ABD&G Coal Co., Route No. 2, Box 248A, Clinton, Tenn. 37716, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 Mine, located in Anderson County, Tenn.

The substance of Petitioner's statement is as follows:

1. Installing canopies or cabs on equipment will create more hazards then presently exist.

2. The mine roof is not uniform, and the average thickness of the coal is approximately 36 inches, or less, so that the operator could be fatally injured by the projection of the canopy or cab higher than the space provided in the mine. Commercials showing the safety value of the canopies are photographed in mines where the coal is 5 to 6 feet in height, which is ideal for their use.

3. Present safety rules in effect at the mine have prevented accidents to operators of electric face equipment, including shuttle cars in low-seam mining; and the measures already taken will be of more benefit than the installation of the canopies or cabs as ordered by the Mining Enforcement and Safety Administration.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20961 Filed 7-20-77;8:45 am]

[Docket No. M 77-216]

ADKINS COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Adkins Coal Company, Langley, Ky. 41645, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its No. 11 Mine, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 30 to 35 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

12 Elkhorn industrial scoop, Model AR 4, 27 inches high.
3 Galis roof bolter, Model 300, 28 inches high.

3. In addition to the fact that the seam of coal is low Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery would result in a diminuation of safety to the miners. For these reasons, Petitioner requests the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20962 Filed 7-20-77;8:45 am]

[Docket No. M 77-203]

BADGER COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Badger Coal Company, Lebanon, Va. 24266, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its No. 14 Mine, located in Philippi, W. Va.

The substance of petitioner's statement is as follows:

1. There are two fans for petitioner's mine: The "B" portal fan will be ventilating all working sections and the No. 1 fan ventilates the old part of the mine as well as the bleeder off the old pillar panels.

2. The return airway for No. 1 fan has several falls in it. The falls are located from Station Nos. 4722, 4723 to inby Station Nos. 6319, 6320 and 6321. (See attached map.[1])

3. Petitioner requests a waiver from walking the above return in its entirety. Several areas in this return will be spot checked each week. Petitioner believes that this alternate system is a satisfactory replacement for the standard which otherwise mandates that one walk the return airway in its entirety. Compliance with the standard might be dangerous for the certified person who is required to comply with its mandates.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20963 Filed 7-20-77;8:45 am]

[Docket No. M 77-201]

BETHLEHEM MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Bethlehem Mines Corporation, Martin Tower Rm. 1871, Bethlehem, Pa. 18016, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Mine No. 33, located in Cambria County, Pa.

The substance of Petitioner's statement is as follows:

1. For the reasons specified below, Petitioner seeks modification of that portion of 30 CFR 75.305 which requires a certified person to make a weekly examina-

[1] The attached map is available for inspection at the address listed in the last paragraph of this petition.

tion in each return split of air with respect to the return air courses in which longwall operations exist under circumstances comparable to those described below. The areas in question are not designated escapeways.

2. Cambria Slope Mine No. 33 was opened in 1964; initial operations were located in the "B" or Lower Kittanning Seam and mining operations now also occur in the "C" or Upper Kittanning Seam. Longwall operations presently exist in both seams. Development work is done with continuous mining machines and all entries are supported according to approved roof control plans. In the areas of the present longwall operations, roof falls and bottom heaving in the return air course have occurred. The falls and heaving are accompanied, in most cases, by accumulations of water which are a result of pillar caving. Where roof falls occur, they result from weak roof areas that cannot maintain the pressure of the longwall operation, despite the utilization of procedures required by the approved roof control plans. Roof falls and bottom heaving, along with associated water accumulation, have created areas in which it is hazardous for employees to travel in accordance with the provisions of 30 CFR 75.305. In the areas in question, these conditions have made portions of the return virtually impassable without exposing employees to additional hazards.

3. Petitioner proposes an alternate method for achieving the result contemplated by 30 CFR 75.305, which will at all times guarantee no less than the same protection as would be afforded by the mandatory standard. This alternate method also eliminates the hazards which would be encountered if attempts were made to travel in the areas in question.

4. In view of the above-described conditions which exist in the return aircourses in the areas in question, Petitioner proposes to install two safe monitoring stations in the areas of each longwall operation, at which examinations for hazardous conditions can be conducted, as well as tests for methane, and for compliance with the mandatory health or safety standards. Air and methane readings will also be made at these monitoring stations to assure the air flow is in its proper course and usual volume.

5. Methane and air readings shall be made at these locations by a certified, competent person on a weekly basis, if not more frequently.

6. Methane will not be permitted to accumulate in the return air courses, as determined at the underground measuring stations, beyond legal limits.

7. Both access to and the measuring stations themselves will continue to be kept in safe condition.

8. A date board shall be located at each measuring station, and air quantity and methane readings shall be taken and recorded, including the initials of the certified person taking such readings, as well as the date and time the readings are taken.

9. All employees required to perform measurements at the underground stations will be certified for such work on the basis of state examinations.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20964 Filed 7-20-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-199]

BUFFALO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Buffalo Mining Co., c/o Robert C. Kota, Esq., Lebanon, Va. 24266, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Mark Mine, located in Lyburn, W. Va.

The substance of Petitioner's statement is as follows:

1. The coal seam being mined is the No. 2 Gas which ranges in thickness to 46 inches. The mine currently produces about 1,800 tons per day in a two-production shift operation, utilizing four production sections. That is, cutting machines, loaders, shuttle cars, etc., and one continuous miner section.

2. The main return air course from the No. 3 section is impassable due to a roof fall at station spad number 891.

3. Petitioner states that approval of this alternate system would be a satisfactory replacement for the standard which otherwise would mandate walking the return by a certified person. Under the alternate system this mine would be subject to the following conditions:

A. The Mark Mine of the Buffalo Mining Co. will set up a monitoring point at a strategic location;

B. Adequate roof support will be provided at the strategically located station;

C. The required checks for methane gas direction and velocity of air flow will be made by a certified person once every 7 days and the results will be recorded in a book.

4. Attached is a map for information purposes.[1]

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20965 Filed 7-20-77;8:45 am]

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this petition.

[Docket No. M 77-205]

ELRO COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Elro Coal Corp., Box 230, Appalachia, Va. 24216, has filed a petition to modify the application of 30 CFR 75.-1710-1, cabs or canopies, to its Elro Mine No. 2, located in Wise County, Va.

The substance of Petitioner's statement is as follows:

1. Petitioner wishes to modify the mandatory standard because it will create a hazard to the operators of the equipment.

2. All cabs and canopies had to be removed before the equipment could be taken to the section because clearance is as low as 36 inches on main line. Due to varying roof and bottom conditions, clearance on the working section is 46 to 60 inches.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such request or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 7, 1977.

[FR Doc.77-20966 Filed 7-20-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effec-

tive date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on May 20, 1977, Applied Science Laboratories, Inc., 139 North Gill Street (Box 440), State College, Pa. 16801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Morphine-n-oxide	I
Normorphine	I
Codeine	II
Ecgonine	II
Methadone	II
Morphine	II

Pursuant to section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43(a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections, and requests for a hearing may be filed no later than August 22, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: July 13, 1977.

DANIEL P. CASEY,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-21014 Filed 7-28-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

TENTATIVE AGENDA ITEMS

In order to provide notice regarding matters which may be acted upon by the Commission and to solicit written comments prior to and oral comments at meetings of the Commission in accordance with the Commission's Procedures for Citizen Participation and Intergovernmental Liaison, approved April 7, 1977, there is set forth below a list of agenda items tentatively scheduled for consideration by the Commission at its meeting at 9:30 A.M. on August 4 and 11, 1977 and at subsequent meetings. The Commission meets in its Tenth Floor Conference Room at 1325 G Street NW., Washington, D.C.

File No.	Item
	August 4 and 11, 1977
CP01/1203	Comprehensive Plan for the National Capital: Foreign missions and international agencies. (Commission action requested: Adoption of proposed element and related conforming modifications to other elements pursuant to sec. 4 of the National Capital Planning Act of 1952.)
MP59	a. Revised master plan. National Naval Medical Center, Bethesda, Md. (Commission action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1611	b. Bowling alley. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1648	c. Interim wastewater treatment facility. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1649	d. Animal research facility. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1650	e. Navy exchange. (Commission action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
MP122	Veterans Administration National Cemetery, Quantico, Va.—master plan. (Commission action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.)
MP124	Henderson Hall, Arlington County, Va.—master plan. (Commission action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1198	Pennsylvania Ave. Development Corp. plan—western sector. (Commission action requested: Approval of development concepts pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1505	Metropolitan Washington Council of Governments, metropolitan growth policy program. (a) Impact assessment reports. (b) Draft metropolitan growth policy statement. (Commission action requested: Comments to Metropolitan Washington Council of Governments.)
1694	Smithsonian Institution—East Garden, Castle and Arts and Industries Bldg., Jefferson Dr. (Commission action requested: Approval of final site development plan pursuant to sec. 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428.)
1696	Fort Belvoir, Fairfax County, Va., Davison U.S. Army Airfield—D C National Guard Army Aviation Support Facility. (Commission action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1697	Change to the permanent system of highways plan—elimination of Valley Ave. SE., from west line of parcel 223/26 (S.O. 76-22). (Commission action requested: Approval pursuant to D.C. Code, sec 7-122.)
1703	Walter Reed Army Medical Center, D.C.—interim helicopter landing site, limited air ambulance service. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428.)
	September 8 and 15, 1977
	West Potomac Park, D.C.
MP49	a. Subarea master plan. (Commisison action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.)
0570	b. Franklin Delano Roosevelt Memorial. (Commision action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.)
1018	U.S. Postal Service, Dale City Branch, Woodbridge, Prince William County, Va. (Commission action requested: Approval of revised location pursuant to sec. 5 of the National Capital Planning Act of 1952.)

The Commission affords interested and affected organizations and individuals an opportunity to present their views on any of the items in writing prior to and/or in person at the meeting at which such item is considered, with such limitations on the number and length of oral presentations as the agenda item and the length of the agenda appear to warrant.

Organizations and individuals desiring to make a statement or otherwise communicate their views on any item tentatively scheduled for the August 4 and 11 meeting should advise Samuel K.

Frazier, Jr., Chief, Office of Public Affairs, National Capital Planning Commission, Washington, D.C. 20576, telephone 382-1161. Copies of the Executive Director's Recommendation on any action item on the agenda for the August 4 and 11 meeting may be obtained from Mr. Frazier on or after August 2. Agenda items with respect to which no organization or individual has advised Mr. Frazier by Thursday, July 28, 12 noon, of a desire to present views in person to the Commission and on which the Executive Director recommends approval or a favorable report, may be placed on the "consent calendar" and acted upon by the Commission, without presentation or discussion, at the beginning of the Commission meeting on August 4. To insure that written comments on any items are placed before the Commission prior to Commission action thereon, written statements must be received by Mr. Frazier by Wednesday, August 3, 12 noon.

The Commission's Procedures for Citizen Participation and Intergovernmental Liaison, copies of which may be obtained from Mr. Frazier, generally provide that comments on District plans and projects should address their effect on the Federal establishment and/or on Federal interests in the National Capital Region.

DANIEL H. SHEAR,
Secretary.

July 15, 1977.

[FR Doc.77-20980 Filed 7-20-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-50-16A]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notice of Denial of Petition for Rulemaking

Notice is hereby given that a petition for rulemaking filed by Edward J. Morris, Esq., and William G. Cohen, Esq., by letter dated September 8, 1976, with the Nuclear Regulatory Commission on behalf of the Pennsylvania Public Utility Commission, Room 118, North Office Building, Harrisburg, Pennsylvania, requesting amendment of the Commission's regulations "Licensing of Production and Utilization Facilities," 10 CFR Part 50 and "Physical Protection of Plants and Materials," 10 CFR Part 73, is denied. The petition was published for comment on October 7, 1976 (41 FR 44233). The general consensus of public comments was that the rulemaking requested by the petitioner was not needed because of the protection applied to operating reactors.

The petitioner requests the Commission to amend 10 CFR Part 50 by adding the following at the end of § 50.34(c), *Physical security plan:*

At multi-unit stations, each application to construct a production or utilization facility shall include a physical security plan for portions of the facility under construction from which access to an operating facility can be gained. The physical security plan for such facilities under construction shall consist of the same Parts I and II as the physical security plans for operating units.

The petitioner also requests the Commission to amend 10 CFR Part 73 by adding the following at the end of § 73.40, *Physical Protection: General requirements at fixed sites:*

At multi-unit stations, each production or utilization facility under construction shall provide physical protection against industrial sabotage and against theft of special nuclear material, if applicable, for those portions of the facility contiguous to an operational facility or from which access to an operational facility can be gained.

The petitioner also requests the Commission to issue regulations under which the Commission would exercise discretion to conduct investigations of labor disputes which threaten security.

The Commission believes that the recent adoption of § 73.55, published February 24, 1977, deals appropriately with the matters that are the subject of the instant petition. The principal safeguards concern at the multi-unit site is the protection of the operating facility. Section 73.55(a) expressly requires that the mandated level of protection be maintained at all operating reactors, including a reactor that is adjacent to a reactor power plant under construction. Since the petitioners' concerns have been appropriately responded to, the initiation of further, separate rulemaking proceeding is not required. With respect to the request that the Commission amend its regulations to provide for Nuclear Regulatory Commission investigation of labor disputes, it is the view of the Commission that the requested amendments are not necessary since the Nuclear Regulatory Commission already has authority to investigate at the site, in its discretion, any problem that might lessen security at such plants.

Accordingly, the petition for rulemaking filed by the Pennsylvania Public Utility Commission is denied.

Dated at Washington, D.C., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-20674 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-16]

PUBLIC INTEREST RESEARCH GROUP ET AL.

Denial of Petition for Rulemaking

Notice is hereby given that the petition for rulemaking dated April 16, 1976, filed by Louis J. Sirico, Jr., Esquire, with the Nuclear Regulatory Commission on behalf of the Public Interest Research Group, Environmental Coalition on Nuclear Power, Citizens for a Safe Environment, and York Committee for a Safe Environment, requesting amendment of the Commission's regulations "Licensing of Production and Utilization Facilities," 10 CFR Part 50 and "Physical Protection of Plants and Materials," 10 CFR Part 73, is denied. This petition was published for comment on June 24, 1976 (41 FR 26081). The general consensus of public comments was that the rulemaking requested by the petitioners was not needed because of the protection applied to operating reactors.

The petitioners requested the Commission to amend 10 CFR Part 50 by adding the following at the end of § 50.34(c), *Physical security plan:*

At multi-unit stations, each application to construct a production or utilization facility shall include a physical security plan, for portions of the facility under construction from which access to an operating facility can be gained. The physicial security plan for such facilities under construction shall consist of the same Parts I and II as the physical security plans for operating units.

The petitioners also requested the Commission to amend 10 CFR Part 73 by adding the following at the end of § 73.40, *Physical Protection: General requirements at fixed sites:*

At multi-unit stations, each production or utilization facility under construction shall provide physical protection against industrial sabotage and against theft of special nuclear material, if applicable, for those portions of the facility under construction form which access to an operating facility can be gained.

The Commission believes that the recent adoption of § 73.55 published February 24, 1977, deals appropriately with the matters that are the subject of the instant petition. The principal safeguards concern at the multi-unit site is the protection of the operating facility. Section 73.55(a) expressly requires that the mandated level of protection be maintained at all operating reactors, including a reactor that is adjacent to a reactor power plant under construction. Since the petitioners' concerns have been appropriately responded to, the initiation of further, separate rulemaking proceeding is not required. The petition for rulemaking filed by the Public Interest Research Group, Environmental Coalition on Nuclear Power, Citizens for a Safe Environment, and York Committee for a Safe Environment is thus denied as moot.

Dated at Washington, D.C., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-20678 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-14]

PUBLIC INTEREST RESEARCH GROUP, ET AL.

Denial of Petition for Rulemaking

Correction

In FR Doc. 77-20007, appearing at page 36326 in the issue for Thursday, July 14, 1977, on page 36328, the correct title for Mr. Samuel J. Chilk is "Secretary of the Commission" instead of "Secretary of Transportation."

NATURALLY OCCURRING AND ACCELERATOR-PRODUCED RADIOACTIVE MATERIALS

Task Force Report

A Nuclear Regulatory Commission Task Force has completed a review of the matter of regulation of naturally occurring and accelerator-produced radioactive materials. These materials are not presently regulated by NRC because they do not come within the scope of the definitions of nuclear materials in the Atomic Energy Act. The scope of the study, as prescribed for the Task Force, was limited to review of Federal and State regulation of naturally occurring and accelerator-produced radioactive materials. Sources of ionizing radiation involving radiation-producing equipment, such as X-ray machines, were not included in the study.

The conclusions and recommendations of the Task Force are as follows:

1. The regulation of naturally occurring and accelerator-produced radioactive material (NARM) is fragmented, non-uniform and incomplete at both the Federal and State level. Yet, these radioactive materials are widely used—excluding those who would be exempt from licensing, about 30% of all users of radioactive materials use NARM. There are an estimated 6,000 users of NARM at present. The use of accelerator-produced radioisotopes, particularly in medicine, is growing rapidly.

2. One NARM radioisotope—^{226}Ra—is one of the most hazardous of radioactive materials. ^{226}Ra is used by about ⅓ of all radioactive material users. Also, there are about 85,000 medical treatments using ^{226}Ra each year.

3. All of the 25 Agreement States and 5 non-Agreement States have licensing programs covering NARM users. The Agreement States' programs for regulating NARM are comparable to their programs for regulating byproduct, source and special nuclear materials under agreements with NRC. But there are 7 States who exercise no regulatory control over NARM users, and the remaining States have control programs which are variable in scope. There are no national, uniformly applied programs to regulate the design, fabrication and quality of sources and devices containing NARM or consumer products containing NARM which are distributed in interstate commerce.

4. Naturally occurring radioactive material (except source material) associated with the nuclear fuel cycle is only partially subject to NRC regulation, i.e., when it is associated with source or special nuclear material being used under an active NRC license.

5. Because of the fragmented and non-uniform controls over radium and other NARM, information on the impact of the use of NARM on public health and safety is fragmentary. Thus, it is difficult to know, in an overall sense, whether proper protection is being provided to workers and the public. A number of the incidents involving NARM and other data, however, which have come to the attention of public health authorities give definite indications of unnecessary and possibly excessive radiation exposure of workers and the public.

Recommendation

The Task Force recommends that the NRC seek legislative authority to regulate naturally occurring and accelerator-produced radioactive materials for the reason that these materials present significant radiation exposure potential and present controls are fragmentary and non-uniform at both the State and Federal level.

The Commission believes that opportunity for public comment should be afforded before the Commission reaches any decision on the Task Force recommendations. All interested persons who desire to submit written comments on the report and its recommendations should send them by September 19, 1977, to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Copies of the complete report are available for inspection and copying at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Commission's local Public Document Rooms. Copies of the comments received in response to this notice will be placed in the Commission's Public Document Room in Washington, as received. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the report NUREG-0301 will be available for sale at the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 8th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-21030 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-21]

NORTHERN STATES POWER CO. AND WISCONSIN ELECTRIC POWER CO.

Filing of Petition for Rulemaking

Notice is hereby given that Gerald Charnoff, Esquire, and Jay E. Silberg, Esquire have filed with the Commission on behalf of the Northern States Power Co., and the Wisconsin Electric Power Co. a petition for rulemaking dated June 2, 1977.

The petitioners request the Commission to amend 10 CFR 50.34(c) so as to include plant security information within the definition of Restricted Data, or alternatively within the definition of National Security Information, to amend 10 CFR 2.905 so as to assure that discovery of plant security information is subject to the protection of Subpart I to 10 CFR Part 2, to amend Subpart I to 10 CFR Part 2 to explicitly recognize that its protection extends to information not under Commission control, and to delete 10 CFR 2.790(d)(1).

It is the view of the petitioners that the requested amendments would afford to plant security information the protection against unauthorized disclosure afforded by Subpart I to 10 CFR Part 2, protection commensurate with the sensitivity of the information.

A memorandum in support of proposed rule making is attached to the petition which sets forth the need, and the statutory and regulatory basis for the proposed rule requested by the petitioners.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of the petition for rulemaking may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by September 19, 1977.

Dated at Washington, D.C., this 14th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-21024 Filed 7-20-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-29]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Railroad accident report.—The National Transportation Safety Board on July 11 made public the report of its investigation of last year's collision of two Consolidated Railroad Corp. (ConRail) commuter trains at New Canaan, Conn.

The report, No. NTSB-RAR-77-4, indicates that at 6:28 p.m. on July 13, 1976, ConRail commuter train No. 1994 collided with the rear of commuter train No. 1992 which was standing on the main track in New Canaan. The first car of No. 1994 and several cars of No. 1992 derailed. Two passengers were killed and 30 persons were injured.

The Safety Board has determined that the probable cause of this accident was the failure of the engineer of train No. 1994 to perceive the train ahead and to apply the brakes at the earliest possible time. Contributing to the accident was the excessive speed of the train as it passed the controlling signal at Cane and the inadequacy of the signal system to convey to the engineer the situation ahead and to insure compliance with the indications of the signals.

In its conclusions, the Board said the on-coming train struck the standing train at a speed of more than 20 miles

an hour. It also concluded that a rail flange lubricator was out of adjustment on the day of the accident and was supplying an excessive amount of lubricant. However, the Board said that tests made following the accident showed the lubricant probably did not adversely affect the braking of the train.

During its investigation of this accident, the Safety Board issued last summer two Class I, urgent followup recommendations (R–76–46 and 47) concerning the signal system to the Connecticut Department of Transportation and two Class I recommendations (R–76–48 and 49) jointly to the Connecticut Department of Transportation and the Metropolitan Transportation Authority concerning the operation of exit doors. A Class II, priority followup recommendation (R–77–13) to the Federal Railroad Administration to promulgate regulations on the operation and construction of commuter cars was issued last month. (See 41 FR 32795 and 360911, August 5 and 26, 1976; 42 FR 29580, June 9, 1977.) These recommendations are reproduced in the New Canaan report.

Also reproduced in the report is a reiterated recommendation (R–75–35) on eliminating unsafe conditions in M–1 commuter car interiors. The recommendation was first made following a similar commuter train accident at the Metropolitan Transportation Authority's Botanical Garden Station in New York City on January 2, 1975. (See 40 FR 34202, August 14, 1975.)

The Board's report also notes that the Connecticut Department of Transportation has taken the following corrective action:

The eastbound signal at Cane has been changed to display a "Stop-and-Proceed" aspect. The signalling of the track between Cane and New Canaan Station is still under consideration.

An emergency release mechanism that can be operated easily from either inside or outside is being designed for the side doors of M–1- and M–2-type cars.

Arrangements are being made to change the hazard-producing features in the cars' interiors.

Fire and rescue personnel along commuter train routes are being trained in the operation of these cars.

The pressure on the end doors of the M–2-type cars has been reduced for easier operation of the doors.

Emergency exit ladders are being installed beneath the cars.

Aviation safety recommendations A–77–49 and 50.—Board investigation of a Dassault Falcon Jet accident at Naples, Fla., last November 12 has disclosed a serious defect in the seatbelt attachment fittings of both pilots' seats. The Board believes that this defect can hinder survivability of pilots.

In this accident, the pilot experienced lateral decelerative loads and was ejected from his seatbelt and his shoulder harness when the right seatbelt fitting deformed and the retaining pin separated from the fitting. He struck numerous cockpit surfaces and sustained blunt trauma to the abdomen and a lacerated right elbow. The copilot's right seatbelt fitting failed similarly, but fortunately the seatbelt did not slip free of the retaining pin and he remained in his seat.

Examination of both right-hand fittings by the Board's laboratory disclosed that the retaining pins had been brazed to the fittings, rather than oxygen/argon welded in accordance with Dassault's recommended procedures. Therefore, the Board believes that the manufacturing and quality control practices of the seat subcontractor must be reviewed.

Accordingly, the Safety Board on July 11 recommended that the Federal Aviation Administration —

Issue an Airworthiness Directive to inspect the seatbelt fittings on all Dassault pilot seats for compliance with Dassault's manufacturing procedures and to replace those fittings which are found to be defective. (Class I—Urgent Followup) (A–77–49)

Review the manufacture and quality-control practices of these pilot seats to insure that they are in accordance with Dassault procedures and FAA criteria. (Class I—Urgent Followup) (A–77–49)

Aviation safety recommendation A–77–51.—The Safety Board has issued another recommendation to the Federal Aviation Administration as a result of the investigation of the New York Airways Sikorsky S61L helicopter accident last May 16 atop the Pan American Building in New York City. The helicopter overturned during passenger operations on the heliport. Immediately following the accident, the Safety Board issued to FAA recommendations A–77–32 and 33 concerning the main landing gear attachment fittings and more frequent periodic inspections.

The accident resulted from a failure of a portion of the right landing gear. As the helicopter rolled over, the cockpit door, which consists of two sliding panels, slid almost closed and jammed in the door track. Currently, New York Airways' Operations Specifications allow helicopter operations to be conducted without a flight attendant if fewer than 19 passengers are being transported. Without a flight attendant, clear and rapid crew access to the cabin area is imperative during an emergency. The Safety Board believes that the cockpit door must not be allowed to obstruct the crew or rescuers as it did in this accident. Accordingly, on July 13 the Board recommended that FAA—

Require that the sliding cockpit door on the Sikorsky S61 helicopter be removed or retained open so that it cannot obstruct the entrance from the cockpit to the cabin area. (Class II—Priority Followup) (A–77–51)

Pipeline safety recommendation P–77–15.—Enforcement of notification procedures has been urged by the Safety Board following investigation of the gas pipeline explosion which last March 13 destroyed a house in Monongahela, Pa. One person was killed by the explosion and another person was hospitalized.

Investigation showed that 27 hours elapsed between the time of occurrence of the accident and the arrival on the scene of a Safety Board investigator—a delay which hampered the Board's ability to obtain eyewitness statements, to evaluate the extent of gas leakage, and to determine the source of the leak. The late notification of this accident to the Office of Pipeline Safety Operations (Materials Transportation Bureau, U.S. Department of Transportation) is not unique. So far this year, the Safety Board has investigated 12 pipeline accidents involving Equitable Gas Co. and other companies; three notifications were from 4 days to 1 month late, and an average of 10 hours elapsed between the accident and its notification in the other nine cases. The earliest notification was 4 hours after the accident.

Title 49 CFR 191.5, Telephonic Notice of Certain Leaks, provides for telephonic notification (202–426–0700) by the gas facility operator at the earliest practicable moment following discovery of any leak that (1) caused a death or a personal injury requiring hospitalization; (2) required the taking of any segment of transmission pipeline out of service; (3) resulted in gas igniting; (4) caused estimated damage to the property of the operator, or others, or both, of a total of $5,000 or more; or (5) in the judgment of the operator was significant even though it did not meet the criteria of (1), (2), (3), or (4).

Accordingly, on June 11 the Safety Board recommended that the Office of Pipeline Safety Operations—

Enforce the notification requirements as stated in 49 CFR 191.5 in view of the continuing noncompliance of pipeline operators. (Class I—Urgent Followup) (P–77–15)

Pipeline safety recommendations P–77–16 and 17.—Two Class I recommendations were issued by the Safety Board on July 15, one week after an explosion and fire at Alyeska Pipeline Service Co.'s Pump Station No. 8 on the Trans-Alaska pipeline resulted in the death of one person and injury to a number of others.

The Board's ongoing investigation indicates that the explosion at Pump Station No. 8 occurred when crude oil was turned into Pump No. 1 while the workers were servicing the pump's strainer. The oil, under a pressure of about 400 p.s.i., sprayed out of the open cover and rapidly filled the building with vaporized crude oil. The vapor was ignited by one of several possible sources and exploded, heavily damaging the building; the gushing crude oil was ignited. Control personnel at Valdez, Alaska, immediately shut down the system. While damage to the environment was minimal, the pump station was practically destroyed, the Board said.

The Board does not know yet why the employees opened the strainer cover without complying with Alyeska's prescribed procedures. The procedures required that the controller at Pump Station No. 8 be granted permission by the central controller at Valdez before working on the pump, and that those persons who were going to do the work isolate the pump electrically by locking out the circuit, tagging the switch with a distinctive prescribed warning tag, and applying tags to the valves on both sides of the pump before beginning the work. None of the foregoing was done.

The Board's preliminary study of the startup and operating plans indicates that Alyeska recognized the need for coordination among its many technicians and supervisors, employees on loan from Alyeska's parent companies, and contract engineers and technicians who were required in the startup of the pipeline operation. Alyeska also foresaw the need for assigning specific responsibilities to certain personnel in addition to their routine duties. However, at Pump Station No. 8, there apparently was a failure to completely coordinate the written startup and operating plans.

Because of the loss of Pump Station No. 8, Pump Station No. 9 must be activated ahead of its original schedule, thereby increasing the opportunity for error and the inclination to deviate from procedures. Increased emphasis upon proper management and supervision of the startup operations and insistence upon precise compliance with procedures is necessary to insure the safe startup and operation of Pump Station No. 9 and of other facilities whose schedules must be advanced. Therefore, to minimize the possibility of another accident when the pumping resumes, the Safety Board recommends that Alyeska—

Designate a manager or management team at each pump station with the responsibility and authority to supervise and require all personnel involved in the operation of the pump station to comply completely and consistently with all written procedures during the startup period and the continuing operations of such stations. (P–77–16)

Review all procedures and practices which apply to pipeline startup and the ensuing operation to insure that all critical actions will be done in a safe manner. Particular attention should be given to the interrelationships between those procedures which apply to startup and those which apply to the ensuing operations to insure complete coordination of functions. (P–77–17)

Responses to Aviation Safety Recommendations

A–77–18 and 19.—Federal Aviation Administration's letter of July 7 responds to the Safety Board's recommendations issued following investigation of the crash during an emergency landing last August 6 of a North American TB–25N at Chicago's Midway airport. The flight was conducted to prepare a pilot for a B–25 type-rating examination. (See 42 FR 24131, May 12, 1977.)

Recommendation A–77–18 asked that FAA expand the program currently in effect in its Southern Region to include vintage and military surplus aircraft and rotorcraft, and expand the program to include all FAA Regions. In response, FAA notes that its Southern Region's high priority special surveillance program was generated by a series of accidents spanning a 5-year period, involving approximately 85 large airplanes engaged in carrying passengers and cargo, and that FAA diverted manpower from other important safety functions to accomplish this task. FAA states: "We do not believe the single accident involving the B–25 warrants the concentrated efforts being made in the Southern Region unless a definite trend of noncompliance of significantly larger proportions were to develop."

Recommendation A–77–19 asked that FAA review existing maintenance requirements to determine that those in effect suffice to assure the maximum level of safety in the operation of surplus and vintage aircraft and rotorcraft. FAA's response: "We have reviewed maintenance requirements and believe that they are satisfactory."

A–77–24 and 25.—Federal Aviation Administration's letter of June 30 expresses the belief that these recommendations, resulting from investigation of a Piper Cherokee Cruiser accident last December 19 at the Baltimore (Md.) Memorial Stadium, have merit. (See 42 FR 25289, May 19, 1977.)

FAA concludes that the authority to obtain and use alcohol tests could help in enforcing present rules relating to the use of alcohol and could also be a deterrent. FAA states: "Accordingly, we have initiated a regulatory project aimed at promulgating rules for 'implied consent' to alcohol tests by airmen engaged in aircraft operations including penalties for refusal to submit to tests. In addition, the alcohol level at which a pilot is considered to be under the influence will be included."

A–77–34 and 35.—Federal Aviation Administration's July 6 letter is in answer to recommendations resulting from two Safety Board investigations involving transportation of bulk cargoes of cattle. (See 42 FR 29579, June 9, 1977.)

In response to A–77–34, which recommended issuance of an Advisory Circular to establish criteria for the design, installation, and use of livestock restraining systems and to insure that carriage of livestock will not adversely affect the operation of the aircraft or the function of its crewmembers, FAA reports that its October 19, 1970, Order 8000.20 containing guidelines for livestock restraining systems was inadvertently cancelled on April 30, 1975. FAA states that the order has been updated recently and distributed for comment; reissuance is expected within 90 days. FAA believes that an updated order is more effective and preferable to an Advisory Circular.

In response to A–77–35, asking FAA to conduct an engineering analysis to determine the adequacy of livestock restraining systems which are currently approved for use, FAA says that it is presently auditing engineering approvals of livestock restraint systems; this audit is expected to be completed by October 1.

A–77–12 and 13.—The American Association of Airport Executives (AAAE) on July 6 forwarded to the Safety Board comments on recommendations issued last March 14 after the Board learned that many noncertificated airports receiving passenger service by commuter air carriers have either rudimentary crash/fire/rescue capabilities or are entirely dependent on firefighting equipment from nearby communities. (See 42 FR 15993, March 24, 1977.)

Recommendation A–77–12 asked the Federal Aviation Administration to formulate, in cooperation with the National Fire Protection Association (NFPA), a training program for use by local fire departments as a minimum standard for firefighting personnel involved in crash/fire/rescue activities at noncertificated airports. A–77–13 asked FAA to disseminate the training program, in coordination with the Commuter Airlines Association of America, the National Fire Prevention and Control Administration, and the American Association of Airport Executives, to State and local governments and airport operators and urge them to adopt it in the interest of passenger safety.

AAAE reports that for many years it has been deeply involved in the training of airport based crash/fire/rescue personnel. This involvement has consisted primarily of AAAE active participation in the NFPA Sectional Committee on Aircraft Rescue and Firefighting, which developed training material, and AAAE sponsorship of crash/fire/rescue personnel training courses in various sections of the country on a recurring basis.

Based upon input from the AAAE membership and other organizations, AAAE states that it is now compiling a standardized, nonstructural training syllabus for firefighting personnel at noncertified airports. The syllabus will be distributed without cost to all affected organizations and its use promoted. FAA's and NFPA's input is being sought and AAAE is trying to reach nonairport (structural) fire departments, that might have occasion to assist airport-based departments or take primary responsibility in case of off-airport accidents, to acquaint them with AAAE regional training courses and to invite them to participate.

NOTE.—The above notice consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of the notice in the FEDERAL REGISTER. The accident report and the safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and any Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the 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 accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 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.

JULY 18, 1977.

[FR Doc.77–20983 Filed 7–20–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

[Release No. 34-13753; File No. SR-NASD-77-8]

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on July 7, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGES

The following is the full text of proposed new rule Section 35 of Article III of the Rules of Fair Practice.

ARTICLE III, SECTION 35

(a) A member or a person associated with a member shall not underwrite or participate in any way in the distribution to the public of units of a direct participation program, or sponsor a direct participation program, the provisions of which are inconsistent with rules, regulations and procedures prescribing standards of fairness and reasonableness in respect thereto adopted by the Board of Governors pursuant to the authorization granted in subsection (b) hereof.

(b) The Board of Governors is authorized, for the purpose of preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, providing safeguards against unreasonable profits or unreasonable rates of commissions or other charges, and for the protection of investors and the public interest, to adopt rules, regulations and procedures prescribing standards of fairness and reasonableness for direct participation programs relating to:

(1) The underwriting or other terms and conditions concerning, directly or indirectly, the distribution of units of such programs to the public, including, but not limited to, all elements of compensation in connection therewith, among other factors;

(2) The terms and conditions concerning the operation, structure and management of such programs in which a member or an affiliate of a member is a sponsor including, but not limited to:

a. The rights of participants in such programs;

b. Conflicts or potential conflicts of interest of sponsors thereof, or others;

c. The financial condition of sponsors of such programs;

d. All elements of sponsor's compensation including, but not limited to, working interests, net profit interests, promotional interests, program management fees, overriding royalty interests, sharing arrangements, interests in program revenues, and overriding interests of all other kinds, general and administrative expenses and organization and offering expenses;

e. The minimum unit value which may be offered and the minimum subscription amount per investor;

f. The retention and/or exchange of units of the program held by participants;

g. The assessments, mandatory, optional or otherwise, to be made on participants in a program in addition to the unit price;

h. The reinvestment of revenues derived from the operation of the program;

i. The duty of the program to render operational and financial reports to participants;

j. The liquidation of units in a program; and

k. Any other terms, conditions or arrangements relating to the operation of the program which the Board of Governors determines are required for the protection of investors and the public interest;

(3) The standards of suitability for investment in such programs by investors;

(4) The content and filing with the Association of advertising and sales literature to be used in connection with the distribution of direct participation programs; and,

(5) The definitions of words commonly used in connection with such programs including words used in this section unless they are otherwise defined herein.

(c) The rules, regulations and procedures authorized by subsection (b) hereof shall be incorporated into Appendix F to be attached to and made a part of these Rules of Fair Practice. The Board of Governors shall have the power to adopt, alter, amend, supplement or modify the provisions of Appendix F from time to time without recourse to the membership for approval, as would otherwise be required by Article VII of the By-Laws, and Appendix F shall become effective as the Board of Governors may prescribe unless disapproved by the Securities and Exchange Commission.

(d) For the purposes of this section, the following terms shall have the stated meanings: (1) Affiliate, when used with respect to a member or sponsor, shall mean any person which controls, is controlled by, or is under common control with, such member or sponsor, and includes:

a. Any partner, officer or director (or person performing similar functions) of (a) such member or sponsor or (b) a person which beneficially owns 50 percent or more of the equity interest in, or has the power to vote 50 percent or more of the voting interest in, such member or sponsor.

b. Any person which beneficially owns or has the right to acquire 10% or more of the equity interest in or has the power to vote 10% or more of the voting interest in (a) such member or sponsor, (b) a person which beneficially owns 50% or more of the equity interest in, or voting interest in, such member or sponsor.

c. Any person with respect to which such member or sponsor, the persons specified in subparagraph a. or b., and the immediate families of partners, officers or directors (or persons performing similar functions) specified in subparagraph a. or other persons specified in subsection b., in the aggregate beneficially own or have the right to acquire 10% or more of the equity interest or have the power to vote 10% or more of the voting interest.

d. Any person an officer of which is also a person specified in subparagraph a. or b. and any person a majority of the board of directors of which is comprised of persons specified in subparagraph a. or b.; or

e. Any person controlled by a person or persons specified in subparagraphs a., b., c. or d.

(2) Direct Participation Program (program), a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle prorgams, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules or regulations adopted pursuant hereto the term shall mean each of the separate entities or programs making up the overall program and/or the overall program itself. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code, and any company, including separate accounts, registered pursuant to the investment Company Act of 1940.

(3) Equity Interest, when used with respect to a corporation means common stock and any security convertible into, exchangeable or exercisable for common stock, and, when used with respect to a partnership, means an interest in the capital or profits or losses of the partnership.

(4) Sponsor, a person who directly or indirectly provides management services for a direct participation program whether as general partner, pursuant to contract or otherwise.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULES

The purpose of proposed Section 35 of the Rules of Fair Practice is to establish a system of regulation in connection with the distribution of "direct participation" programs by members of the Association. Subsection (a) of proposed Section 35 would prohibit a member or person associated with a member from underwrit-

ing or participating in the distribution of a direct particpation program which contained provisions inconsistent with the rules, regulations and procedures prescribing standards of fairness and reasonableness adopted by the Board of Governors of the Association.

Subsection (b) would give the Board authority to adopt for the protection of investors and the public interest, among other purposes, such rules, regulations and procedures. Subsections (b) (1), (3), (4) would effect that authority in the areas of underwriting compensation, investment suitability and form and content of sales literature, respectively. Subsection (b) (2) would give the Board authority to adopt rules, regulations and procedures regarding the management, structure and operations of direct participation programs in which members or affiliates of members are a sponsor. Subsection (b) (5) gives the Board authority to define words commonly used in direct participation programs.

Subsection (c) gives the Board authority to adopt, alter, amend, supplement or modify the substantive rules, regulations and procedures authorized by Subsection (b) and contained in Appendix F thereto, without recourse to the membership for approval. While a vote of the membership is not necessary to effect a change in Appendix F, any substantive changes will be forwarded to the membership for comment.

Subsection (d) defines certain terms that are used in Section 35. These include: (1) affiliate; (2) direct participation program (program); (3) equity interest; and (4) sponsor.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b) (2) of the Securities Exchange Act of 1934 provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that its rules provide it with the capacity to carry out the purposes of the Act, to enforce compliance with the Act by its members and persons associated with its members, and the rules and regulations thereunder, and to protect investors and the public interest. Further, Section 15A(b) (6) requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. In addition, Section 15A(b) (7) requires that the rules of the Association provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provisions of the Act or the rules and regulations thereunder, or the rules of the Association, by imposition of appropriate penalties. The provisions of Article III, Section 35 would prohibit a member or person associated with a member from underwriting or participating in the distribution of a direct participation offering which does not adhere to the rules, regulation, and procedures adopted by the Board of Governors. These rules, regulations and procedures prescribe standards of fairness and reasonableness with respect to direct participation programs.

COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS OR OTHERS ON THE PROPOSED RULES AND AMENDMENTS

Proposed Article III, Section 35 was submitted to the membership of the Association three times, twice for comment and suggestion and finally for the membership's approval vote. Comments were not solicited in connection with the final submission. The following is a summary of those comments and suggestions and the manner of their integration into the proposed rule.

The first submission of the proposed rule for comment and suggestion was made in a Notice to Membership dated May 9, 1972. Comments received centered on one policy question and a number of structural and definitional suggestions for amending the proposed rule. The policy question involved the delegation to the Board of Governors of the Association of the authority under subsection (c) to "adopt, alter, amend, supplement or modify" the substantive provisions of the appendix attached to the rule without first submitting the same to the membership for approval. The question was raised as to whether this practice was permissible since Article IV, Section 2(b) and Article III, Section 1 of the By-Laws of the Association require membership approval for amendments to the Rules of Fair Practice. Section 3 of Article VII of the By-Laws does delegate to the Board the power to make and issue interpretations in administration and enforcement of the Rules of Fair Practice. In was determined that since the substantive provisions of the appendix merely implement in the rule which was to be approved by the membership, the Board held the power under Article VII, Section 3 to function in the manner indicated in proposed Article III, Section 35 (c) of the Rules of Fair Practice.

In response to suggestions, the element of materiality of flow-through tax benefits was deleted from the definition of "tax shelter program." Clarifying amendments were also made to indicate that pension and profit sharing plans qualifying under Section 401 and annuity plans meeting the requirements of Section 403(b) of the Internal Revenue Code were excluded from the scope of the rule.

The initial proposal had been directed toward all tax shelter programs in which NASD members were participating and extended jurisdiction not only over the members but also over independent issuers. Responding to the inherent questions regarding regulation of issuers of securities, the Securities and Exchange Commission requested comment from the public under Securities Exchange Act Release 34–10260. The Association contemporaneously issued its amended proposal under Notice to Members 73–50, the thrust of which wa unchanged, to assist in the public dialogue of this matter. As a result of the comments received from SEC Release 34–10260 and subsequent directive from the Commission of May 6, 1974, the rule was subsequently altered in its issuer-directed provisions to apply only to those programs where a member or an affiliate of a member involved in the distribution acts as sponor. In this manner it was felt the conflicts of interest involved in the self-underwriting of integrated direct participation programs could still be monitored and controlled.

The proposed rule was finally submitted to the membership for its approval on January 21, 1977 in Notice to Members 77–3. Comments were not solicited in connection with this submission. Several changes were made in the proposed rule from previous submissions. The limiting of issuer-related sections to the context of self-underwritten offerings indicated in the previous paragraph had not previously been submitted to the membership but was consistent with the suggested amendments resulting from SEC Release 34–10260. In addition, the definitions of affiliate and sponsor were altered to conform to the new focus of the issuer-related provisions. The new operational definition "direct participation program" was also considered to be more appropriate to the intent of the proposed rule and was substituted for the definition "tax sheltered program."

The Association is currently soliciting comments from members on substantive regulations ("Appendix F") it may adopt pursuant to subsection (b) of the proposed rule. Appendix F will be filed with the Securities and Exchange Commission as a proposed rule change.

BURDEN ON COMPETITION

It is the position of the National Association of Securities Dealers, Inc. that the proposed rule imposes no burden of competition that is not necessary and in furtherance of the purposes of the Securities Exchange Act of 1934, as amended.

On or before August 25, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All

submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 15, 1977.

[FR Doc.77-20996 Filed 7-20-77;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 13, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Chicago Bridge & Iron Co., common stock—$5 par value, File No. 7-4964.

Upon receipt of a request, on or before July 29, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-20993 Filed 7-20-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting; Amended Place of Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 110(a), that the National Market Advisory Board will conduct open meetings on August 15 and 16, 1977, at the offices of First National City Bank, New York, N.Y.

A notice of the August meeting was published in the FEDERAL REGISTER on July 1, 1977, announcing the place of meeting as 500 North Capitol Street, Washington, D.C.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-20992 Filed 7-20-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 13, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Storage Technology Corp., common stock—$0.10 par value, File No. 7-4963.

Upon receipt of a request, on or before July 29, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-20994 Filed 7-20-77;8:45 am]

[Release No. 9850; 812-4094]

THE VANGUARD GROUP, INC., ET AL.

Filing of Application

JULY 15, 1977.

Notice is hereby given that Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Wellesley Income Fund Inc., W. L. Morgan Growth Fund, Inc., Exeter Fund, Inc., Gemini Fund, Inc., Westminster Bond Fund, Inc., Trustees' Equity Fund Inc., Explorer Fund Inc., Whitehall Money Market Trust, Qualified Dividend Portfolio, Inc., Qualified Dividend Portfolio II, Inc., and First Index Investment Trust (collectively, "Vanguard Funds"), diversified management investment companies registered under the Investment Company Act of 1940 ("Act") and The Vanguard Group, Inc. ("Vanguard"), a corporation which performs management and administrative functions for the Vanguard Funds (collectively, "Applicants") have filed an application on February 24, 1977, and amendments thereto on May 9, May 11, June 6, 1977, July 5, 1977, and July 12, 1977, for orders of the Commission, pursuant to Rule 17d-1 under the Act, permitting Applicants to effect certain proposed transactions; pursuant to section 17(b) of the Act, exempting certain proposed transactions from the provisions of section 17(a); and pursuant to section 6(c) of the Act, exempting Applicants to the extent noted below, from the provisions of sections 2(a)(19), 2(a)(35), and 22(c) and Rules 2a-4 and 22c-1 thereunder. All interested persons are refered to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Except for Whitehall and First Index, which are business trusts organized under the common law of Pennsylvania, each Vanguard Fund is incorporated under the laws of the State of Maryland. Except for Exeter and Gemini, all of the Vanguard Funds continuously offer and redeem their shares (referred to as the "Continuously Offered Funds"). Exeter continually redeems its shares, although its shares are not currently offered to the public except to those existing shareholders who elect to receive dividend income or capital gains distributions in additional shares rather than in cash. Gemini is a closed-end investment company. On December 31, 1976, the Vanguard Funds had net assets of approximately $2.05 billion.

On May 1, 1975, the existing Vanguard Funds, which until that time were traditional, externally managed investment companies, "internalized" their corporate management and administrative functions through Vanguard, a service company wholly and jointly owned by the Vanguard Funds. After issuance of a Commission order (Investment Company Act Release No. 8676, February 18, 1975) permitting such internalization, shareholders of the then existing Vanguard Funds approved the Funds Service Agreement ("Agreement") pursuant to the tems of which that internalization was accomplished. Wellington Management Company ("Wellington") continued to serve as the investment adviser and principal underwriter to the Vanguard Funds under a renegotiated advisory and distribution contract containing significantly reduced fee schedules. The then existing Vanguard Funds represented that the internalized structure was in the best interest of the Vanguard Funds principally because it established a structure for the complex which enhanced the independence of the funds from any person providing serv-

ices, and it produced demonstrable savings in operating costs for the funds.

Subsequently, one of the original Vanguard Funds was liquidated and four new investment companies became parties to the Agreement. Three of the new investment companies, Whitehall, QDP, and QDP II, were organized by Wellington, which bore their organizational expenses and serves as their adviser. The fourth company, First Index, has no investment advisor. First Index completed an underwritten public offering in August 1976, realizing approximately $11,300,000. Its initial organization and offering expenses, which were approximately $79,000, have been borne by First Index and they are being amortized over five years. By adding First Index to the Agreement, Applicants state that the expenses of the other Vanguard Funds have been reduced by approximately $30,000 per year through the allocation of essentially fixed costs over a now larger asset base.

Under the internalized structure, the Vanguard Funds have their own executive officers, staff, and employees who, in turn, have no affiliations with any external investment adviser to or distributor for the Vanguard Funds. With minor exceptions, ten of the twelve directors of the Vanguard Funds are neither interested persons of the Vanguard Funds nor of Wellington; one director is an affiliated person or interested person of Wellington; and one is president of Vanguard and of each of the Funds. The Board of directors of Vanguard is composed of the ten independent directors of the Funds and the person who is president of Vanguard and of each of the Funds. Through Vanguard, the Vanguard Funds obtain the following principal services on an at cost basis: (1) executive staff; (2) accounting and financial; (3) legal and regulatory; (4) shareholder reporting; (5) transfer agency (since June 1976); (6) monitoring and control of custodian relationships; and (7) review of advisory, distribution, and other services externally provided to the Vanguard Funds.

Each Vanguard Fund bears specified expenses (such as legal, auditing, custodian, and directors' fees) directly related to and identifiable with its continued corporate existence and operations. In addition, each Vanguard Fund bears its portion of the actual costs of operation of Vanguard. These costs are allocated among each of the Vanguard Funds using various methods agreed upon by the funds. Voting and liquidation rights in Vanguard held by the Vanguard Funds as well as the amounts which each fund has contributed to the capital of Vanguard are adjusted periodically on the basis of the relative net assets of the Vanguard Funds in order to retain proportional ownership. Applicants represent that as a result of these arrangements the Vanguard Funds and their shareholders have recognized actual annual savings, compared with the arrangements in existence prior to internalization of management and administrative functions, of more than $1 million.

The nine Vanguard Funds which had charged a sales load state that Wellington, as their principal underwriter, has retained a portion of the sales commission paid by purchasers of such Funds. Applicants estimate that from 1971 to 1976 the total sales charges paid by investors in those nine Vanguard Funds amount to approximately $38 million. Applicants also state that in 1976 approximately 50 percent of the shares sold by the Vanguard Funds (excluding shares acquired through dividend reinvestments at net asset value) were purchased by existing shareholders; and that even with a significant increase in sales to new investors, sales to existing shareholders would continue to represent approximately 20–25 percent of the annual sales of the Vanguard Funds.

Applicants state that on February 8, 1977, after several studies were conducted, the boards of directors of nine Vanguard Funds which charged a sales load determined that those funds should become no-load funds immediately. Applicants represent that this decision was made in conjunction with the determination by the boards of the Continuously Offered Funds that it would be in the best interests of those funds to "internalize" their distribution function. To effect this internalization, Applicants propose: (1) to amend the Agreement to provide for joint sharing of distribution expenses by allocating those expenses, with certain exceptions, among the Continuously Offered Funds on a no-load their relative net assets; (2) to direct Vanguard to utilize Vanguard Marketing Corporation ("Marketing"), which was organized as a subsidiary by Vanguard and is in the process of registering with the Commission as a broker-dealer, as the principal underwriter for the Continuously Offered Funds on a no-load basis; and (3) to enter into new investment advistory agreements, already negotiated, with Wellington providing for a reduction in the aggregate investment advisory fee paid by the Funds of approximately $2,131,000. Applicants represent that based upon Marketing's initial proposed annual distribution budget of $1,300,000, the aggregate net savings to the Vanguard Funds are expected to be approximately $831,000 in the first year of internalized distribution. Applicants state that the initial marketing and promotional expenditures approved by the board's represent approximately 0.05 percent of the current net assets of the Vanguard Funds, and that Applicants do not presently anticipate such annual expenditures to exceed 0.10 percent of the aggregate net assets of the Vanguard Funds.

The Agreement, as amended, will provide expressly that distribution expenses may include the expenses incurred from time to time in forming one or more new investment companies which are to become members of the Vanguard Group, as well as the expenses of offering shares of those companies to the public. No such new fund will be organized without the approval of two-thirds of the independent directors of Vanguard, and not more than $50,000 will be spent on the organization of any single new fund.

With respect to First Index, Applicants represent that they have determined that until First Index has fully amortized its initial organization and offering expenses, it will not bear any expenses related to the distribution of shares of the Vanguard Funds. First Index, however, will bear such distribution expenses at the earlier of the conclusion of a five year amortization period or the date upon which its organization and offering expenses have been fully amortized. In any event, First Index will bear distribution expenses to the extent the expenses it amortizes are proportionately less than the amounts which other Vanguard Funds are bearing for distribution expenditures.

With respect to Exeter and Gemini, which do not continuously offer their shares to the public, Applicants represent that those funds will bear a full share, in proportion to their relative net assets of certain administrative expenses related to distribution, which were previously borne by Wellington as principal underwriter and investment adviser. Those expenses are represented to be necessary to the functioning of all the Funds, regardless of whether there is any marketing activity. However, Exeter and Gemini will bear no portion of the marketing and promotional expenses related to the distribution of shares of the Continuously Offered Funds.

Section 17(d) of the Act and Rule 17d–1 thereunder provide that it shall be unlawful for an affiliated person, or an affiliated person of an affiliated person, of a registered investment company, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company, or company controlled by such registered investment company, is a participant, unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission will consider whether the participation of such registered investment company is on a basis different from, or less advantageous than, that of the other participants. Applicants state that each of the Vanguard Funds may be deemed to be affiliated persons of each and all of the other Vanguard Funds, and that Vanguard and Marketing may be deemed to be affiliated persons of each of the Funds. Applicants further state that the arrangements described above may be deemed a joint enterprise or arrangement. Accordingly, Applicants request that the Commission issue an order pursuant to Rule 17d–1 permitting the amendment of the Funds Service Agreement to authorize the proposed actions and distribution arrangements.

In support of this request, Applicants state that the proposed actions and distribution arrangements are consistent

with the provisions, policies, and purposes of the Act because they will advance the interests of the shareholders of the Vanguard Funds, rather than the interests of others, in the operation and administration of those Funds by providing management of each Fund with increased independence from external entities. Applicants represent that the internalization will provide the Vanguard Funds with the best available management, advisory, and distribution services at the lowest reasonable costs. These goals, Applicants assert, are consistent with the policies and objectives of the Act. Applicants also argue that benefits from the proposed transactions will flow to each Fund and its shareholders. For example, Applicants state that by assuming responsibility for distribution of their own shares, the Funds were able to negotiate advisory services from Wellington at a substantially reduced cost. In addition, Applicants assert that capital contributed to organize new funds benefits the existing Funds and their shareholders by making a broader range of investment products available to Fund shareholders and by increasing the asset base of the complex over which the fixed costs of Vanguard are borne. Applicants cite their experience with First Index whereby $30,000 in annual operating costs for Vanguard are now borne by First Index.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell any security or other property to such registered company, or knowingly to purchase from such registered investment company any security. Section 17(b) of the Act provides, however, that the Commission upon application may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that because the Funds may be deemed to be affiliated persons of each other and because Vanguard may be deemed to be an affiliated person of the Funds, they request an order, pursuant to section 17(b) of the Act, exempting from section 17(a) the issuance by Vanguard, and the purchase by the Funds of, securities of Vanguard and periodic purchase and sale of Vanguard securities among the Funds in order to maintain ownership of Vanguard proportional to their assets.

In support of this request, Applicants state that under the proposed arrangements each Fund contributes to the capital of Vanguard in proportion to its then current net assets and that contributions are adjusted from time to time so that no Fund has a disproportionate amount invested in the capital of Vanguard. Applicants assert that the proposed transaction is fair and reasonable, and in light of the working capital needs of Vanguard does not involve overreaching on the part of any person concerned.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any affiliated person of such company, any affiliated person of a registered broker or dealer, and any "interested person" of such company's principal underwriter. Section 2(a)(19) of the Act further defines an "interested person" of a principal underwriter for an investment company to include any affiliated person of such principal underwriter. Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person of another person to include any officer or director of such other person.

Section 6(c) of the Act provides, in pertinent part, that the Commission may upon application conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Vanguard Funds request an order, pursuant to section 6(c) of the Act, exempting their "independent" directors from the definition in section 2(a)(19) of the Act to the extent that such directors would be deemed to be interested persons of any of the Vanguard Funds or of Marketing solely by reason of the implementation of the proposed distribution arrangements.

Applicants represent that, except for their interests as directors, the independent directors have no significant economic or other interest in Marketing which is merely a vehicle the Vanguard Funds will use to distribute their shares on an internalized, no-load, at-cost basis. Accordingly, Applicants assert that the exemption is necessary in the public interest and consistent with the protection of investors and with the purposes of the Act.

Applicants also state that it has been asserted from time to time that sections 2(a)(35) and 22(c) of the Act, and Rules 2a–4 and 22c–1 thereunder, alone or in combination might be interpreted to prohibit the proposed distribution arrangements. These provisions deal generally with the price at which shares of the Continuously Offered Funds and of Exeter may be sold to or redeemed from investors. Although Applicants assert that they do not believe these provisions preclude the proposed distribution arrangements, they request an exemption pursuant to section 6(c) from any or all of these provisions to the extent deemed necessary by the Commission.

Applicants state that the proposed distribution arrangements should be exempted, to the extent necessary, from sections 2(a)(35) and 22(c) of the Act, and Rules 2a–4 and 22c–1 thereunder because the expenditures which may be deemed to constitute a "sales charge" are reasonable in relation to the other benefits being received by the Vanguard Funds; such "sales charge" would not be "hidden" since the arrangement and its financial impact will be disclosed to investors; and the differing "charges" which shareholders would pay are reasonable and fair in light of the benefits to be obtained and do not discriminate improperly among shareholders.

Applicants consent to the following conditions with respect to any order issued in this matter:

(1) That the Vanguard Funds' annual marketing and promotional expenses will not exceed 0.20 percent of their average month-end net assets over a calendar year; provided that if the Commission adopts a rule which would permit greater expenditures, the Vanguard Funds may conform their expenditures to the provisions of such rule;

(2) that Vanguard and/or Marketing shall file annual reports, within 30 days after the close of each year, to the Commission commencing 12 months after the date the proposed distribution arrangements become effective. Such reports shall contain financial information setting forth the distribution expenses of a marketing and promotional nature incurred by the Vanguard Funds and Marketing during the year and the projected expenditures as a percentage of the average month-end net assets of the Continuously Offered Funds over the past year and the estimated net assets of the Continuously Offered Funds for the following year. With respect to annual reports to be filed after the report covering the first 12 months of actual operations, Vanguard may, with the written consent of the Director of the Division of Investment Management, file such reports on a calendar year basis. Vanguard's obligation to file reports pursuant to this condition shall terminate if and to the extent the Commission adopts a rule (or rules) or an interpretive release of general applicability to registered investment companies which by its terms would permit the Vanguard Funds to engage in the financing of the distribution activities without a requirement for periodic reporting to the Commission; and

(3) That, with regard to exemptive orders from section 17(d) and Rule 17d–1 and from sections 2(a)(35) and 22(c) and Rules 2a–4 and 22c–1, such orders will be subpect to and preempted prospectively by any Commission decision on the general subject of mutual fund distribution in the form of a rule, interpretive release, announcement or similar action of general applicability to registered investment companies which by its terms would preclude the operation of any or all aspects of this proposal. Notwithstanding any such order granted in this matter, Applicants agree to conform their distribution operations to the limitations contained in any such Commission decision: *Provided, however,* That is such Commission decision is other than by means of a rule, and there has

been no opportunity for public comment prior to such Commission decision. Applicant shall have 90 days to conform their distribution operations.

Notice is further given that any interested person may, not later than August 9, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–20995 Filed 7–20–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05–5121]

SAGERA VENTURE CORP., INC.

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*) has been filed by Sagera Venture Corporation, Inc. (Applicant) with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1977).

The officers and directors are as follows:

Gerald A. Stone, President, General Manager, Director and Sole Stockholder, 9707 Mill Creek Drive, Eden Prairie, Minnesota 55343.

Thomas P. Gray, Vice President, Director, 5 Manitoba Road, Hopkins, Minnesota 55343.

Stephanie Stone, Secretary/Treasurer, Director, 9707 Mill Creek Drive, Eden Prairie, Minnesota 55343.

Richard B. Heist, Director, 5610 Cambridge Street, St. Louise Park, Minnesota 55432.

Richard L. Peterson, Director, 717 Robinwood Lane, Hopkins, Minnesota 55343.

The applicant will maintain an office at 7710 Computer Avenue, Edina, Minnesota 55435, and will begin operations with paid-in capital and paid-in surplus of $500,000, derived from the sale of 1,000 shares of common stock at $500 per share to Gerald A. Stone. Mr. Stone is President and sole owner of The Woodhill Corporation which is engaged in the development of Sale/Lease back properties all over the United States.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations.

Any person may, not later than August 5, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Edina, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: July, 13, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–20903 Filed 7–20–77;8:45 am]

DEPARTMENT OF STATE

[CM–7/93]

U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that the U.S. National Committee for the International Radio Consulative Committee (CCIR) will meet on August 17, 1977, at 9:30 a.m., in Room 1105, Department of State, 22nd and C Streets NW., Washington, D.C.

The U.S. National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCIR activities; provides advice on matters of policy and positions in preparation for CCIR Plenary Assemblies and meetings of the international Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCIR which are submitted to the Committee for consideration.

The main purposes of the meeting will be:

(a) Review of preparations for the international meetings of Study Groups, September–October 1977 and January–February 1978, and consideration of position papers;

(b) Review of preparations for the 1979 World Administrative Radio Conference;

(c) Any other business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to August 17, members of the general public who plan to attend the meeting inform their name and address to Mr. Gordon L. Huffcutt, Office of International Communications Policy, Department of State; the telephone number is Area Code 202–632–2592. All non-Government attendees must use the C Street entrance to the building.

Dated: July 15, 1977.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

[FR Doc.77–20911 Filed 7–20–77;8:45 am]

[CM–7/92]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee of the International Radio Consultative Committee (CCIR) will meet on August 18, 1977 from 9:30 a.m. to 1 p.m., in the Aspen Room, Office of Telecommunications, Department of Commerce, 1325 G Street NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the nonionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a final review of U.S. preparations for the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: July 15, 1977.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc.77–20912 Filed 7–20–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. IP77-9; Notice 1]

VESPA OF AMERICA CORP.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Vespa of America Corp. of San Francisco, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.123 Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Petitioner is an importer of motor scooters which are defined as "motorcycles under the Federal motor vehicle safety standards. Pursuant to Table 3 of Standard No. 123 a motorcycle speedometer is required to be identified as follows: "Major graduations and numerals appears at 10 m.p.h. intervals. Minor graduations at the 5 m.p.h. intervals." Vespa has imported approximately 2,800 vehicles between April 1975 and May 1977 with speedometer face calibrations beginning at 10 m.p.h. instead of zero, and which omit minor graduations at the 5 m.p.h. increments. Petitioner argues that the nonconformance is inconsequential because "as the products involved are intended for street and highway use at speeds up to legal limits, the probability that vehicles will be operated in situations requiring speed less than 10 MPH is remote."

This notice of receipt of a petition for a temporary exemption is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for inconsequentiality by Vespa of America Corp. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: September 6, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on: July 15, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-21007 Filed 7-20-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF PURSUANT TO SECTION 925(c), TITLE 18, UNITED STATES CODE

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adan, Richard R., 3924 West Sherman, Phoenix, Arizona, convicted on February 5, 1973, in the United States District Court for the District of Arizona.

Barriere, Robert L., 4840 New Jersey Avenue North, Crystal, Minnesota, convicted on November 8, 1973, in the District Court, Fourth Judicial District, Minnesota.

Benight, William Danford, 2320 Williamsburg Drive, Cincinnati, Ohio, convicted on March 13, 1945, in the United States District Court, Southern District of Ohio.

Bennett, Barbara, 306 Royal Springs, Georgetown, Kentucky, convicted on October 26, 1970, in the United States District Court, Eastern District, Lexington, Kentucky.

Bennett, Carl E., 306 Royal Springs, Georgetown, Kentucky, convicted on October 26, 1970, in the United States District Court, Lexington, Kentucky.

Bester, George, Jr., 1821 18th Street, Ensley, Birmingham, Alabama, convicted on July 13, 1961, in the Jefferson County Circuit Court, Tenth Judicial District, Alabama.

Birdwell, John D., Jr., 1551 Reckinger Road, Aurora, Illinois, convicted on December 10, 1948, in the United States District Court, Northern District of Alabama, Southern Division, Birmingham, Alabama.

Carnes, Robert L., Rainey Road, Temple, Georgia, convicted on November 14, 1973, in the United States District Court, Northern District of Georgia, Newnan Division.

Carpenter, Kenneth R., 1115 North Road Street, Elizabeth City, North Carolina, convicted on November 17, 1971, in the Chesapeake Circuit Court, Chesapeake, Virginia; and on July 10, 1972, in the Nansemond County Circuit Court, Virginia.

Caves, Junior, R.R. #3, Salem, Indiana, convicted on March 9, 1953, in the Washington Circuit Court, Indiana.

Cline, Stephen M., Lot No. 34, Gypsy Lane Estates, Bowling Green, Ohio, convicted on August 25, 1970, in the Wood County Common Please Court, Bowling Green, Ohio.

Cox, Delmas B., Route 4, Box 307, London, Kentucky, convicted on November 10, 1964, in the United States District Court, Eastern Judicial District, London, Kentucky.

Croddy, Ralph W., Jr., P.O. Box 24, Hartsville, Indiana, convicted on March 20, 1970, and on March 26, 1956, in the Bartholomew County Superior Court, Indiana.

Cunningham, Herman, L., 24 Jefferson, Elgin, Illinois, convicted on February 23, 1951, and on September 10, 1951, in the United States District Court, Eastern District of Missouri, Eastern Division, St. Louis, Missouri.

Deverell, Robert William, Jr., 1045 "N" Street, Springfield, Oregon, convicted on March 18, 1966, in the United States District Court, Central District, Oregon; and on September 12, 1966, in the Circuit Court of Josephine County, Oregon.

Douglas, Larry P., Route 2, Adrian, Georgia, convicted on April 29, 1969, in the Superior Court of Emanuel County, Swainsboro, Georgia.

Gerrish, Thomas L., 12 Northwood Drive, Lebanon, Ohio, convicted on June 24, 1966, in the Court of Common Pleas, Franklin County, Ohio.

Gordon, Alden F., Route 7, Box 585, Yakima, Washington, convicted on May 19, 1949, in Superior Court of Washington in and for Yakima County.

Hale, Harry R., Jr., 242 Darwin Place, Colorado Springs, Colorado, convicted on April 26, 1974, in the United States District Court, Judicial District of Colorado.

Hamilton, John M., 736 Clancy NE., Grand Rapids, Michigan, convicted on April 24, 1959, in the Circuit Court for the County of Oceana, Michigan.

Hickerson, Larry W., 5022 Regent Drive, Nashville, Tennessee, convicted on January 29, 1964, in the Davidson County Court, Tennessee.

Higgins, Jimmy D., 1303 Mormac Road, Richmond, Virginia, convicted on May 31, 1973, in the Circuit Court of the County of Chesterfield, Virginia.

Hileman, Randall L., 423 Nebraska, Brewster, Kansas, convicted on May 21, 1973, in the District Court, Rawlings County, Atwood, Kansas.

Hyland, David R., 1960 E. Ocean View Avenue, Norfolk, Virginia, convicted on January 10, 1974, in the United States District Court for the District of Arizona.

Johnson, Richard H., 120 South Wisconsin, Salina, Kansas, convicted on August 2, 1971, in the District Court, Lincoln County, Kansas.

Lake, William, J., Jr., 1012 Kelsey, Lansing, Michigan, convicted on December 13, 1957, and on November 4, 1965, in the Recorder's Court, Detroit, Michigan; on or about April 16, 1962, in the Pomona County Court, Los Angeles, California; and on or about February 15, 1963, in the Superior Court, Yavatui County, Arizona.

Lesky, John Urban, 24252 Shakespear, East Detroit, Michigan, convicted on March 13, 1975, in the United States District Court, Eastern District, Michigan.

Lippert, Ronald C., 2071 Reservoir Drive, Carlisle, Pennsylvania, convicted on April 23, 1968, in the Court of Oyer and Terminer, Cumberland County, Pennsylvania.

McLamb, Carlyle, 205 Eleanor Street, Dunn, North Carolina, convicted on April 6, 1959, in the United States District Court for the Eastern District of North Carolina.

Mahon, Eugene Francis, 7566-1 Plantation Road, Charleston Heights, South Carolina, convicted on May 17, 1971, in the United States District Court, Southern District, Georgia.

Manuel, Ira T., 5660 South Pawnee Road, Virginia Beach, Virginia, convicted on October 22, 1958, in the United States District Court, District of Connecticut, New Haven, Connecticut.

Markowski, Eugene Michael, 349 North Sixth Street, Reading, Pennsylvania, convicted on September 25, 1963, and on December 14, 1964, in the Court of Oyer and Terminer, Pennsylvania.

Medina, Steven L., 525 Walnut, Emmett, Idaho, convicted on June 4, 1962, in the Circuit Court of the State of Oregon, County of Malheur.

Merica, Richard L., Route 1, Box 334–A, Shenandoah, Virginia, convicted on February 20, 1973, in the United States District Court, Western District, Virginia.

Montagna, Kenneth A., 120 E. Hampton, Marquette, Michigan, convicted on January 6, 1956, in the Marquette County Circuit Court, Marquette, Michigan.

Morris, James M., Route 1, Box 145, Greenville, North Carolina, convicted on September 11, 1974, in the Edgecombe County Superior Court, Tarboro, North Carolina.

Niswander, William E., 339 Ridge Avenue, Hagerstown, Maryland, convicted on March 23, 1965, in the Washington County Circuit Court, Hagerstown, Maryland.

O'Connell, James J., 960 Holly Hock, New Braunfels, Texas, convicted on September 23, 1957, in the Criminal Court of Cook County, Illinois.

O'Connor, Robert Patrick, 5644 Gateshead, Detroit, Michigan, convicted on April 20, 1956, in the Circuit Court for Wayne County, Michigan.

Pacilla, Louis J., 26 Carlo Drive, Washington, Pennsylvania, convicted on November 3, 1966, in the United States District Court, Western District, Pittsburgh, Pennsylvania.

Pence, Ronald L., Rt. 1, Box 157K, Broadway, Virginia, convicted on April 13, 1970, in the Circuit Court of Rockingham County, Virginia.

Pipitone, Frank M., 2454 Belle Street, San Bernardino, California, convicted on December 11, 1974, in the San Bernardino Superior Court, California.

Pojeky, David Joseph, 9223 Green Road, Goodells, Michigan, convicted on September 21, 1955, in the Circuit Court for Macomb County, Michigan.

Pyle, Albert E., 295 South Marshall Road, Beulah, Michigan, convicted on June 17, 1949, in the Grand Traverse County, Circuit Court, Michigan.

Quinones, Roberto M., 275 John Knox Road, Tallahassee, Florida, convicted on January 6, 1972, in the United States District Court for the Southern District of Florida.

Reid, James C., III, 17821 Buehler Road, Olney, Maryland, convicted on December 7, 1962, and on June 19, 1963, in the United States District Court for the District of Columbia; and on January 25, 1963, in the Montgomery County People's Court, Rockville, Maryland.

Rizzatti, Russell Victor, 88–73 193 Street, Hollis, New York, convicted on February 15, 1973, in the Supreme Court of Queens County, New York.

Salyer, Thomas W., 7726 Sipes Lane, Annandale, Virginia, convicted on March 29, 1972, in the Circuit Court for Dickenson County, Virginia.

Sanders, Paul Haddon, Jr., 740 Someret Court, Marietta, Georgia, convicted on August 29, 1974, in the United States District Court, Southern District of Mississippi.

Smith, Lacy, 4702 Sherwood Avenue, Columbus, Georgia, convicted on April 8, 1974, Muscogee County Superior Court, Columbus, Georgia.

Smith, Samuel E., Jr., 3620 Toledano Street, New Orleans, Louisiana, convicted on May 29, 1974, in the United States District Court, Eastern Judicial District of Louisiana.

Snider, Michael R., P.O. Box 70, East Berlin, Pennsylvania, convicted on August 23, 1968, in the District Court, Comanche County, Oklahoma.

Sprague, Lester G., 160 West Larch Road, Harrison, Michigan, convicted on February 17, 1958, in the Circuit Court, Clare County, Michigan.

Staubs, William E., 756 221st Street, Pasadena, Maryland, convicted on December 21, 1953, in the Criminal Court of Baltimore, Baltimore, Maryland.

Stevenson, Bobby R., 5326 Pueblo Street, Abilene, Texas, convicted on November 6, 1972, in the District Court of Taylor County, 104th Judicial District, Texas.

Stodolak, Raymond L., 938 Marie Avenue, New Castle, Pennsylvania, convicted on March 3, 1967, in the Court of Quarter Sessions of Lawrence County, New Castle, Pennsylvania.

Stoudt, Robert H., Jr., R.D. # 2, Box 45EE, Dushore, Pennsylvania, convicted on September 7, 1971, and on December 15, 1971, in the Court of Common Pleas of the County of Bradford, Pennsylvania.

Towne, Edward S., 1937 10th Avenue, Sacramento, California, convicted on December 23, 1968, in the Superior Court of the State of California in and for the County of Solano.

Townley, Clarence G., Route 4, Box 42–B, Cantonment, Florida, convicted on March 22, 1963, in the Escambia County Court, Pensacola, Florida; and on December 13, 1972, in the United States District Court, Southern District of Alabama.

Turner, Arthur B., 9213 Lansbrook Lane, Oklahoma City, Oklahoma, convicted on February 26, 1970, in the United States District Court, Houston, Texas.

Walrond, John D., 5708 Peters Creek Road, NW., Roanoke, Virginia, convicted on November 14, 1966, in the United States District Court for the Western District of Virginia.

Wilkerson, Elisha, Jr., Rt. 1, Box 166, Macclenny, Florida, convicted on September 23, 1957, in the United States District Court, Southern District of Georgia; and on July 8, 1968, in the Circuit Court, Baker County, Florida.

Willingham, Billy Ray, 625 Ross Street, Abilene, Texas, convicted on November 24, 1975, in the 104th Judicial District Court of Taylor County, Texas.

Signed at Washington, D.C., this 11th day of July 1977.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco, and Firearms.

[FR Doc. 77-20916 Filed 7-20-77;8:45 am]

Office of the Secretary

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Name Change and Solicitation of Nominations for Membership

The Department of the Treasury's Small Business Advisory Committee on Economic Policy has been renamed the "Treasury Small Business Advisory Committee."

The objective of the Committee is to provide information and advice to the Secretary through an effective and representative membership on the broad range of economic and administrative issues which from time to time affect the small business community.

The Secretary is selecting a new membership for the renamed Committee. This notice is to inform the public that nominations for membership on the Treasury Small Business Advisory Committee are now being accepted. Committee members will be selected to achieve a geographically, socially and professionally diverse membership. An effort will be made to involve operators and owners of small businesses as well as lawyers, accountants, academicians, and public interest groups. The membership will be rotated periodically to ensure that differing points of views on current issues and concerns are presented.

Because of the Secretary's desire to establish the Committee as soon as possible, nominations must be submitted in writing to:

The Deputy Secretary, Attention: Committee Manager, Treasury Small Business Advisory Committee, Department of the Treasury, Washington, D.C. 20220

on or before August 5, 1977.

Dated: July 11, 1977.

ROBERT CARSWELL,
Deputy Secretary.

[FR Doc.77-20982 Filed 7-20-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Volume No. 26]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JULY 15, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before August 22, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include 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.

No. MC 200 (Sub-No. 272) M1 (Notice of filing of petition to broaden commodity description), filed June 8, 1977. Petitioner: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Missouri 64142. Petitioner's representative: Ivan E. Moody, 903 Grand Avenue, Kansas City, Missouri 64106.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Petitioner holds a common carrier certificate in MC–200 (Sub-No. 272) issued November 4, 1975 authorizing transportation over irregular routes of: *"Chemicals, in containers,* From the facilities of the Bacroft Company, at Seaford and Lewes, Del., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, Wisconsin and Wyoming. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named facilities and destined to the named destination states. By the instant petition, petitioner seeks to add "drugs, medicines, and toilet preparations" as additional commodities in addition to chemicals in containers.

No. MC 133119 (Sub-No. 20) M1 (Notice of filing of petition to delete Restriction), filed June 3, 1977. Petitioner: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, Iowa 51001. Petitioner's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *common carrier* Certificate in No. MC 133119 (Sub-No. 20), issued May 27, 1976, authorizing the transportation in foreign commerce of *meats, meat products, and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), over irregular routes, from Sioux City, Iowa, to ports of entry on the United States-Canada Boundary line located in Washington, Idaho, and New York, and *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 *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Iowa, Minnesota, Illinois, Indiana, South Dakota, and Nebraska, to ports of entry on the United States-Canada Boundary line, located in Montana, North Dakota, Minnesota, and Michigan; from points in Iowa, Minnesota (except Austin), Illinois (except Joslin), Indiana, South Dakota, and Nebraska, to ports of entry on the United States-Canada Boundary line, located in New York; and from ports of entry on the United States-Canada Boundary line located in Montana, North Dakota, Minnesota, Michigan, and New York, to points in Ohio, Nebraska, Minnesota, Wisconsin, Iowa, Kansas, Missouri, Illinois, Indiana, Kentucky, Pennsylvania, New York, New Jersey, North Carolina, South Carolina, Georgia, Florida, Tennessee, Virginia, Massachusetts, and Connecticut; the authority above is restricted against the interchange and interline of shipments at the United States-Canada Boundary line. By the instant petition, petitioner seeks to delete the restriction in the authority above.

MC No. 140596, M1, filed June 3, 1977, (Notice of filing of petition to delete restriction). Petitioner: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, Vermont 05855. Petitioner's representative: S. Arnold Smith, Craftsbury, Vermont 05826. Authority sought to modify Petitioner's authority under MC 140596 to operate as a *contract carrier* by motor vehicle over irregular routes, as pertinent, between Newport, Vermont, on the one hand, and, on the other, Logan International Airport at or near East Boston, Massachusetts, transporting *snowmobile parts* for Bombardier Ltee/Ltd without being restricted, as now, to the transportation of its traffic that has a prior or subsequent movement by air. Petitioner's authority in the Permit above was issued September 11, 1975.

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. Such pleading shall comply with Special Rule 247(d) 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.

No. MC 113678 (Sub-No. 600) (Republicaton), filed November 7, 1975, published in the Federal Register issue of December 4, 1975, republished in the Federal Register issue of June 3, 1976 with the MC number omitted, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 3, dated May 5, 1976, and served May 20, 1976, 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 *frozen and refrierated sandwiches and food products* from Phoenix, Ariz., to points in Colorado and New Mexico. The purpose of this republication is to indicate the correct docket number assigned to this proceeding, and to indicate the addition of points in New Mexico as additional destination points in applicant's grant of authority.

No. MC 134922 (Sub-No. 176) (Republication), filed June 14, 1976, published in the Federal Register issue of July 15, 1976, and republished this issue. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). An order of the Commission, Review Board Number 3, dated May 20, 1977, and served June 1, 1977, 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 chemicals, plastics and plastic products, cleaning compounds, and animal feed supplements (except in bulk) in vehicles equipped with mechanical refrigeration, (1) from points in Brazoria County, Tex., (except from the facilities of Amoco Chemical Corp., and the Monsanto Chemical Corp., at or near Chocolate Bayou (Alvin), Tex.), to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and to points in Iowa on and west of U.S. Highway 169 (except Council Bluffs, Iowa, and points in its commercial zone), in Minnesota (except Minneapolis and St. Paul, Minn., and points in their commercial zones), and in Nebraska (except Lincoln and Omaha, Nebr., and points in their commercial zones), and (2) from Lima, Ohio, to points in Arizona, Colorado, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted in (1) and (2) above to the transportation of shipments originating at the named origins and destined to the named destination points; 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 thereunder. The purpose of this republication is to indicate (a) the grant of plastic products in applicant's commodity description; and (b) to indicate the grant of Wyoming as a destination state in part (1) of applicant's territorial description.

No. MC 136640 (Sub-No. 11) republication), filed April 8, 1976, published in the Federal Register issue of May 13, 1976, and republished this issue. Applicant: Robert L. Allen, doing business as ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. A Decision and Order of the Commission, Review Board Number 3, dated May 12, 1977, and served May 27, 1977 authorizes service, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of (1)(a) *frozen bakery products* when moving in mixed loads with commodities named in (b), and (b) *commodities* otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with frozen bakery products, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia,

Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and (2) *cartons and boxes* from Chambersburg, Pa., to Boston, Mass., under a continuing contract or contracts with Boston Bonnie, Inc., of Boston, Mass. The purpose of this republication is to indicate the authority to transport "commodities otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act".

No. FF-490 (Republication), filed November 11, 1976, published in the FEDERAL REGISTER issue of December 9, 1976, and republished this issue. Applicant: 44 AIR EXPRESS SYSTEMS, INC., 20 Henry Street, Teterboro, N.J. 07608. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. An Order of the Commission, Review Board Number 3, dated June 10, 1977, and served June 29, 1977, finds that service by applicant as a *freight forwarder*, in interstate commerce, through use of the facilities of common carriers by rail, motor, and water, in the transportation of *general commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities which because of size or weight require the use of special equipment, motor vehicles, and unaccompanied baggage), between points in the United States (including Alaska and Hawaii), restricted to the transportation of shipments having an immediately prior or subsequent movement by air in the air freight forwarder service by 44 Air Express Systems, Inc.; will be consistent with the public interest and the national transportation policy; that applicant is ready, 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 thereunder. The purpose of this republication is to indicate that the FEDERAL REGISTER publication of December 9, 1976 was incorrect in stating applicant seeks only to add Alaska and Hawaii to its present authority; applicant holds no authority from the Commission and seeks an initial permit.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a 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(d)(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 particularly 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. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(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 order 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.

No. MC 5888 (Sub-No. 41), filed June 6, 1977. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth Street, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (Same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands and glass fibre mats and matting between the warehouse and storage facilities of CertainTeed Corp., at or near New Haven, Ind., on the one hand, and on the other, points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 8973 (Sub-No. 45), filed May 31, 1977. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastic articles, materials, equipment and supplies used in the manufacture and sale of plastic articles (except liquid commodities in bulk in tank vehicles) (1) Between the facilities of Colorite/Gering Products, Division of Dart Industries at Ridgefield, N.J., on the one hand, and, on the other points in the States of North Dakota South Dakota, Nebraska, Kansas, Oklahoma, Texas, California, Arizona, New Mexico, Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, (2) Between the facilities of Colorite/Gering Products, Division of Dart Industries at Sparks, Nev., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 19157 (Sub-No. 41), filed May 31, 1977. Applicant: McCormack's Highway Transportation, Inc., R.D. 3, Box 4, Campbell Road, Schenectady, New York 12306. Applicant's representative: Paul Montarello (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Polyurethane, Polyurethane foam and compounds* (except in bulk) (1) Between Frazer and Conshohocken, Pennsylvania and Brooksville, Vermont (2) Between Knollwood and Dunbar, West Virginia and Burlington, Maine.

NOTE.—Common control may be involved. If a hearing is deemed nesessary, the Applicant requests it be held at Albany, New York or Washington, D.C.

No. MC 19227 (Sub-No. 227), filed March 22, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 N.W. 20th Street, Miami, Florida 33152. Applicant's representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin, and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania;

Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii.)

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 20992 (Sub No. 40), filed June 6, 1977. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wisconsin 54749. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast concrete products, castings, and accessories and parts thereof*, from Menomonie and Maiden Rock, Wisconsin, to points in the United States (except Alaska and Hawaii); and (2) *Equipment, materials, and supplies* used in the manufacture, production and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii) to Menomonie and Maiden Rock, Wisconsin. Restriction: Restricted to the transportation of traffic originating at or destined to Menomonie and Maiden Rock, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota. Common control may be involved.

No. MC 25798 (Sub-No. 295), filed June 6, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Macaroni, noodles, spaghetti, vermicelli and soybean products and dried soup mix*, from Minneapolis, Minn., to points in Florida, Georgia, North Carolina, South Carolina, California and Arizona.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Tampa, Fla.

No. MC 29910 (Sub-No. 176), filed May 27, 1977. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43–510 N. Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonelectric traffic control devices and related equipment and supplies; steel railing; abrasives, reflective liquids; and glass and plastic materials;* (except in bulk): From Jackson, Miss., to points in Arkansas, Oklahoma, Texas, Kansas, Missouri, Iowa, Wisconsin, Tennessee, Georgia, North Carolina, South Carolina, Kentucky, Illinois, Indiana, Ohio, Pennsylvania, New York, Rhode Island, Massachusetts, Connecticut, New Jersey and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss. or New Orleans, La.

No. MC 31389 (Sub-No. 228), Filed: May 31, 1977. Applicant: McLean Trucking Company, a Corporation, P.O. Box 213, Winston-Salem, North Carolina 27102. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, North Carolina 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value. Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): serving the plantsite and distribution facilities of Ditto of California, Inc., located at or near Colfax, La., as an off-route point in conjunction with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge Louisiana or Washington, D.C.

No. MC 32882 (Sub-No. 77), filed June 21, 1977, (Republished this issue to amend the commodity and territorial scope). Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia, P.O. Box 17039, Portland, Oregon 97217. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites and facilities of Alumax, Inc. and its subsidiary and affiliated companies located at or near Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado, Boise and Twin Falls, Idaho; Tulsa and Checotah, Oklahoma; Stayton and Umatilla, Oregon; Dennison and Mansfield, Texas; and Spokane and Ferndale, Washington, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; (2) *Zinc and zinc alloys* (except in bulk) between the plantsites and facilities of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; and Checotah, Oklahoma, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming.

NOTE.—The purpose of this republication is to identify shipper's subsidiary and affiliated companies' plantsites and facilities in (1), and to add (2) dealing with zinc traffic.

No. MC 47583, (Sub-No. 49), filed May 27, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over IRREGULAR routes, transporting: (1) *cellulose insulation*, in bags, and blowing machines and replacement parts and supplies (except commodities in bulk), from the plantsite and storage facilities of Thermo Products Loose Fill, Inc., at or near Broken Arrow, Oklahoma, to points in the United States; and (2) *materials, equipment and supplies* used in the manufacture and distribution of cellulose insulation (except commodities in bulk), from points in the United States to the plantsite and storage facilities of Encro Industries, Inc., at or near Broken Arrow, Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri.

No. MC 52657 (Sub-No. 741), filed May 27, 1977. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, Ill. 60521. Applicant's representatives: James Bouril, 16 West 151 Shore Court, Burr Ridge, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, trucks, and chassis*, from the plant facilities of the Jeep Corporation, a subsidiary of American Motors Corporation, located in Toledo, Ohio, to points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 52704 (Sub-No. 146), filed June 7, 1977. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H," LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic containers*, from Opelika, Ala., to points in Florida, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *materials, equipment, and supplies used in the manufacture and distribution of plastic containers (except commodities in bulk)*, from points in Texas, to Opelika, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 60014 (Sub-No. 43), filed February 2, 1977 (republished this issue to

amend the commodity and territorial scope). Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*, between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.: Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.: and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind.; Hialeah, Fla.; Niles, Mich.; and Umatilla, Oreg. from Part (1), add Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex. to Part (1). add Part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys Inc., Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 73165 (Sub-No. 394), filed October 26, 1976 (republished this issue to amend the commodity and territorial scope). Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33d St., Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*: Between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bicknell, Bristol, and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *zinc and zinc alloys (except in bulk)*: Between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind. from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex., to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 73165 (Sub-No. 408), filed June 7, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, 200 Woodward Bldg., 1927 First Ave., North, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing and roofing materials*, from the facilities of Elk Corporation, located at or near Stephens and East Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala., or Dallas, Tex.

No. MC 73165 (Sub-No. 409), filed June 7, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker, P.O. Box 11086, Birmingham, Ala. 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing and roofing materials*, from the facilities of Masonite Corporation, Roofing Division, located at or near Meridian, Miss., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss., or Birmingham, Ala.

No. MC 74321 (Sub-No. 124), filed September 1, 1976 (republished this issue to amend the commodity and territorial scope). Applicant: B. F. WALKER, INC., P.O. Box 17–B, 1555 Tremont Place, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*: (a) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (b) between Twin Falls, Idaho, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Arizona, California, Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, Washingington, and Wyoming); (2) *Zinc and zinc alloys (except in bulk)* between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind., from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex., to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 82063 (Sub-No. 80), filed June 6, 1977. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, St. Louis, Mo. 63127. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk between the plantsite of Arkansas Eastman Co., located at or near Magness, Ark., on the one hand, and on the other, points in the United States (except points in Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn.

No. MC 82079 (Sub-No. 50), filed June 6, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen food products in mechanically*

refrigerated vehicles, except in bulk, from the plantsites and warehouse facilities of Ore-Ida Foods, Inc., in Greenville, Mich., to points in Ohio, Indiana, and Illinois,

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lansing, Mich., or Chicago, Ill. Common control may be involved.

No. MC 82492 (Sub-No. 157), filed June 7, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in the lower peninsula of Michigan, to points in Kansas, Minnesota, Missouri, Wisconsin, those points in Illinois north of Interstate Highway 74 and Champaign, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 83539 (Sub-No. 449), filed December 15, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: C & H TRANSPORTATION CO., INC., Post Office Box 5976, Dallas, Texas 75222. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies,* materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson. Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Durkirk, New York, and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 105566 (Sub-No. 143), filed June 6, 1977. Applicant SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *paint, paint ingredients, paint materials, putty, caulking and glasing compounds, adhesive cement, and glue,* from Dayton, Ohio to points in Idaho, Oregon, Utah, and Washington, and from Tipp City, Ohio to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 105566 (Sub No. 147), filed June 7, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting (a) *Glassware and glass articles,* from Jeannette, Pa., to points in Louisiana, Oklahoma, and Texas; (b) *earthenware, chinaware, porcelainware, and stoneware,* from Sebring, Ohio, to points in Louisiana, Oklahoma, and Texas; (c) *plastic articles and plastic materials,* from Lake City, Pa., to points in Louisiana, Oklahoma, and Texas; and (d) *earthenware, chinaware, porcelainware, and stoneware,* from Bedford Heights, Ohio, to points in Louisiana, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Chicago. Ill., or Washington, D.C.

No. MC 106497 (Sub-No. 142), filed May 27, 1977. Applicant: PARKHILL TRUCK COMPANY, a corporation, P.O. Box 912, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Missouri 64801. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and particle board,* from Winnfield and Lillie, La. and Huttig, Ark., to points in Arkansas, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either New Orleans, Louisiana or Little Rock, Arkansas.

MC 106497 (Sub-No. 143), filed June 7, 1977. Applicant: PARKHILL TRUCK COMPANY, a corporation, P.O. Box 912 (Bus Rte I-44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Bins, hoppers, tanks, iron and steel articles, ducts, weldments,* and *parts, attachments* and *accessories* used in the installaion thereof, from points in Maury County, Tenn., to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials, supplies* and *parts* used in the manufacture of commodities in (1) above, points in the United States (except Alaska and Hawaii), to Maury, County, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, Tenn., or Birmingham, Ala.

No. MC 106644 (Sub-No. 225), filed October 26, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916, Atlanta, Georgia 30301. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products,* and *supplies,* materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *zinc, and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products. Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 106603 (Sub-No. 154), filed June 6, 1977. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Michigan 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: (1) *Gypsum and gypsum products*, and materials and supplies used in the installation and distribution thereof, from the plantsite and warehouse of Georgia-Pacific Corporation at or near Wilmington, Delaware, to points in Ohio, and Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Fayette, Forest, Greene, Lawrence, Mercer, Venango Warren, Washington, and Westmoreland Counties, Pennsylvania; and (2) *Gypsum board paper* from the plantsite and warehouse of Georgia-Pacific Corporation at or near Delair, New Jersey, to Grand Rapids, Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Washington, D.C. or Philadelphia, Pennsylvania.

No. MC 107012 (Sub-No. 240), filed June 6, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Swainsboro, Ga., to points in Mississippi, Tennessee, South Carolina, Virginia, Kentucky, Maryland, Delaware, West Virginia, and North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Atlanta, or Savannah, Ga.

No. MC 107403, (Sub-No. 1021), filed June 6, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Landsdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting *Sugar and Molasses*, in bulk, from Findlay and Fremont, Ohio, to points in Indiana, Michigan, New York, Ohio, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 109397 (Sub-No. 330), filed June 7, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Applicant seeks to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia, Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota, St. Louis, Missouri; Hernando, Mississippi; Dunkirk; New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "and its subsidiary and affiliated companies" to the plantsites to be served, add "or near" to the territorial description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

MC 109397 (Sub-No. 363), filed June 6, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings*, and *parts, attachments, materials*, and *supplies* when moving with pre-cut buildings, from points in Polk County, Arkansas, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Arkansas or New Orleans, Louisiana.

MC 109689 (Sub-No. 311), filed May 31, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087, P.O. Box 1825, Salt Lake City, Utah 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur*, from Uintah and Sweetwater Counties, Wyoming to all points and places in Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 109689 (Sub-No. 312), filed May 31, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium Chlorate*, in bulk, from the plant site of Kerr McGee Chemical Corporation at Henderson, Nevada to points in Arizona, Colorado, New Mexico, Texas and Utah. Restricted against service to Phoenix, Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Los Angeles, California.

No. MC 111274 (Sub-No. 24), filed May 23, 1977. Applicant: Elmer C. Schmidgall and Benjamin G. Schmidgall, d.b.a. SCHMIDGALL TRANSFER, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, P.O. Box 356, Morton, Illinois 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *materials and components* used in the manufacture of grain dryers, restricted to traffic having a subsequent movement by motor vehicle, from Mound Ridge, Kans., London, Ohio, and Buckner, Ky., to Morton, Illinois, under a continuing contract, or contracts, with Meyer Morton.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill.; St. Louis, Mo. or Springfield, Ill.

No. MC 11274 (Sub-No. 25), filed May 23, 1977. Applicant: Elmer C. Schmidgall and Benjamin G. Schmidgall, d.b.a. SCHMIDGALL TRANSFER, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, P.O. Box 356 Morton, Illinois 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *materials and components used in the manufacture and construction of pole buildings*, restricted to traffic having a subsequent movement by motor vehicle, from points in Indiana, Michigan, Missouri, Ohio, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Kansas, Kentucky, Tennessee, and Mississippi to the plant site of Morton Buildings, Inc., located at or near Morton, Illinois, under a continuing contract, or contracts, with Morton Buildings, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Springfield or Chicago, Ill. or St. Louis, Mo.

No. MC 111545 (Sub-No. 232), filed January 10, 1977. Republished this issue to amend the commodity and territorial scope). Applicant: HOME TRANSPORTATION COMPANY, INC., P. O Box 6426, Station A, Marietta, Georgia 30065. Applicant's representative: Robert E. Born (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting (1) *aluminum, aluminum products, and supplies, materials*

and equipment used in the manufacture of aluminum and aluminum products (except in bulk): Between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bicknell, Bristol and Franklin, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi, Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *zinc and zinc alloys (except in bulk)*: Between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Denneson, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 112304 (Sub-No. 108), filed July 26, 1976. (Republished this issue to amend the commoditiy and territorial scope). Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 112801 (Sub-No. 194), filed June 7, 1977. Applicant: Transport Service Co., a corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle) over irregular routes, transporting: *Acids, chemicals, alcohol, denatured alcohol solvents and polythylene resins*, in bulk or hopper type vehicles, from Tuscola, Ill., to points in the United States on and east of U.S. Highway 85, including Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind., or Chicago, Ill.

No. MC 113460 (Sub-No. 8), filed May 26, 1977. Applicant: BLACKHAWK TRANSPORTATION, INC., 3909 E. 29th Street, Des Moines, Iowa 50317. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from LaCrosse and Milwaukee, Wis. to Des Moines, Chariton, and Red Oak, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, Ill., Minneapolis, Minn. or Kansas City, Mo.

No. MC 113855 (Sub-No. 366), filed Dec. 6, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, S.E., Rochester, Minnesota 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 114457 (Sub-No. 311), filed June 6, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2120 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesive cement, tackless strips, carpet accessories and advertising material* from the facilities of Taylor Industries at or near Conyers, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; (2) *Equipment, materials and supplies* used in the manufacture of the aforementioned articles from the destination territory described above to Conyers, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Nashville, Tenn.

No. MC 114632 (Sub-No. 112), filed June 6, 1977. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, South Dakota 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from Kansas City, Missouri to points in Ohio, Maryland, Pennsylvania, Connecticut, New Jersey, New York, Massachusetts, West Virginia, Virginia, Vermont, Michigan, Indiana, and Illinois.

NOTE.—Applicant holds motor contract carrier authority in No. MC-129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Missouri.

No. MC 114896 (Sub-No. 53), filed June 6, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency, coin, securities, food stamps and other matters of value*, between Chicago, Ill., on the one hand, and, on the other, points in Indiana, Iowa, and Wisconsin, under contract with the 7th Federal Reserve District, located at Chicago, Ill.

NOTE.—Applicant holds common carrier authority in No. MC 140345 (Sub-No. 1), therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Washington, D.C.

No. MC 115826 (Sub-No. 267), filed June 6, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088TA, 1960 31st Street, Denver, Colorado 80217. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, meat, meat products, wine, fruit juice, and juice concentrates* (except commodities in bulk). (1) From points in California to points in the United States (except Alaska and Hawaii), (2) from points in Arizona to points in Colorado, New Mexico, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco and Los Angeles, California and Denver, Colorado. Common control may be involved.

No. MC 116077 (Sub-No. 382), filed June 24, 1977. Applicant: ROBERTSON TANK LINES, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, Texas 77001. Applicant's representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, Texas 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid Petro Chemicals*, in bulk, in tank vehicles, from points in Harris County, Texas, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Maine, Maryland, Missouri, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Virginia, Washington; (2) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Galveston County, Texas, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Missouri, Montana, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Wisconsin; (3) *petro chemicals*, in bulk, in tank vehicles, from points in Calhoun County, Texas, to points in Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Mississippi, Ohio; (4) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Travis County, Texas, to points in Arkansas; (5) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Jim Wells County, Texas, to points in Florida; (6) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Nueces County, Texas, to points in Florida and Georgia; (7) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Chambers County, Texas, to points in Georgia, Illinois, Missouri, New Jersey, Ohio, South Carolina, Virginia; (8) *petro chemicals*, in bulk, in tank vehicles, from points in Orange County, Texas, to points in Kentucky and North Carolina; and (9) *liquid petroleum products*, in bulk, in tank vehicles, from points in Harris County, Texas, to points in Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, Texas, on a consolidated record with McNair Transport, Inc., Docket No. MC 102567 (Sub-No. 194), and Cango Corporation, Docket No. MC 121496 (Sub-No. 3).

No. MC 116849 (Sub-No. 5), filed June 6, 1977. Applicant: ISLAND TRANSPORTATION CORP., 299 Main St., Westbury, N.Y. 11590. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, from Paulsboro, N.J. to New York, N.Y.; points in Nassau, Suffolk, Putnam, Westchester and Orange Counties, N.Y.; and points in Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at New York, N.Y.

No. MC 117548 (Sub-No. 4), filed June 9, 1977. Applicant: M & M TANK LINES OF VIRGINIA, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Ground, pulverized, and crushed limestone; silica sand materials and premixed materials* from Buchanan, Virginia, to points in the District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

No. MC 117574 (Sub-No. 277), filed October 15, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York, Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is delete Lebanon, Indiana from Part (1), add Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Boise and Twin Falls, Idaho; Chicago and St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; Stayton, Oregon; Dennison, Texas; Spokane and Ferndale, Washington to Part (1), add Part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 117883 (Sub-No. 215), filed June 6, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, Versailles, Ohio 45380. Applicant's representative: Neil E. Hannan, P.O. Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and/or storage facilities of Marhoefer Packing Company, Inc., located at or near Muncie, Indiana, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Indiana or Columbus, Ohio.

No. MC 119726 (Sub-No. 96), filed June 6, 1977. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and Rubber Articles*, from Wooster, Ohio, to points in North Carolina, South Carolina, Georgia, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Indiana, or Cincinnati, Ohio.

No. MC 121161 (Sub-No. 2), filed June 6, 1977. Applicant: EDWARD J. RYAN, doing business as RYAN EXPRESS, East Lincoln Highway, Exton, Pa. 19341. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); between Philadelphia, and Malvern, Pa., serving all intermediate points from Philadelphia over U.S. Highway 30 to Malvern and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 123048 (Sub-No. 355), filed April 18, 1977. (Republished this issue to amend the commodity and territorial scope.) Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Labanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 123233 (Sub-No. 75), filed June 6, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, Que., Canada H1J 1C4. Applicant's representative J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Catalyst, in bulk, in tank vehicles, between the Ports of Entry on the International Boundary Line between the United States and Canada located in New York and Michigan, on the one hand, and, on the other, Alma, MI, Catlettsburg, KY, Indianapolis, IN, Lemont, IL, Lima, OH, Lockport, IL, Roxana, IL, Pine Bend, MN and Superior, WI., restricted to the transportation of traffic having an immediate prior or subsequent movement in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Montpelier, VT.

No. MC 123502 (Sub-No. 50), filed June 6, 1977. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, Md. 21061. Applicant's representative: W. Wilson Corroum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Activiated Carbon*, in bulk, in dump vehicles, from Catlettsburg, Kentucky, Neville Island, Pennsylvania, and Bayport, Texas, to points in the United States, (except Alaska and Hawaii); and *Spent Carbon*, in bulk, in dump vehicles, on return; (2) *Coal*, in bulk, in dump vehicles from points in Illinois, Kentucky, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, to Catlettsburg, Kentucky, and Neville Island, Pennsylvania; (3) *Pitch*, in bulk, in dump vehicles, from Follansbee, West Virginia, to Catlettsburg, Kentucky; (4) *Raw Materials* used in the manufacture and processing of activated carbon, in bulk, in dump vehicles, from Ironton, Ohio, to Catlettsburg, Kentucky; and (5) *Coconut Shells*, in bulk, in dump vehicles, from Baltimore, Md. to Neville Island, Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 124078 (Sub-No. 735), filed June 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from the Schwerman Distribution Centers, Inc. located at Milwaukee, Wisconsin, to points in Illinois and Indiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Illinois.

No. MC 124078 (Sub-No. 737), filed June 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 532115. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hudson and Greenport (Columbia County), New York, to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or New York, New York.

No. MC 124211 (Sub-No. 286), filed January 31, 1977. (Republished this issue to amend the commodity and territorial scope.) Applicant: HILT TRUCK LINE, INC., Post Office Box 988 D.T.S., Omaha, Nebraska 68101. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washingtn; and Marsfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand,

and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 124692 (Sub-No. 173), filed February 4, 1977. (Republished this issue to amend the commodity and territorial scope). Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk) between the plant sites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa, and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) zinc and zinc alloys (except in bulk) between the plant sites of Alumax, Inc. at its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

No. MC 125254 (Sub-No. 38) (Correction), filed March 28, 1977, published in the FEDERAL REGISTER issue of May 12, 1977 as MC 124511 Sub-30, republished as corrected this issue. Applicant: MORGAN TRUCKING CO., a corporation, 1201 E. 5th Street, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of H. J. Heinz Company located at Iowa City, Iowa, to Minneapolis, St. Paul, and Hopkins, Minn.

NOTE.—The purpose of this republication is to correct docket number MC 125254 (Sub-No. 38) in lieu of MC 124511 (Sub-No. 30) which was published in error. If a hearing is deeemed necessary, the applicant requests it be held at either Des Moines, Iowa or Pittsburgh, Pa.

No. MC 125368 (Sub-No. 19), filed June 6, 1977. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, North Carolina 28445. Applicant's representative: C. W. Fletcher, same address. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat by-products and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the plant site and storage facilities of Armour and Company at or near Worthington, Minnesota to Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at either Washington, D.C. or Chicago, Illinois.

No. MC 125433 (Sub-No. 89), filed November 19, 1976. Applicant: F. B. TRUCK LINE, INC., 1891 W. 2100 South, Salt Lake City, Utah. Applicant's representative: Michael Norton, P.O. Box 2135, Salt Lake City, Utah. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products and supplies, materials, and equipment* used in the manufacture of aluminum and aluminum products (except in bulk) between the plant sites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., at its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind. from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex. to part (1), add part (2), add "at or near" to the territory description of the plant sites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 125770 (Sub-No. 10), filed June 6, 1977. Applicant: SPIEGEL TRUCKING, INC., Cape May Street, Harrison, N.J. 07029. Applicant's representative: Joel J. Nagel, 19 Back Drive, Edison, N.J. 08817. Authority sought to operate as a *contract carrier* by motor carrier over irregular routes, transporting: *Furniture parts and materials* used in the manufacture of office and library furniture, between points in Pennsylvania and Newark, N.J., on the one hand and on the other, points in Connecticut, Florida, Georgia, Illinois, Indiana, Massachusetts, Maryland, New York, North Carolina, Rhode Island, Ohio, South Carolina, Tennessee, and Virginia, under a continuing contract, or contracts, with Art Metal—U.S.A., Inc./Steel Sales, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or New York, N.Y. Common control may be involved.

No. MC 125996 (Sub-No. 52), filed June 6, 1977. Applicant: ROAD RUNNER TRUCKING, INC., 13080 Renfro Circle, P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Thomas J. Beener, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Huron and Mitchell, S. Dak., restricted to shipments originating at the above named origin and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 126276 (Sub-No. 176), filed May 31, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Burlington, Wis., and Cleveland, Ohio, to points in Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, New Jersey, Missouri, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia, under a continuing contract with the Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 126736 (Sub-No. 99), filed June 6, 1977. Applicant: FLORIDA ROCK & TANK LINES, INC., P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic waste gypsum and ferrous sulfate*, in bulk, from Savannah, Ga. to points in Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla.

No. MC 129219 (Sub-No. 11), filed May 27, 1977. Applicant: CMD TRANSPORTATION, INC., 12340 SE. Dumolt Road, Clackamas, Oreg. 97015. Applicant's representative: Phillip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste paper products for recycling or reuse in furtherance of recognized pollution control programs*, from Salt Lake City, Utah, to Newberg, Oregon City, and Portland, Oreg.; and (2) *newsprint paper*, in rolls, from Oregon City and Newberg, Oreg. to Salt Lake City, Utah, under a continuing contract or contracts with Publishers Paper Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 129219 (Sub-No. 12), filed May 27, 1977. Applicant: CMD TRANSPORTATION, INC., 12340 SE. Dumholt Road, Clackamas, Oreg. 97015. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric storage batteries and allied components* thereof which are necessary and incidental to the manufacture of electric storage batteries, (a) between Denver, Colo., on the one hand, and, on the other, Los Angeles and San Jose, Calif., and (b) from Denver, Colo., to points in Idaho, Montana, California, Nevada, Oregon, Utah, and Washington; and (2) *scrap, defective and obsolete electric storage batteries*, from points in Idaho, Montana, California, Nevada, Oregon, Utah, and Washington, to Denver, Colo., Los Angeles and San Jose, Calif., under a continuing contract or contracts with ESB, Inc., Automotive Division.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

MC 129576 (Sub-No. 7), filed May 26, 1977. Applicant: HORNER TRUCK SERVICE, INC., 301 Lewis Street, Canton, Mo. 63435. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic fertilizer solutions*, in bulk, in tank vehicles, from Gregory Landing (Clark County), Mo., to points in Iowa and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 129645 (Sub-No. 60), filed June 7, 1977. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, d.b.a. SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, Mich. 49801. Applicant's representative: John M. Nader, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, moulding, plastic articles, and accessories* used in the installation thereof, from the plant and storage facilities in Weyerhaeuser Co., located at Chesapeake, Va., to points in Ohio, Michigan, Indiana, Illinois, Iowa, Wisconsin, Minnesota, Missouri, Kansas, North Dakota, South Dakota, and Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Norfolk, Va.

No. MC 129663 (Sub-No. 8), filed May 31, 1977. Applicant: BORIGHT TRUCKING CO., INC., Boright Avenue, Kenilworth, N.J. 07033. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk) from the facilities of Gilbert Plastics, Inc., at Ontario and La Murada, Calif., to points in Oregon, Washington, Idaho, Montana, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, Texas, Oklahoma, Nebraska, North Dakota, and South Dakota, under a continuing contract or contracts with Glibert Plastics, Inc., Kenilworth, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 133356 (Sub-No. 2), filed June 6, 1977. Applicant: SUNVAN WASHINGTON, INC., 100 West Harrison Plaza, Seattle, Wash. 98119. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Empty household goods shipping containers*, set up or knocked down, between points in King, Pierce, Thurston, Snohomish, Kitsap, Clallam, Jefferson, Mason, Grays Harbor, and Pacific Counties, Wash.; and (2) *household goods*, as defined by the Commission, between points in King, Kitsap, and Pierce Counties, Wash., on the one hand, and, on the other, points in Clallam, Jefferson, Mason, Grays Harbor, and Pacific Counties, Wash., 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 packing, crating, and containerization, or unpacking, uncrating, and decontainerization.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

MC 133591 (Sub-No. 36), filed May 31, 1977. WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale and retail grocery stores (except commodities in bulk); (2) *medicinal herbs*; and (3) *commodities*, the transportation of which is exempt from economic regulations under section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) through (2) above (except commodities in bulk), from points in California, Oregon, and Washington to Springfield, Mo. Restrictions: Restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant holds contract carrier authority in MC 134494 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo.

MC 133689 (Sub-No. 132), filed June 6, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except commodities in bulk) from Fitchburg, Mass., to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Ohio, Virginia, North Carolina, South Carolina, and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135046 (Sub-No. 12), filed June 6, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South DuPont Hwy., Smyrna, Del. 19977. Applicant's representative: S. W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Control panels and related control equipment* (except commodities requiring special equipment or special handling, uncrated and blanket-wrapped), from the plant site of Emerson Electric Co., located at or near Santa Ana, Calif., to Waynesboro, Martinsville, and Ampthill, Va.; Wilmington and Seaford, Del.; Chattanooga and Old Hickory, Tenn.; Graingers, N.C.; and Lugoff and Cypress Gardens, S.C.; (2) *control panels and related control equipment, uncrated*, from the plant site of Emerson Electric Co., located at Santa Ana, Calif., to Cape Fear, N.C.; (3) *synthetic fiber, yarn and staple*, between Seaford, Del., and the storage facilities of E. I. Dupont de Newmours & Co. located at Charlotte, N.C.; (4) *synthetic fiber yarn*, on beams, between Graingers, N.C., and Denver, Colo.; (5) *lubricating oil and greases*, in packages, from Kansas City, Kans., to Dover, Lewes, Lincoln, and Wilmington, Del.; Cape May Courthouse, Mays Landing, Millville, Salem, Clinton, Somerville, Livingston, Newark, Lyndhurst, and Trenton, N.J.; Aspers, Carlisle, Gettysburg, Hanover, Harrisburg, Mechanicburg, New Freedom, New Oxford, Red Lion, Seven Stars, Stewartstown, York, Carbondale, Daleville, Evans Falls, Luzerne, Elkins Park, Willow Grove, Hazle-

ton, Lehighton, Tamaqua, Martinsburg, Montrose, Perkasie, Philadelphia, Phoenixville, Pottstown, Scranton, and Tunkhannock, Pa.; and (6) *lubricating oils and grease*, in containers, from Kansas City, Kans., to Brandywine, Frederick, Gaithersburg, Hancock, and Laytonsville, Md.; Centerport, Danville, Elizabethtown, Everett, Falls Creek, Huntingdon, and Ridgeway, Pa.; and Keyser, W. Va.

NOTE.—By instant application applicant seeks to convert its contract carrier authority in MC 113024 (Subs 18, 24, 43, 97, and 107) to common carrier authority. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 135231 (Sub-No. 25), filed May 26, 1977. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles and equipment; parts and accessories* thereof, and paraphernalia used in connection with, recreational vehicles and equipment, from Lancaster County, Nebr., (1) to points in the United States (excluding Alaska and Hawaii), and (2) to the ports of entry on the international boundary line between the United States and Canada, for furtherance in (2) above to Winnipeg, Manitoba; Toronto, Ontario; Montreal, Quebec; Edmonson, Alberta; Moncton, New Brunswick; Saskatoon, Saskatchewan; and points in the Provinces of Nova Scotia and Newfoundland, Canada.

NOTE.—Applicant holds motor contract carrier authority in MC 134145 (Sub-No. 3 and other subs); therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 135284 (Sub-No. 5) (Correction), filed June 1, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as corrected this issue. Applicant: FLEETWOOD TRANSPORTATION CORP., 1030 Reeves Street, Dunmore, Pa. 18512. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), between the plantsite of Land-O-Lakes located at or near Laurel, Md., on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, under continuing contract or contracts with Agfoods, Inc.

NOTE.—The purpose of this republication is to indicate that applicant seeks contract carrier authority rather than common carrier authority as previously published in error. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 136087 (Sub-No. 5), filed June 6, 1977. Applicant: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOT, and LOY GENE COKER, doing business as Jim Chelf and Associates, 5226 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for reuse or recycling, from points in Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming, to points in California, under a continuing contract or contracts with Mountain States Telephone & Telegraph Co. (Mountain Bell), at Denver, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. Common control may be involved.

No. MC 136087 (Sub-No. 6), filed June 7, 1977. Applicant: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOT, and LOY GENE COKER, doing business as Jim Chelf and Associates, 5226 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction equipment*, between the facilities of H. W. Moore Equipment Co., located at Denver and Grand Junction, Colo.; Casper, Wyo.; and Rapid City, S. Dak., on the one hand, and, on the other, points in Colorado, South Dakota, and Wyoming, under a continuing contract or contracts with H. W. Moore Equipment Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. Common control may be involved.

No. MC 136343 (Sub-No. 108), filed May 27, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Pulpboard, wrapping paper, paper bags, paper and paper products* (except commodities in bulk in tank vehicles) from the facilities of Gilman Paper Company at or near Saint Marys, Georgia to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia. Restricted to traffic originating at the facilities of Gilman Paper Company at or near Saint Marys, Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 138104 (Sub-No. 41), filed June 6, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, from points in Saline and Pulaski Counties, Ark., to points in Ellis County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138420 (Sub-No. 16), filed May 31, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisconsin. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and prepared foodstuffs* from the plantsite and warehouse facilities of Lakeside Packing Company at or near Manitowoc, Wisconsin and Plainview, Minnesota to points in Michigan, Indiana and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 138420 (Sub. No. 18), filed June 7, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisc. 53063. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisc. 53708. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising premiums, materials and supplies and malt beverage dispensing equipment*, from Columbus, Ohio to Chicago and Rockford, Ill.; and (2) *rejected shipments and used, empty malt beverage containers and dispensing equipment*, from Chicago and Rockford Ill., to Columbus, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 138420 (Sub-No. 19), filed June 7, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisconsin 53063. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when moving therewith, from LaCrosse, Wisconsin, to points in Jefferson, Franklin, St. Charles and St. Louis Counties, Missouri and points in Monroe, St. Clair, and Madison Counties, Illinois; and (2) *rejected shipments and empty malt beverage containers*, from points in Jefferson, Franklin, St. Charles and St. Louis Counties, Missouri and points in Monroe, St. Clair, and Madison Counties, Illinois, to La Crosse, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee or Madison, Wis.

No. MC 139495 (Sub-No. 238), filed May 31, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Peanut butter*, from Livonia, Mich. to points in the United States and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with peanut butter from Onsted, Mich. to points in the United States.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140598 (Sub-No. 4), filed June 6, 1977. Applicant: MELLO TRUCK LINES, INC., 8265 Hanford/Armona Road, Hanford, California 93230. Applicant's representative: Gilbert W. Howell, 701 N. Irwin, Hanford, California 93230. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed formulas* composed of hominy feed, almond meal, cottonseed meal, salt, limestone flour, urea, minerals, buffermin, bakery waste and solulac in bulk and sacks, from Stockton, California, to Reno, Minden, Fallon, Fernley, Elco, Winnemuca, and Yerrington, Nev.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Fresno, California.

No. MC 140849 (Sub-No. 10), filed June 6, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, Oklahoma 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, Oklahoma 74953. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabrics, piece goods, materials and supplies used in the manufacture of curtains, draperies and bedspreads*, from points in Virginia, North Carolina, South Carolina and Georgia, to Clinton, Okla., under a continuing contract or contracts with Kellwood Company.

NOTE.—Applicant holds common carrier authority in MC 126243 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Oklahoma City, Okla. or Washington, D.C.

No. MC 141124 (Sub-No. 6), filed May 31, 1977. Applicant: Evangelist Commercial Corporation, P.O. Box 1709, Wilmington, Delaware 19899. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pressure sensitive tape*, between North Brunswick, New Jersey, on the one hand, and, on the other Ft. Wayne, Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 141363 (Sub-No. 5), filed June 6, 1977. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik Street, Piermont, New York 10968. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, New York 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, and *materials, equipment and supplies* used in the manufacturer and distribution of paper and paper products (except in bulk); between Piermont, N.Y. and points in New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey and Rhode Island, and point in Pennsylvania on and east of U.S. Highway 15., under a continuing contract or contracts with CLEVEPAK CORP. of White Plains, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 141740 (Sub-No. 1), filed June 2, 1977. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, Ind. 46012. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Electrical appliances and components, cabinets, bathroom fixtures, stove hoods, blower or fan housings, radiation or ventilating unit housings, mirrors, scales, pipe and duct plastic tubing and advertising displays, stove splasher wall plates, fans and roof ventilators*, from the plant site of Nutone Division of Scovill Company at or near Cincinnati, Ohio to the facilities of the Nutone Division of Scovill Company at Fullerton, California, under a continuing contract, or contracts, with Nutone Division of Scovill Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind. or Cincinnati, Ohio.

No. MC 141804 (Sub-No. 62), filed June 6, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts*, from California, to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles, California or Lincoln, Nebraska.

No. MC 141804 (Sub-No. 63), filed June 6, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts* from points in Tennessee, Arkansas, Alabama, and Louisiana to points in Washington, Montana, Idaho, Oregon, California, Nevada, New Mexico, Utah, and Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, California or Lincoln, Nebraska.

No. MC 141914 (Sub-No. 9), filed June 6, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Oklahoma 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Oklahoma 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Residential heating and cooling units, their components, accessories and equipment used in the manufacturing thereof*, from the plant site of Rheem Manufacturing Company, Heating and Air-Conditioning Division located at Fort Smith, Arkansas, to points in Washington, Oregon, California, Nevada, Arizona, New Mexico, and Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Arkansas.

No. MC 142059 (Sub-No. 2), filed November 17, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, Illinois 60436. Applicant's representative: J. Michael Farrell, O'Connor, Farrell & Daly, 1725 K Street NW., Suite 814, Washington, D.C. 20006. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho, Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi, Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio, and Checotah, Okla-

homa, on the one hand, and on the other, points in the U.S. (except Alaska and Hawaii.)

NOTE.—The purpose of this republication is to delete Lebanon, Indiana, from part (1); add Bicknell, Indiana, Dunkirk, New York, and Dennison, Texas; to part (1), add part (2); and to identify Alumax Mill Products, Inc., Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc. and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 143215 (Amendment) filed May 3, 1977, published in the FEDERAL REGISTER issue of June 9, 1977, and republished as amended this issue. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and floor tile, and materials, supplies and equipment used in the installation and maintenance of floor covering and floor tile*, between Rabun Gap, Dalton and Chatsworth, Ga., McGehee, Ark., Chatanooga, Tenn., Glasgow, Va., Willow Grove and Fogelsville, Pa., and the plant sites of Armstrong Cork Co., at Lancaster, Pa., and East Hempfield Township located at or near Landisville, Pa., on the one hand, and, on the other, points in California, Nevada, Oregon and Arizona.

NOTE.—The purpose of this amendment is to broaden the scope of the commodity description. Applicant holds contract carrier authority in MC 135425 and sub numbers thereunder, there for dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in San Francisco, Calif.

No. MC 143246 (Sub-No. 1), filed June 6, 1977. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Road, Wellesley, Massachusetts 02181. Applicant's representative: James E. Mahony, 84 State Street, Boston, Massachusetts 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold in drug, chain, discount and department stores (except commodities in bulk, in tank vehicles) between the distribution centers and warehouses of Zayre Corporation, located in Massachusetts, Georgia, Florida, Illinois, Minnesota, Indiana and Pennsylvania, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Illinois, Wisconsin, Minnesota, Kentucky, Maryland, Alabama, North Carolina, South Carolina, Ohio, Missouri, Indiana, Michigan, Tennessee, Virginia, Georgia, Florida, Iowa, Delaware, and West Virginia, under a continuing contract, or contracts, with Zayre Corporation and its subsidiaries: Newton Buying Corporation, Beaconway Fabrics, Inc., and Commonwealth Trading Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boston, Mass. or Hartford, Conn.

No. MC 143312 (Sub-No. 1), filed May 31, 1977. Applicant: PIONEER TRANSPORT, INC., Route 2, Box 450, Portland, Oregon 97231. Applicant's representative. Norman E. Sutherland, 1200 Jackson Tower, Portland, Oregon 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Fairfield, California to Portland, Oregon and Beaverton, Oregon; and (2) *empty beverage containers*, from Portland, Oregon and Beaverton, Oregon to Fairfield, California and Winters, California, under a continuing contract or contracts with Columbia Distributing Co. and Maletis, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon.

No. MC 143332, filed June 1, 1977. Applicant: WESLEY D. CONDA, INC., 5325 Eldorado Springs Drive, Boulder, Colorado, 80303. Applicant's representative: William T. Secor, P.O. Box 658, Longmont, Colo. 80501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, tile, cinder block, concrete block, clay and clay products*, between points in Colorado, on the one hand, and points in Wyoming, Nebraska, Utah, New Mexico and South Dakota, on the other hand, under a continuing contract, or contracts, with Colorado Brick & Tile Company and Lakewood Brick & Tile Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 143339, filed June 6, 1977. Applicant: A. A. LEXINGTON MOVING & STORAGE CO., Inc., P.O. Drawer 630, Mt. Holly, New Jersey 08060. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *used household goods*, in containers, restricted (1) to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, or containerization, or unpacking, uncrating, or decontainerization of such shipments, between points in New York City, Ulster, Dutchess, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam Counties, New York; New Castle County, Delaware; Philadelphia, Delaware, Montgomery, Chester, Bucks, Lancaster, Dauphin, Berks, Lehigh, Northampton and Lebanon Counties, Pennsylvania; and points in New Jersey (except Sussex, Passaic and Bergen Counties), as a non-radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mt. Holly, N.J.

No. MC 143383, filed June 7, 1977. Applicant: DALE E. NICHOLSON, Potosi, Missouri 63664. Applicant's representative: Dale E. Nicholson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Nonferrous ores or concentrates in bulk in dump trucks and dump trailers (1) from the facilites of Amax Lead Co., a division of Amax Inc. located at or near Buick, (Iron County) Missouri, to the facility of Amax Zinc Inc. a subsiduary of Amax Inc. located at Sauget, Illinois; and, (2) from said Buick, Missouri facilities to, St. Louis, Missouri, restricted in (2) above to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo.

No. MC 118552 (Sub-No. 3), filed May 9, 1977. Applicant: PIEDMONT COACH LINES, INC., 3636 Glenn Avenue, Winston-Salem, N.C. 27105. Applicant's representative: Kyle Hayes, P.O. Drawer 1105, North Wilkesboro, N.C. 28659. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Regular routes: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, Between North Wilkesboro, N.C. and Boone, N.C. From North Wilkesboro, over U.S. Highway 421–A to its junction with North Carolina Highway 16, thence over North Carolina Highway 16 to Millers Creek, N.C., thence over Wilkes County Road No. 1304 to its junction with U.S. Highway 421 through Deep Gap to Boone, N.C., and return over the same route; and (2) irregular routes: *Passengers and their baggage*, in round trip charter operations, and in special operations, in round trip sight seeing and pleasure tours, beginning and ending at points in Watauga, Wilkes, Yadkin, Forsyth, Stokes and Surry Counties, N.C., and Patrick County, Va., and extending to points in the United States, except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boone or North Wilkesboro, N.C.

No. MC 142834 (Sub-No. 2), filed June 6, 1977. Applicant: FETTES COACH LINES LIMITED, 184 Main Street South, Mount Forest, Ontario, Canada NOG 2LO. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, New York 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, in sightseeing and pleasure tours, beginning and ending at ports of entry on the International Boundary line between the United States and Canada and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, New York.

No. MC 142960 (Sub-No. 1), filed May 10, 1977. Applicant: HUGH AND LAILA PIXLEY, doing business as, PIXLEY TRANSPORTATION, P.O. Box 6525, Sheridan, Wyo. 82801. Applicant's representative: (No representative.) Author-

ity sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Railroad crews and their baggage*, in the same vehicle with passengers, between Sheridan, Wyo., and points in Sheridan, Big Horn, Johnson, and Campbell Counties, Wyo., and Big Horn, Powder River, Yellowstone, Treasure and Stillwater Counties, Mont., a non-radial movement under a continuing contract or contracts with Burlington Northern.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Glendive or Billings, Mont., or Sheridan, Wyo.

No. MC 143341, filed June 3, 1977. Applicant: ABBEY TRANSPORTATION SYSTEM, a corporation, 4588 West Shaw Avenue, Fresno, California 93711. Applicant's representative: Ronald L. Murov, 111 Sutter Street, San Francisco, California 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in scheduled special and charter operations, from points in Merced, Madera, and Fresno Counties, California, (except the towns of Burrel, Coalinga, Huron, Kingsburg, Lanare, Orange Cove, Parlier, Reedley, Riverdale, San Joaquin and Selma in Fresno County, California) to points in the United States, including Alaska, but excluding Hawaii and return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fresno, California or San Francisco, Calif.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease, operating rights and properties, or acquire control through owenership of stock, or rail carriers or 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 Rules 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.

NOTICE

Southern Pacific Transportation Company, One Market Plaza, Southern Pacific Building, San Francisco, California 94105, and St. Louis Southwestern Railway Company, P.O. Box 1319, Houston, Texas 77001, represented by John MacDonald Smith, One Market Plaza, Southern Pacific Building, San Francisco, California 94105 and Roy P. Cosper, P.O. Box 1319, Houston, Texas 77001, respectively, hereby give notice that on the 26th day of April 26, 1976, as supplemented, June 6, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under Section 5(1) of the Interstate Commerce Act for an order approving and authorizing pooling of service between various points in Texas, whereby traffic of St. Louis Southwestern Railway Company (SSW) moving between points on SSW's lines extending from Lufkin through Tyler, Corsicana and Waco to Lime City, on the one hand, and SSW's lines Dallas and north, on the other hand, presently handled via a circuitous route through Tyler and Mount Pleasant, will be bridged for SSW by Southern Pacific Transportation Company (SP) trains operating over shorter routes between Jacksonville, Athens and Corsicana, Texas, on the one hand, and Dallas and Fort Worth, Texas, on the other hand, which application is assigned Finance Docket No. 28177.

Applicants state that approximately 183 cars per month will be bridged by SP for SSW, with savings of 50,000 gallons of fuel and $68,294 in annual operating costs. Service will be provided pursuant to a pooling agreement dated March 19, 1976.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission and the aforementioned counsels for applicants, no later than 30 days from the date of first publication in the FEDERAL REGISTER.

SOUTHERN PACIFIC TRANSPORTATION COMPANY

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

NOTICE

Des Moines Union Railway Company, 203 Hubbell Building, 902 Walnut Street, Des Moines, Polk County, Iowa 50309, and Des Moines Terminal Company, 205 Hubbell Building, 902 Walnut Street, Des Moines, Polk County, Iowa 50309, represented by James E. Cook, Secretary and Auditor, Des Moines Union Railway Company, Room 419, Hubbell Building, 902 Walnut Street, Des Moines, Iowa 50309 and Robert G. Beers, President, Des Moines Terminal Company, 205 Hubbell Building, Des Moines, Iowa 50309, respectively, hereby give notice that on the 28th day of June, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the exchange by each the Des Moines Union Railway Company and the Des Moines Terminal Company of certain railway properties belonging to the other located within the City of Des Moines, Iowa, which application is assigned Finance Docket No. 28496.

The proposed transaction would allow for a more efficient operation of the properties by accommodating to changes in circumstances and styles of warehousing within the terminal area known as the Factory Addition and served by the Des Moines Union Railway Company. Rail operations will not be affected by the proposed exchange of properties.

Approval of the Commission is also being sought for the modification of the terms of payment contained in the agreement by which the Des Moines Union Railway Company operates over the rail properties of the Des Moines Terminal Company within the Factory Addition as well as a revision of the list of properties covered by the operating agreement.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commmission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the request Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28496 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file

such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

DES MOINES UNION RAILWAY COMPANY DES MOINES TERMINAL COMPANY

No. MC–F–13253. Authority sought for continuance in control by PAUL ERIK ALBRECHTSEN (non-carrier), Box 3195, Sherwood Park, Alberta, T8A 2A7, Canada, of (B) Paul's Hauling Ltd., a Manitoba corporation, 272 Oak Point Road, Box 71, Dickens P.O., Winnipeg, Manitoba, R3E 1TO, Canada, (MC–128515 and Subs.), (BB) Western Asphalt (1972) Ltd. an Alberta corporation, P.O. Box 3195, Sherwood Park, Alberta, T8A 2A7, Canada, (MC–141768) pending, (BBB) Westcan Bulk Transport Ltd., (non-carrier) an Albert corporation, 3780–76th Avenue S.E., Calgary, Alberta, T2C 1J8, Canada, (BBBB) Willms Transport (1964) Ltd., (non-carrier) a Saskatchewan corporation, 850 Manitoba Street East, Box 490, Moose Jaw, Saskatchewan, S6H 4P1, Canada, and (BBBBB) Gardewine and Sons Limited, a Manitoba corporation, 300 Oak Point Road, Box 71, Dickens P.O., Winnipeg, Manitoba, R3E 1TO, non-carrier, and for acquisition by Paul Erik Albrechtsen, #205–1200 Sixth Street, S.W., Calgary, Alberta T2R 0Z2, Canada, of control of such rights through the transaction. Applicant's attorney: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL., 50503. Operating rights sought to be controlled: Only (B) Paul's Hauling Ltd. holds authority from the Commission in Docket No. MC 128515 and subs thereunder which is as follows: Agricultural chemicals, as a common carrier over irregular routes from ports of entry on the United States-Canada Boundary line located in Minnesota and North Dakota, to points in Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, Utah, Colorado, Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, New Mexico, Texas, Oklahoma, and Arkansas, with restrictions; by-products of distilling and fermenting operations, (animal feed supplements), in bulk, from ports of entry on the United States-Canada Boundary line at or near Noyes, Minn., and Dunseith, N. Dak., to points in Minnesota and North Dakota; petroleum and petroleum products, in bulk, from ports of entry on the United States-Canada Boundary line in Minnesota and North Dakota to points in North Dakota, South Dakota, Minnesota, Illinois, Wisconsin, Iowa, and Montana; agricultural chemicals, in bulk (except animal and poultry feed and animal and poultry feed ingredients), from points in North Dakota and Minnesota to port of entry on the United States-Canada Boundary line in North Dakota and Minnesota. Also presently pending before the Commission is authority for (BB) Western Asphalt (1972) Ltd., under (MC 141768 pending) to operate as a common carrier of asphalt and asphalt products, in bulk, between ports of entry on the International boundary line between the United States and Canada located in Montana, on the one hand, and, on the other, points in Montana. Application for temporary authority under section 210a(b) has not been filed.

NOTE.—This application is being filed pursuant to an order of Review Board No. 3. Served March 17, 1977 in Docket No. MC 141768, Western Asphalt (1972) Ltd. Motion to dismiss MC–F–13253 filed concurrently with said application.

No. MC–F–13259. Authority sought for purchase by VAN BUS DELIVERY COMPANY, d/b/a United Van Bus Delivery, 26011 32nd Avenue South, Minneapolis, MN 55406, of the operating rights of Castonguay Transfer, Inc., 5333 University Avenue, N.E., Minneapolis, MN 55421, and for acquisition by James Goldberg, Arnold C. Hillman, and Joe Cohen, all of 2601 32nd Avenue South, Minneapolis, MN 55406, of control of such rights through the purchase. Applicants' attorneys: Thomas A. Stroud and Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. Operating rights sought to be transferred: *Such merchandise* as is dealt in by mail order houses, and *Materials and supplies* used in the conduct of such business (except in bulk), as a *contract carrier* over irregular routes between St. Cloud, Minn., and Minneapolis, Minn., restricted to the transportation of shipments having a prior or subsequent movement by rail, under a continuing contract with Finger Hut Corporation. Vendee is authorized to operate as a *common carrier* in Minnesota. Application has not been filed for temporary authority under section 210(b).

No. MC–F–13268. Authority sought for purchase by UNITED STATES TRANSPORTATION INC., 8345 Clough Pike, Cincinnati, OH., 45244, of a portion of the operating rights of The Manfredi Motor Transit Company, 11250 Kinsman Road, Newbury, OH. 44065, and for acquisition by William J. Kopp, 8345 Clough Pike, Cincinnati, OH., 45244, of control of such rights through the purchase, Applicants' attorneys: Paul F. Beery, 275 East State Street, Columbus, OH., 43215, and John P. McMahon, 100 East Broad Street, Columbus, OH., 43215. Operating rights sought to be transferred: Liquid resins, core compounds, formaldehyde, acetone, methanol, phenol, ethanol, and nitrogen fertilizer solutions, in bulk, in tank vehicles, as a contract carrier over irregular routes between the plant site of Georgia Pacific Corporation, located in Franklin County, Ohio, on the one hand, and, on the other, points in Illinois located within the Chicago, Ill., Commercial Zone, as defined by the Commission, Aurora and Danville, Ill., Gary and Griffith, Ind., Pikesville, Md., Kalamazoo and Mt. Clemens, Mich., Erie and Petrolia, Pa., and Milwaukee and New London, Wis., with restrictions. Vendee is authorized to operate as a common carrier in Ohio, Kentucky, Indiana, Michigan, Illinois, Maryland, Michigan, Pennsylvania, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13275. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA., 94025, of the operating rights of G. E. Wolfe Transportation Lines, Inc., 100 Perry Street, Buffalo, NY., 14204, and for acquisition by Consolidated Freightways, Inc., 601 California Street, San Francisco, CA., 94108, of control of such rights through the purchase. Applicant's attorney: Eugene T. Liipfert, 1660 L Street, NW., Washington, D.C., 20036. Operating rights sought to be transferred: (Now held under Certificate of Registration No. MC 56983 (Sub-No. 1): (1) General commodities, as defined by the Commission in case MT–4467: (a) between all points in Erie County, New York; (b) from all points in Erie County, New York, to all points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Fulton, Genesee, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyomong, and Yates Counties, New York; (c) from all points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Genesee, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Tioga, Tompkins, and Wyoming Counties in New York to all points in Erie County, New York: (d) from all points in Niagara County, New York, to all points in Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Genesee, Jefferson, Lewis, Livingston, Madison, Monroe, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Steuben, Tioga, Tompkins, Wayne, and Yates Counties, New York; (e) from all points in Chautauqua County, New York, to all points in Cattaraugus County, New York; (f) from all points in Cattaraugus County, New York, to all points in Chautauqua County, New York; (g) from all points in Tompkins County, New York, to all points in Jefferson and Onondaga Counties, New York; (2) new furniture: (a) between all points in Erie County, New York; (b) from all points in Erie County, New York, to all points in Allegany, Cattaraugus, Chautauqua, Genesee, Livingston, Monroe, Orleans, Steuben, and Wyoming Counties, New York; (c) from all points in Chautauqua, Monroe, Orleans, and Steuben Counties, New York, to all points in Erie County, New York; (d) from all points in Chautauqua County, New York, to all points in Niagara County, New York. Vendee is authorized to operate as a common carrier in all States in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 42487 (Sub-No. 867) is a directly related matter.

No. MC–F–13276. Authority sought for purchase by McCORMICK DRAY LINE, INC., Avis, PA., 17721, of a portion of the operating rights of H. C. Gabler, Inc., R.D. #3, Chambersburg, PA., 17201, and for acquisition by G. Henry McCormick, Sunset Pines, Pine Tree Lane, Lock Haven, PA., 17745, of control of such rights through the purchase. Applicants' attorneys: David A. Sutherland, Suite 400, 1150 Connecticut Ave., NW., Washington, D.C. 20036, and Christian V. Graf, 407 North Front Street, Harrisburg, PA., 17101. Operating rights sought to be transferred: Glass stop, in rolls, metal stove shovels, metal roofing and siding, and fricated metal building products, as a common carrier over irregular routes from the site of the plant of Penn Supply and Metal Corporation, Inc., at Philadelphia, Pa., to points in Indiana, Illinois and Michigan with no transportation on return except as authorized. Vendee is authorized to operate as a common carrier in Indiana, Illinois, Michigan, Ohio, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–13277. Authority sought for purchase by CENTRAL TEXAS BUS LINES, INC., 320 South 16th Street, Waco, TX., 76703, of a portion of the operating rights and property of Texas Bus Lines, P.O. Box 418, Galveston, TX., 77553, and for acquisition by Claud Kincannon, Jr., 320 South 16th Street, Waco, TX., 76703, of control of such rights through the purchase. Applicants' attorney: Mike Cotten, P.O. Box 1148, Austin, TX., 78767. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicles with passengers, as a common carrier over regular routes between Tyler, Tex., and Lufkin, Tex., serving all intermediate points: From Tyler over U.S. Highway 69 via Jacksonville and Rusk, Tex., to Lufkin, and return over the same route; Passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, as a common carrier over regular routes between Lufkin, Tex., and Beaumont, Tex., serving all intermediate points: From Lufkin over U.S. Highway 69 to Beaumont, and return over the same route. Vendee is authorized to operate as a common carrier in Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13278. Authority sought for continuance of control by LEASEWAY TRANSPORTATION CORP., (non-carrier), 21111 Chagrin Boulevard, Cleveland, OH., 44122, of Custom Deliveries, Inc., (non-carrier), 24680 Mound Road, Warren, MI., 48091, and for acquisition by W. J. O'Neil and F. J. O'Neil, both of 2300 Chagrin Boulevard, Cleveland, OH., 44122, of control of such rights through the transaction. Applicant's attorney: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH., 44114. Operating rights sought to be continued in control: Custom Deliveries, Inc. is not a motor carrier at this time. However, it has pending before the Commission an Application for Authority to Operate as a contract carrier in the transportation of motor vehicles parts on behalf of Chrysler Corporation from several origin points to designated distribution areas, all under continuing contract or contracts with Chrysler Corporation. Temporary authority has been granted under Order dated March 8, 1977 in Docket No. MC 142693-TA (Corrected Order served April 4, 1977). Custom Deliveries, Inc., was incorporated on April 3, 1973 as a Leaseway Transportation Corp. subsidiary, and it is now proposed to make Custom Deliveries, Inc., a contract carrier and Leaseway Transportation Corp. is hereby seeking approval to continue in control of Custom Deliveries, Inc., when it becomes a carrier. Leaseway Transportation Corp., holds no authority from this Commission. However it is in control of with Commission approval, through 100% stock ownership (except as otherwise noted) of the following nine motor carriers: (1) Anchor Motor Freight, Inc., is a contract carrier of automobiles and trucks for General Motors Corporation, its sole shipper. It operates from assembly plants located at Buffalo, New York, Baltimore, Maryland; Tarrytown, New York; Linden, New Jersey; Wilmington, Delaware; Framingham, Massachusetts; and Norwood and Lordstown, Ohio, and from various rail sites and import points. Its contract carrier Permits are docketed under MC 808 and Subs thereunder. (2) Gypsum Haulage, Inc. is a contract carrier of gypsum products and commodities for the National Gypsum Company. It operates between points in 24 states and the District of Columbia. Its contract carrier permits are docketed under MC 112113 and Subs thereunder. (3) Signal Delivery Service, Inc. is a contract carrier of merchandise for Sears, Roebuck & Co., appliances for Whirlpool Corporation, and empty steel drums and containers for Cortland Container Corporation. Sears, Roebuck & Co. has a twenty percent (20%) stock interest in Signal by virtue of its having purchased five hundred (500) shares of its common stock pursuant to authority granted by the Commission in Finance Docket No. 26434. Leaseway holds all of the remaining eighty percent (80%) of the common stock of Signal. Its contract carrier permits are docketed under MC 108393 and Subs thereunder.

(4) Sugar Transport, Inc. is a contract cerrier of sweeteners for Savannah Foods & Industries, Inc. of Savannah, Georgia, and of molasses for Kaiser Agricultural Chemicals, Division of Wentworth, Georgia and Wilmington, North Caroline to points in 15 states. Its contract carrier permits are docketed under MC 115924 and Subs thereunder. (5) Dedicated Freight System, Inc. is a contract carrier authorized to serve Ford Motor Company in the transportation of automobile parts from Cuyahoga Heights (Cleveland), Ohio to points in part of Ohio and named western counties of Pennsylvania and New York. Its contract carrier permit is docketed under MC 139583, Sub 1. (6) Pep Lines Trucking Co. is a common carrier operating in the State of Michigan and the District of Columbia area. Its Certificates are docketed under MC 120184 and Subs thereunder. It also serves Montgomery Ward & Co., Inc. at several locations as a contract carrier under Permit MC 135280 and Subs. (7) Mitchell Transport, Inc. is a common carrier authorized to transport cement from named plant site locations of Lehigh Portland Cement Company, Alpha Portland Cement Company, The Flintkote Company, and Bessemer Cement Company in 16 states and to destinations in 36 states. Its certificates are docketed under MC 124212 and Subs thereunder. (8) Refiners Transport & Terminal Corporation is a common carrier of petroleum and petroleum products, chemicals, acids and other liquid bulk commodities, operating over irregular routes between origin points located principally in the midwestern portion of the United States with destination areas located in 35 states and the District of Columbia. Its Certificates are docketed under MC 50069 and Subs thereunder. Refiners also holds all of the outstanding stock of A. R. Gundry, Inc. of Rochester, New York, a common carrier of liquid bulk commodities, operating under Certificate MC 25562 and Subs thereunder. This acquisition and control were authorized in Docket No. MC–F–12777. (9) Max Binswanger .Trucking is a common carrier transporting dry bulk commodities, principally cement, in California, Nevada, Arizona, Colorado and Utah. Its Certificates are docketed under MC 116314 and Subs thereunder. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13279. Authority sought for control by O. M. Lattavo and Phillip Lattavo, both of 2230 Shepler Church Avenue, S.W., Canton, Ohio 44706, of PEOPLES CARTAGE, INC., 8045 Navarre Road, N.W., Massillon, OH., 44646. Applicant's attorney: James Muldoon, 50 West Broad Street, Columbus, OH., 43215. Operating rights sought to be controlled: Under MC 123685 and subs thereunder, General commodities, with exceptions as a common carrier over regular routes between Wheeling, W. Va., and Clarksburg, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Fairmont, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Morgantown, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Clarksburg, W. Va., serving all intermediate points (except New Martinsville, W. Va., and those between New Martinsville and Moundsville, W. Va.); between junction U.S. Highway

250 and West Virginia Highway 89, near Cameron, W. Va., and Morgantown, W. Va., serving all intermediate points (except Waynesburg, Pa.); general commodities, with exceptions as a common carrier over irregular routes between points in Franklin County, Ohio, on the one hand, and, on the other, points in Ohio; between points in Stark County, Ohio, points in Brown Township, Carroll County, Ohio, points in that part of Smith Township, Mahoning County, Ohio, on and west of Brandy Road, and points in that part of Green Township, Summit County, Ohio, on and south of Greensburg Road, and on and east of U.S. Highway 241, on the one hand, and, on the other, points in Ohio, building materials, clay products, and commodities in bulk, in dump trucks, between points in Wayne County, Ohio (except Wooster, Ohio), on the one hand, and, on the other, points in Ohio; commodities in bulk, in dump trucks, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Ohio; commodities, in bulk, in dump trucks (except lime and sand), between Mansfield, Ohio, and Springfield Township, Monroe Township, and Sharon Township, Richland County, Ohio, on the one hand, and, on the other, points in Ohio.

Fertilizer, fertilizer ingredients, and pesticides, in bags, and in bulk, in dump vehicles, between Orrville, Ohio, and the plant site of Swift Agriculture Chemicals Corp., located at or near Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, Ohio, Pennsylvania, New York, and West Virginia; salt and salt products, and products used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed shipments with salt and salt products, from St. Clair, Mich., to points in Kentucky, Ohio, and West Virginia; from Akron, Ohio, to points in Indiana, Kentucky, and West Virginia, with restrictions; dry fertilizer and dry pesticides, from Cairo and Washington Court House, Ohio, to points in Pennsylvania and West Virginia; household goods as defined by the Commission, between points in Wood, Ritchie, Calhoun, Roane, Jackson, Pleasants, and Wirt Counties, W. Va., on the one hand, and, on the other, points in Ohio, Pennsylvania, Kentucky, North Carolina, Virginia, Maryland, New Jersey, New York, and the District of Columbia; oilfield equipment and supplies, between points in Wood County, W. Va., on the one hand, and, on the other, points in Ohio and Pennsylvania; general commodities, with exceptions between points in Woods County, W. Va., on the one hand, and, on the other, points in Washington, Athens, and Meigs Counties, Ohio; between Parkersburg, W. Va., on the one hand, and, on the other, points in that part of West Virginia on and west of U.S. Highway 21; plastic pipe, and fittings and accessories for plastic pipe, from the facilities of the Olin Corporation at Carrollton and Canton, Ohio, to points in West Virginia and those in Washington and Green Counties, Pa.; pulpboard, pulpboard products and paper wrappers, from the plant site of Greif Board Corporation, located in Perry Township, Stark County, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York (except New York City and its commercial zone as defined by the Commission), and Pennsylvania (except Allegheny and Westmoreland Counties); sand, in bulk, from Dundee, Ohio, to points in Indiana, Illinois, Kentucky, Michigan, New York, and West Virginia; fertilizer and pesticides, in containers, from Wadsworth, Ohio, to points in Indiana, Kentucky, Michigan, Pennsylvania, New York and West Virginia, with restrictions; ALTERNATE ROUTE FOR OPERATING CONVENIENCE ONLY: General Commodities, with exceptions between Clarksburg, W. Va., and Parkersburg, W. Va., in connection with carrier's otherwise authorized regular route operations, serving no intermediate points, and serving the termini for purpose of joinder only: from Clarksburg over U.S. Highway 50 to Parkersburg, and return over the same route.

(1) Salt and salt products and (2) salt brine tanks and tank parts, condiments, and food serving accessories in mixed loads with salt and salt products, from St. Clair, Michigan, to points in Virginia, Maryland, New York, Pennsylvania, and the District of Columbia; from Akron, Ohio, to points in Virginia, Maryland, Michigan, Pennsylvania, New York, and the District of Columbia, with restrictions; mail between Cleveland, Youngstown, and Warren, Ohio, between Cleveland, Akron, Canton, Steubenville, and Bridgeport, Ohio, and Wheeling, W. Va., between Columbus, Ohio, and Akron, Ohio, between Detroit, Mich., Toledo, Marion, Columbus, Chillicothe, and Portsmouth, Ohio; Ashland, Ky., Huntington, and Charleston, W. Va., between Canton, Mansfield, and Cincinnati, Ohio, between Cincinnati, Columbus, Youngstown, Akron, and Mansfield Ohio, between Pittsburgh, Pa., Moundsville, Wheeling, New Martinsville, Parkersburg, and Charleston, W. Va., between Richmond, Va., and Cincinnati, Ohio; General commodities, with exceptions between Columbus, Ohio, on the one hand, and, on the other, points in West Virginia on and west of U.S. Highway 21, between points in Washington, Athens, and Meigs Counties, Ohio, on the one hand, and, on the other, points in that part of West Virginia, on and west of U.S. Highway 21; general commodities with exceptions between Parkersburg, W. Va., on the one hand, and on the other, those points in West Virginia east of U.S. Highway 21, with restrictions. O. M. Lattavo and Phillip Lattavo hold no authority from this Commission. However, O. M. Lattavo controls Lattavo Brothers, Inc., MC 45194, which is authorized to operate as a common carrier in Indiana, Illinois, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, South Carolina and West Virginia. Application has been filed for temporary authority under section 210a(b).

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-12 (Sub-No. 44)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT NEAR LITCHFIELD PARK IN MARICOPA COUNTY, ARIZONA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 3, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 892.25 near Litchfield Park in a northerly direction to the end of the branch at railroad milepost 894.26 at Litchfield Park, a distance of 2.01 miles in Maricopa County, Arizona. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described findings of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services

over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-19 (Sub-No. 31)]

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY ABANDONMENT AND ABANDONMENT OF OPERATIONS BY THE BALTIMORE AND OHIO RAILWAY COMPANY BETWEEN GUTHRIE SPUR JUNCTION AND TIDEDALE IN INDIANA COUNTY, PENNSYLVANIA

NOTICE OF FINDINGS

Notice is hereby given pursunt to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 2, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the former and abandonment of operations by the latter, of a portion of its line known as the Guthrie Mine Spur between valuation station 95+68 at Guthrie Spur Junction and valuation station 165+76 at end of the spur at Tidedale, a distance of approximately 1.33 miles, all of which lies in Indiana County, Pennsylvania. A certificate of abandonment will be issued to the Buffalo, Rochester and Pittsburgh Railway Company and The Baltimore and Ohio Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-19 (Sub-No. 38)]

BALTIMORE AND OHIO RAILROAD COMPANY—DISCONTINUANCE OF CARFLOAT OPERATIONS IN NEW YORK HARBOR AND VICINITY

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated July 1, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *New Orleans Union Passenger Terminal Case*, 232 I.C.C. 271, and those provided pursuant to Section 405 of the Rail Passenger Service Act (45 USC 565), the present and future public convenience and necessity permit the discontinuance of carfloat service operated out of the St. George Lighterage, Staten Island, New York, to points in Richmond, Kings, Queens, Bronx and New York Counties, New York, and Middlesex, Union, Essex and Hudson Counties, New Jersey, as defined in items 2585 and 2590 of Tariff No. 788, I.C.C. C-653. A certificate of public convenience and necessity permitting discontinuance of carfloat service was issued to the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the regulations that publication of notice of abandonment or discontinuance decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing discontinuance shall become effective 45 days from the date of this publication.

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

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include 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 applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 34952 (Sub-No. 2), filed June 24, 1977. Applicant: D & N TRANSPORTATION CO., INC., 28 Privilege Street, Woonsocket, R.I. 02895. Applicant's representative: Frank J. Weiner, Esq., 15 Court Square, Boston, Mass. 02108. 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 in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk and those commodities requiring special equipment), between points in Massachusetts.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in Docket No. MC-F-13269, published in the FEDERAL REGISTER issue of July 14, 1977. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Providence, R.I.

No. MC 42487 (Sub-No. 867), filed July 7, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 185 Linfield Drive, Menlo

Park, Calif. 94025. Applicant's representative: Eugene T. Liipfert, Suite 1000, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *General commodities*, (a) between points in Erie County, N.Y.; (b) from point in Erie County, N.Y., to points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Fulton, Genesee, Livingston Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming, and Yates Counties N.Y.; (c) from points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Genesee, Lewis, Livingston Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Tioga, Tompkins, and Wyoming Counties N.Y., to points in Erie County, N.Y.; (d) from points in Niagara County, N.Y., to points in Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Genesee, Jefferson, Lewis, Livington, Madison, Monroe, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Steuben, Tioga, Tompkins, Wayne, and Yates Counties, N.Y.; (e) from points in Chautauqua County, N.Y., to points in Cattaraugus County, N.Y.; (f) from points in Cattaraugus County, N.Y., to points in Chautauqua County, N.Y.; (g) from points in Tompkins County, N.Y., to points in Jefferson and Onondaga Counties, N.Y. Applicant states that the application is directly related to its application under Section 5 to acquire the interstate rights of Wolfe Transportation Lines, Inc., in Certificate of Registration No. MC 56983 (Sub-No. 1).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Buffalo, N.Y. Notice of the application in the directly related finance proceeding docketed at MC-F-13275 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 98478, (Sub-No. 7), filed June 20, 1977. Applicant: ROBBINS TRUCK LINE, INC., Route No. 1, Hardinsburg, Ky. 40143. Applicant's representative: Rudy Yessin, 314 Wilkinson St., P.O. Box B, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Rhodelia, Ky., and Tip Top, Ky., serving all intermediate points except Fort Knox, Ky., from Rhodelia over Kentucky Highway 144 to its junction with U.S. Highway 31-W (near Radcliff); thence over U.S. Highway 31-W to Tip Top, and return over the same route.

NOTE.—The authority is sought in conjunction with the finance proceeding in Docket No. MC-F-13017 wherein Billy Rankin, Charles Robbins, C. A. Van Lahr, and R. B. Chambliss seek authority to acquire control of Robbins Truck Line, Inc. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. The authority sought is now being served under a certificate of registration. Notice of the application filed in MC-F-13017 appeared in the FEDERAL REGISTER issue of November 24, 1976.

No. MC 133689 (Sub-No. 123), filed April 19, 1977. Applicant: OVERLAND EXPRESS, INC., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs), and in connection therewith, materials and supplies used in the conduct of such business (except commodities of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and uncrated furniture, furnishings, fixtures, appliances, cabinets, and kitchen equipment), from Newark, N.J. and New York, N.Y., to Minneapolis-St. Paul, Minn.

NOTE.—The instant application is directly related to the application in No. MC-F-13200 (FR, May 12, 1977, p. 24153-24154) seeking approval of the purchase by applicant of Certificate No. MC 71593 issued to C. G. Potter, doing business as Maumee Express. The purpose of the instant application is to eliminate Ridgefield, N.J. (in Bergen County), as a gateway in connection with the combined operations of applicant and Maumee Express and to receive the direct authorization from and to the points involved in connection therewith. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

MOTOR CARRIER ALTERNATE ROUTES 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

No. MC 30504 (Deviation No. 18), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 5, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Coffeyville, Kans., over U.S. Highway 166 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction U.S. Highway 60, thence over U.S. Highway 60 to junction U.S. Highway 169, thence over U.S. Highway 169 to junction U.S. Highway 66, and return over the same route 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 Coffeyville, Kans., over U.S. Highway 166 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Interstate Highway 44, thence over Interstate Highway 44 to Tulsa, Okla., and return over the same route.

No. MC 109324 (Deviation No. 8), GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, Ark. 72601, filed July 1, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 71 and Interstate Highway 540 over Interstate Highway 540 to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Oklahoma Highway 2, thence over Oklahoma Highway 2 to junction U.S. Highway 64, thence over U.S. Highway 64 to Tulsa, Okla., thence over U.S. Highway 169 to Collinsville, Okla., thence over Oklahoma Highway 20 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction Kansas Highway 150, and return over the same route 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 junction U.S. Highway 71 and Interstate Highway 540 over U.S. Highway 71 to junction Arkansas Highway 10S, thence over Arkansas Highway 10S to Greenwood, Ark., thence over Arkansas Highway 10 to Perryville, Ark., thence over Arkansas Highway 60 to Conway, Ark., thence over U.S. Highway 65 to Springfield, Mo., thence over Missouri Highway 13 to junction Missouri Highway 7, thence over Missouri Highway 7 to junction U.S. Highway 71, thence over U.S. Highway 71 to junction Missouri Highway 150, thence over Missouri Highway 150 to the Kansas-Missouri State Line, thence over Kansas Highway 150 to junction Interstate Highway 35, and return over the same route.

No. MC 111231 (Deviation No. 61), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed July 6, 1977. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock, Ark., over Interstate Highway 30 to junction Arkansas Highway 24, thence over Arkansas Highway 24 to junction Arkansas Highway 7, thence over Arkansas Highway 7 to El Dorado, Ark., and return over the same route

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 Little Rock, Ark., over U.S. Highway 65 to junction U.S. Highway 82, thence over U.S. Highway 82 to El Dorado, Ark., and return over the same route.

No. MC 112713 (Deviation No. 46), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kans. 66207, filed July 6, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nevada, Mo., over U.S. Highway 54 to junction U.S. Highway 65 near Preston, Mo., thence over U.S. Highway 65 to junction Missouri Highway 64, thence over Missouri Highway 64 to junction U.S. Highway 66 near Lebanon, Mo., and return over the same route 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 Nevada, Mo., over U.S. Highway 71 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Conway, Mo., thence over unnumbered highway to junction U.S. Highway 66, thence over U.S. Highway 66 to Lebanon, Mo., 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.

Alaska Docket No. 77-153-MF/O, filed June 20, 1977. Applicant: RAVEN TRANSIT, INC., 3541 Amber Bay Loop, Anchorage, Alaska 99510. Applicant's representative: John M. Stern, Jr., Box 1672, Anchorage, Alaska 99510. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* having a prior or subsequent movement by air (except articles which, because of size, shape, or weight, require the use of special equipment and Classes A and B explosives and commodities in bulk), between or from and to the airports of Kenai and Soldotna, Alaska, on the one hand, and points within a 35 mile radius of the airports on the other hand, including between the above named airports. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Alaska Public Utilities Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501, and should not be directed to the Interstate Commerce Commission.

Nebraska Docket No. M-11467, Sup. 1, filed April 13, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as corrected this issue. Applicant: VALORUS MILLS, doing business as Mills Film Transfer, 1234 South Ninth Street, Lincoln, Nebr. 68502. Applicant's representative: Bradford E. Kistler, Box 82028, Lincoln, Nebr. 68501. Authority sought to operate a freight service over regular routes as follows: Transportation of *commodities generally* (except commodities in bulk, household goods as defined by the Interstate Commerce Commission in practices of motor common carriers of household goods, 17 M.C.C. 467 (1939), or commodities requiring special equipment), between Omaha and Lincoln, Nebr., over U.S. Highway 6, serving no intermediate points, and serving points in the commercial zones, as defined by the Interstate Commerce Commission, of Omaha and Lincoln, Nebr., as off-route points in connection with carrier's regular route operations.

NOTE.—The purpose of this republication is to indicate the correct type of routes to read; over *regular* in lieu of irregular. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place to be determined later. Requests for procedural information should be addressed to the Nebraska Public Service Commission, 301 Centennial Mall South, P.O. Box 94927, Lincoln, Nebr., and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.77-20681 Filed 7-20-77;8:45 am]

[Notice No. 440]

ASSIGNMENT OF HEARINGS

JULY 18, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 10761 (Sub-No. 282), Transamerican Freight Lines, Inc., now being assigned August 2, 1977 (14 days), in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

MC 136008 (Sub 79), Joe Brown Company, Inc., now assigned July 21, 1977, is cancelled.

MC 82841 (Sub-No. 198), Hunt Transportation, Inc., now assigned September 20, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 113651 (Sub-No. 203), Indiana Refrigerator Lines, now assigned September 21, 1977, at Omaha, Nebr., will be held in Room 616 Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 133095 (Sub-No. 138), Texas Continental Express, Inc., now assigned September 26, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 139850 (Sub-No. 9), Four Star Transportation, Inc., now assigned September 27, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 123872 (Sub-No. 65), W & L Motor Lines, Inc., and MC 139091 (Sub-No. 18), Logan Motor Lines, Inc., now assigned September 28, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 80430 (Sub-No. 160), Gateway Transportation Co., Inc., MC 82492 (Sub-No. 141), Michigan & Nebraska Transit Co., Inc., and MC 134477 (Sub-No. 147), Schanno Transportation, Inc., now assigned September 29, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

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

[FR Doc.77-21006 Filed 7-20-77;8:45 am]

[Ex Parte No. 137]

CONTRACTS FOR PROTECTIVE SERVICES

AGENCY: Interstate Commerce Commission.

ACTION: Report and order.

SUMMARY: The Interstate Commerce Commission approved four mechanical protective service contracts and ordered the Pacific Fruit Express Co. (PFE) and various carriers to enter into those contracts.

FOR FURTHER INFORMATION:

Deputy Director Rosenak or Assistant Deputy Director Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: The report, found at 353 I.C.C. 812, was issued pursuant to the referral by the United States District Court for the Northern District of California which directed the Commission to approve, disapprove, or modify proposed protective service contracts that were submitted by the defendant carriers and Pacific Fruit Express. The Commission was to determine whether the contracts complied with our decisions at 318 I.C.C. 111 (codified at 49 CFR Part 1032) and 340 I.C.C.

754. Seven contracts were submitted, two by PFE and five by the carriers. The Commission found that PFE's contracts warranted approval while the five carrier contracts warranted disapproval. Two of the carrier contracts were modified and approved.

By the Commission. Commissioners Hardin, Gresham, and MacFarland did not participate.

H. G. HOMME, JR.,
Acting Secretary.

ORDER

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 6th day of June 1977.

[Ex Parte No. 137]

CONTRACTS FOR PROTECTIVE SERVICES

It appearing, that upon referral of the order of June 9, 1976, of the United States District Court for the Northern District of California, the Commission was directed to approve, disapprove, or modify proposed mechanical protective service contracts to determine whether they complied with our reports and orders in this proceeding at 318 I.C.C. 111 (1962) and 340 I.C.C. 754 (1972) and the Court's injunctive judgment and order, 355 F. Supp. 700 (N.D. Cal. 1973), aff'd. 524 F. 2d 1025 (9th Cir. 1975), cert. denied 424 U.S. 911 (1976).

It further appearing, that petitions for approval of proposed mechanical protective service contracts were filed on June 29, 1976, by Pacific Fruit Express Co. (PFE) which contained the CNW (Appendix A) and Southern (Appendix B) proposed contracts; on July 8, 1976 by the Norfolk and Western; on July 9, 1976, by certain defendants which contained the Chessie System (Appendix C) and the Illinois Central (Appendix D) proposed contracts and the divisional proposal; on July 29, 1976, by the Rock Island; and on August 16, 1976, as a supplement to the petition of certain defendants, by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.;

And it further appearing, that some of the defendants listed in the District Court's June 9, 1976, order submitted proposed mechanical protective service contracts with PFE long after the 30-day period in which to submit such contracts had expired (Appendix H);

Wherefore:

It is ordered, That the CNW and Southern proposed contracts (Appendices A and B) be, and they are hereby, approved.

It is further ordered, That the divisional proposal and the Norfolk and Western, the Chessie System, Illinois Central, the Rock Island and the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. proposed contracts be, and they are hereby, disapproved.

It is further ordered, That modified Chessie System and Illinois Central contracts (Appendices E & F) be, and they are hereby, approved.

It is further ordered, That the request of certain defendants for oral hearing and the request of the Norfolk and Western for consolidation of these petitions with the Petition for Rulemaking and Modification and Clarification of the Rules filed on June 14, 1976, by certain Eastern Railroads be, and they are hereby, denied.

It is further ordered, That PFE and all defendants listed in the District Court's June 9, 1976, order who did not submit contracts with PFE after the District Court's 30-day period, enter into one of the approved contracts (Appendices A, B, E, and F) within 45 days from the date of service.

It is further ordered, That should the Commission not approve any of the contracts between PFE and the defendants listed in Appendix H who filed contracts with PFE after the District Court's 30-day period, PFE and the involved defendants shall enter into one of the approved contracts (Appendices A, B, E, and F) within 45 days from the date of service of such order.

And it is further ordered, That a copy of this order shall be delivered to the Director, Office of the Federal Register, for publication therein.

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.

By the Commission.

NOTE.—A copy of each appendix mentioned in this document is available from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

[FR Doc.77-20990 Filed 7-20-77;8:45 am]

[Notice No. 199]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before August 22, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76981, filed June 23, 1977. Transferee: BAY AREA FORWARDERS, INC., 2500 Pier St., Oakland, Calif. 94607. Transferor: Charles A. Fuller, doing business as Modern Van & Storage, 867 Isabella Street, Oakland, Calif. 94607. Applicant's representative: Thomas M. Loughran, Attorney at Law, 100 Bush Street, San Francisco, Calif. 94104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136674, issued March 29, 1973, as follows: *Used household goods,* over irregular routes, with restrictions, between points in San Francisco, Alameda, Contra Costa, San Mateo, Marin, and Santa Clara Counties, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77143, filed May 24, 1977. Transferee: WHEEL HORSE EXPRESS, Rural Route No. 1, Rantoul, Kans. 66079. Transferor: The Hall Truck Line, Inc., P.O. Box 188, Olathe, Kans. 66061. Applicant's representative: Clyde N. Christey, Attorney at Law, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought for purchase by transferee of the operating rights set forth in Certificate Nos. MC 105367 and MC 105367 (Sub-No. 4), issued April 29, 1958, and July 15, 1977, respectively, as follows: *General commodities,* with the usual exceptions, between specified points in Kansas, and between specified points in Kansas and Missouri; *milk, empty containers for milk, livestock and feed, petroleum products, hardware, seeds, agricultural implements and parts, fencing materials, building materials, roofing, hardware, twine, nursery stock, feed, poultry remedies, poultry, hatchery supplies, motor oil, agricultural machinery, eggs, egg cases, tractors, soya beans, and grain,* from, to, and between specified points in Kansas and Missouri. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77146, filed May 23, 1977. Transferee: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, Mass. 02053. Transferor: Country Wide Truck Service, Inc., 1110 South Reservoir Street, Pomona, Calif. 91766. Applicant's representatives: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108; Paul M. Danieli, P.O. Box 872, Atlanta Ga. 30301. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 138941 (Sub-No. 5) and MC 138941 (Sub-No. 10) issued Octo-

ber 8, 1975, and August 13, 1976(respectively, as follows: *Plastic articles* from Lowell, Mass., and Stratford, Conn., to points in California, Washington, Oregon, Texas, Georgia, and Illinois. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77181, filed June 20, 1977. Transferee: KEITH BOTKINS TRUCKING, INC., 112 West Rollins Street, Moberly, Mo. 65270. Transferor: J. J. Gillan Trucking Co., Inc., 1028 Sinnock Avenue, P.O. Box 297, Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 142358 (Sub-No. 3), issued May 20, 1977, as follows: *Coal*, from points in Missouri to points in Illinois and Iowa. Transferre is presently authorized to operate as a common carrier under Certificate No. MC-124202. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77201, filed July 5, 1977. Transferee: NEEL TRANSPORTATION CO., INC., R.D. No. 6 Box 516, Washington, Pa. 15301. Transferor: BRENNAN WASHNER, R.D. No. 2, Ridge Rd., Washington, Pa. 15301. Applicant's representative: John A. Pillar, Attorney at Law, 205 Ross St., Pittsburgh, Pa. 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 106663, issued March 20, 1973, as follows: *Corrugated paper boxes and fillers*, from points in North Strabane Township (Washington County), Pa., to Pittsburgh, Pa., points in Ohio and Maryland, and that part of West Virginia on and north of U.S. Highway 50. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

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

[FR Doc.77-21004 Filed 7-20-77;8:45 am]

[Notice No. 90]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 14, 1977.

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

No. MC 44605 (Sub-No. 46TA), filed June 28, 1977. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value), Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Between Yucca, Ariz., and Kingman, Ariz., (2) from Yucca over Interstate Highway 40 (U.S. Highway 66) to Kingman and return over the same route, serving all intermediate points, and (2) Between Wickenburg, Ariz., and Las Vegas, Nev., (a) from Wickenburg over U.S. Highway 93 to Las Vegas and return over the same route, serving all intermediate points in Arizona. Applicant intends to tack this authority with that in their MC 44605 and subs. Applicant also intends to interline with other carriers at Las Vegas, Nev., Los Angeles, Calif., and Phoenix, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately thirty-three 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: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 63417 (Sub-No. 104TA), filed June 24, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Sumter, S.C., Vander, N.C., and the plantsite and facilities of Coleman Furniture Co., at Pulaski, Va., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Returned shipments of above commodities from above destinations to above origins, for 180 days. Supporting shippers: Coleman Furniture Corp., Pulaski, Va. 24301; International Wall System, Inc., Fayetteville, N.C. 28301; Williams Furniture, Division of Georgia Pacific Corp., Sumter, S.C. 29150; Sumter Cabinet Co., Sumter, S.C. 29150. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 65475 (Sub-No. 12TA), filed June 24, 1977. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, Va. 22304. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum*, between the facilities of Howmet Aluminum Corp. located at or near Frederick, Md., and Lancaster and Marietta, Pa., on the one hand, and, on the other, the facilities of Consolidated Aluminum Co., located at or near New Johnsonville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howmet Aluminum Corp., 475 Steamboat Road, Greenwich, Conn. 06830. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 89697 (Sub-No. 32TA), filed June 20, 1977. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Ave., Roselle Park, N.J. 07204. Applicant's representative: Mr. Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water reducing admixture, liquid*, in bulk, in tank vehicles, from Linden, N.J.; to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Delaware, District of Columbia, Pennsylvania, West Virginia, Ohio, and Virginia, for 180 days. Supporting shipper: Penn-Dixie Chemical Co. 2 Porete Ave. North Arlington, N.J. 07032. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 95540 (Sub-No. 987TA), filed June 21, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and smoked meats:* (1) from the plantsite of

Cudahy Foods at or near Harrodsburg, Ky., and Cynthiana, Ky., to Omaha, Nebr., and (2) from the plantsite of Sugar Creek Packing at or near Dayton and Washington Court House, Ohio, to Omaha, Nebr., for 180 days. There is no environmental impact involved in this application. Supporting shipper: Cudahy Foods Co., P.O. Box 43612, Atlanta, Ga. 30336. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, Fla. 33166.

No. MC 106074 (Sub-No. 32TA), filed July 1, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decorations and ornaments*, from Gastonia, N.C., and points in its commercial zone, to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, and points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii), for 180 days. Supporting shipper: Rauch Industries, Inc., P.O. Box 609, Gastonia, N.C. 28052. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., CC–516, Charlotte, N.C. 28205.

No. MC 108676 (Sub-No. 106TA), filed June 30, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, N.E., Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse containers and refuse container systems and parts, attachments and attachments therefor*, from the Dempster Dumpster Systems, Inc., plantsite at Danville, Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dempster Dumpster Systems, Division of Carrier Corporation, Springdale & North Central Avenues, Knoxville, Tenn. 37917. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 111289 (Sub-No. 5TA), filed June 13, 1977. Applicant: RICHARD D. FOLTZ, 806 N. Warren Street, Orwigsburg, Pa. 17961. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor *vehicle*, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township, Dauphin County, Pa., to those points in the State of New York on and north and west of a line following U.S. Route 44 from the New York-Connecticut state line west to the junction of U.S. Route 209 and south on U.S. Route 209 to the New York-Pennsylvania state line; and (2) *materials and supplies* used in the production of foodstuffs (except in bulk), and return shipment of foodstuffs, from the points in the State of New York as described above to Derry Township, Dauphin County, Pa. Restriction: Limited to a transportation service to be performed, under a continuing contract, or contracts, with Hershey Foods Corporation, Hershey, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hershey Foods Corporation, Hershey, Pa. 17033. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112617 (Sub-No. 368TA), filed June 2, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Bruce Kraemer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used chemicals and used petroleum products*, in bulk, in tank vehicles, from the plantsite of Reliance Universal, Inc., at or near Clinton, Miss., and Franklin, Tenn., to the plantsite of George W. Whitesides Company at Louisville, Ky., for 180 days.

NOTE.—Letter from carrier attached hereto requesting that its application be changed to include 'plantsite restriction' as shown above. Please substitute this Notice for the one dated June 21, 1977. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper: George W. Whitesides, President, George W. Whitesides Company, 31st and Michigan Drive, Louisville, Ky. 40212. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Offie Building, Louisville, Ky. 40202.

No. MC 113651 (Sub-No. 225TA), filed June 17, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Munice, Ind. 47303. Applicant's representative: George E. Batty (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, by-products and articles distributed by meat packinghouses*, from Worthington, Ind., to Detroit, Mich.; Amarillo and El Paso, Tex.; Tupelo and West Point, Miss.; Atlanta, Ga.; Canton and Massillon, Ohio; points in Florida, Illinois, Iowa, Massachusetts, New York, New Jersey, Pennsylvania, Virginia, and to the ports of entry on the International Boundary Line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., and Detroit, Mich. Restriction: Restricted to traffic originating at the plant site and storage facilities of Herkly Packing Company located at or near Worthington, Ind., and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Herkly Packing Company, Inc., U.S. 231 North, Box No. 1, Worthington, Ind. 47471. Send protests to: J. H. Gray, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 114045 (Sub-No. 468TA), filed June 27, 1977. Applicant: TRANS–COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, chemicals, and all materials* used in the manufacture, sale, packaging and distribution of same in mechanically refrigerated equipment, from Philadelphia, Pa., Lewes and Seaford, DE Commercial zones to all points in the State of Arkansas (Bentonville, Harrison and Little Rock), for 180 days. Supporting shipper: William H. Rorer, Inc., 500 Virginia Drive, Fort Washington. Pa. 19034. Send Protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 114569 (Sub-No. 182TA), filed June 24, 1977. Applicant: SCHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motorcycles, recreational vehicles, and machines accessories and parts*, and (2) *equipment, materials and supplies* used in the manufacture, distribution, or sale of the commodities named in (1) above, except commodities in bulk, Between Lincoln, Nebr., on the one hand, and, on the other, Nevada, Oregon, Washington, Idaho and Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kawaski Motors Corp., U.S.A., P.O. Box 11447, Santa Ana, Calif. 92711. Send protests to: Charles F. Myers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114632 (Sub-No. 116TA), filed July 1, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison S. Dak. 57042. Applicant's representative: Robert A. Applewick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products including returned or refused shipments*, from International Falls, Minn., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New

York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin, for 180 days. Supporting shippers: Boise Cascade Corporation, 2121 S. W. Broadway Drive, P.O. Box 2885, Portland, Oregon 97208. G. B. "Jerry" Bundy, Assistant General Manager, Transportation Services. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 116519 (Sub-No. 42TA), filed June 9, 1977. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Combines and parts and attachments thereof*, when moving in mixed loads therewith, from ports of entry on the United States-Canada International Boundary line located in Michigan and New York, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: (1) The transportation authorized herein is restricted to foreign commerce. (2) The transportation authorized herein is restricted to the transportation of shipments originating at the facilities of Massey-Ferguson Industries, Limited, Brantford, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Massey-Ferguson Industries, Ltd., George Stephenson, Traffic Manager—Canada, Brantford, Ontario, Canada. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Avenue, Detroit, Mich. 48226.

No. MC 119793 (Sub-No. 152TA), filed June 24, 1977. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th St. Road, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and siding materials, composition shingles, rolled roofing, roofing compounds and accessories*, thereto, from the plant sites and facilities of Elk Corporation located at Stephens & Camden, Ark., to all points and places in the states of Missouri, Oklahoma, Texas, Kentucky, Tennessee, Alabama, Mississippi and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elk Corporation, P.O. Box 37, Stephens, Ark. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission,—BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 121654 (Sub-No. 3TA), filed June 15, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7177, 2700 Louisville Rd., Savannah, Ga. 31408. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Chatham County, Ga. to Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certain-Teed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 124692 (Sub-No. 176TA), filed June 22, 1977. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool or mineral wool products and* (2) *insulating or protective materials, viz., calcium silicated and fibre combined or felts saturated with asphalt or not saturated*, from the plant sites and warehouse facilities of Johns-Manville Corporation at (1) Alexandria, Ind., to points in Montana and (2) from Waukegan, Ill., to points in California, Colorado, Utah, Oregon and Washington, for 180 days. Supporting shipper(s): Edwin T. Sinclair, Regional Traffic Manager, Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: District Supervisor Paul J. Lane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 125433 (Sub-No. 108TA), filed June 28, 1977. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *industrial, construction, excavating, and material handling equipment*, and (3) *parts and attachments* for (1) and (2) above (except truck tractors, truck tractor attachments, and commodities which by reasons of size or weight require the use of special equipment), from the facilities of J. I. Case Company at or near Burlington and Bettendorf, Iowa, to points in Arizona, Utah, Idaho, Washington, Oregon, Nevada and California, for 180 days. Supporting shipper: J. I. Case Company, 700 State Street, Racine, Wis. 53404 (Robert L. Henderson). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 125770 (Sub-No. 12TA), filed June 30, 1977. Applicant: SPIEGEL TRUCKING, INC., 1000 South 4th Street, Harrison, N.J. 07029. Applicant's representative: Joel J. Nagel, 19 Back Drive, Edison, N.J. 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and materials* used in the manufacture of home, office and library furniture; between points and places in the State of Pennsylvania and Newark, N.J., on the one hand, and, on the other, points and places in the States of Connecticut, Florida, Georgia, Illinois, Indiana, Maryland, North Carolina, New Jersey, New York, Ohio, Rhode Island, South Carolina, Tennessee and Virginia. Restriction: Operations authorized herein are to be limited to a transportation service to be performed under a continuing contract, or contracts, with Art Metal-U.S.A. Inc./Steel Sales, Inc. of Newark, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Art Metal-U.S.A., Inc./Steel Sales, Inc., 290 Passaic Street, Newark, N.J. 07104. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 129455 (Sub-No. 21TA), June 20, 1977. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Applicant's representative: Mr. Joseph Carretta, 350 Mayhill St., Saddle Brook, N.J. 07662. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood products*, from the United States-Mexican border at Calexico, Calif., to points in the United States (except Alaska and Hawaii), (2) *materials, supplies and equipment* used in the manufacture of redwood products, from points in California to the United States-Mexican border at Calexico, Calif., for 180 days, under a continuing contract with Quaker City Industries, Inc., 301 Mayhill St., Saddle Brook, N.J. 07662. Send protests to: District Supervisor, Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 133095 (Sub-No. 163TA), filed July 5, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Hair care toiletries and equipment*, from Stamford, Conn., and the plantsite of Lake Center Industries at or near Rochester, Minn., to points in the United States in and west of Wisconsin, Illinois, Missouri, Arkansas and Mississippi, (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. (B) *Hair*

care toiletries and equipment, from Stamford, Conn., to Memphis, Tenn.; Atlanta, Ga., and Detroit, Mich.; From the plantsite of Lake Center Industries at or near Rochester, Minn., to Atlanta, Ga.; Baltimore, Md.; and Stamford, Conn. Restriction: Restricted to traffic originating at the plantsite and facilities of Clairol, Inc. and subcontractors of Clairol, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol, Inc., 345 Park Avenue, New York, N.Y. 10022. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 133097 (Sub-No. 19TA), filed June 24, 1977. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, Calif. 90630. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Engines, transmissions, axles, automotive parts and accessoires, carriers, pallets, and skids.* (1) Between Allentown, Pa., and its commercial zone, on the one hand, and, on the other, Hayward, Calif., and its commercial zone. (2) Between Allentown, Pa., and Bridgewater, N.J., and their respective commercial zones, on the orfe hand, and, on the other, Chicago, Ill., and its commercial zone. (3) Between Chicago, Ill., and its commercial zone, on the one hand, and, on the other, Hayward, Calif., and its commercial zone, for 180 days. Supporting shipper: Mack Trucks, Inc., Box M, Allentown, Pa. 18105. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 136291 (Sub-No. 7TA), filed June 21, 1977. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 2701 S. Bayshore Drive, Miami, Fla. 33133. Applicant's representative: Albert W. Stout, 3600 N.W. 82nd Avenue, Miami, Fla. 33166. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, liquid oxygen* in specially designed cryogenic vehicles provided and owned by the shipper from Gadsden, Ala., to points in Georgia, Kentucky, Tennessee and Mississippi, Louisiana, North Carolina, South Carolina, Florida and Arkansas, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, N.Y. 10017. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 136315 (Sub-No. 16TA), filed June 21, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds and accessories thereto,* from the plantsite and storage facilities of Elk Corporation located at or near Stephens, Arkansas, and Camden, Arkansas, to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 96 days of operating authority. Supporting shipper: Elk Corporation, Stephens, Ark. 71764. Send protests to: District Supervisor Tarrant, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138144 (Sub-No. 23TA), filed July 1, 1977. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Paul R. Bergant, 10 S. LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or distributed by manufacturers of (1) buildings, complete, knockdown, or in sections; (2) building sections and panels, (3) component parts, materials and supplies for (1) and (2) above, and (4) parts, accessories, and equipment used in the installation of (1), (2) and (3) above (except commodities in bulk), from the facilities of Sonoco Buildings, a Division of Sonoco Products Company, located at or near the town of Brookfield, Wis., and Milton, Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sonoco Buildings, A Division of Sonoco Products Co., 19775 Sommer Drive, Waukesha, Wis. 53186, (E. Ellis Mason). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 138308 (Sub-No. 14TA), filed June 20, 1977. Applicant: KLM, INC., 2102 Old Brandon Rd., P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39208. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department and variety stores (except commodities in bulk), from points in Alabama, Arkansas, California, Florida, Georgia, Illinois, Louisiana, Massachusetts, Missouri, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Texas and Washington, to the facilities of W. E. Walker Stores, Inc. at or near Columbia, Mississippi, and Diboll, Texas, restricted to shipments originating in the above states and destined to the above specified points, for 180 days. Supporting shipper: W. E. Walker Stores, Inc., P.O. Box 9407, Jackson, Miss. 39206. Send protests to: District Supervisor Alan C. Tarrant, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138869 (Sub-No. 11TA), filed June 14, 1977. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, 4481 Moreland Ave., Conley, Ga. 30027. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds, mineral mixtures, tonics, medicines, insecticides, pesticides, feeders and equipment and advertising matter and premiums related to such commodities,* except the transportation of liquid commodities in bulk, from the plant and warehouse facilities of Moorman Manufacturing Co., at or near Quincy, Ill., to points in the states of South Carolina, Georgia and Florida, under a continuing contract, or contracts, with Moorman Manufacturing Co., 1001 North 30th Street, Quincy, Ill. 62301. Send Protests To: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309.

No. MC 141511 (Sub-No. 5TA), filed June 23, 1977. Applicant: ROBERT W. RETTIG, doing business as Protein Express, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Electrical equipment and appliances and materials, equipment and supplies* used in the manufacture, installation and sale thereof, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif.; Salt Lake City, Utah, Pasco, Wash.; Kansas City, Mo. and Denver, Colo. restricted to the transportation of shipments originating at the named origin and destined to the named destinations, for 180 days. Supporting Shipper: Broan Manufacturing Co., Inc., Box 140 Hartford, Wis. 50327, (Ronald Ver Strate). Send Protests To: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 142624 (Sub-No. 2TA), filed June 28, 1977. Applicant: HOMER D. MILLER, doing business as H M Carrier Service, P.O. Box 68, Stone Ridge, N.Y. 12484. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Laboratory animals,* between Carworth, Division of Charles River Breeding Laboratories, Inc., in Stone Ridge, N.Y., on the one hand, and, on the other, Albany County

Airport, Albany, N.Y.; Kennedy International Airport in New York Ctiy; Newark Airport in New Jersey; Ridgefield, Conn.; Bloomfield, Newark, Somerville, Orange, Nutley and Morristown, N.J.; Wilmington, Mass., under a continuing contract, or contracts, with Carworth, Division of Charles River Breeding Laboratories, Inc., P.O. Box 241, Stone Ridge, N.Y. 12484. Send Protests To: Robert A. Radler, District Supervisor, P.O. Box 1167, 518 Federal Building, Albany, N.Y. 12201.

No. MC 143030 (Sub-No. 1TA), filed June 23, 1977. Applicant: CHARLES M. MYERS, doing business as T & G Enterprises, 222 Valley Circle, Riverton, Wyo. 82501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having immediate, prior, or subsequent movement by air, between Natrona County Airport west of Casper, Wyo. and Shoshoni, Riverton, Pavillion, Gas Hills and Lander, Wyo., for 180 days. Supporting Shippers: There are approximately nine (9) 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: District Supervisor Paul A. Naughton, Rm. 205 Federal Bldg., and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 143370 (Sub-No. 1TA), filed June 20, 1977. Applicant: EMPIRE TRUCKING COMPANY doing business as H. D. Jordan and Emmett O. McKenzie, a Partnership, P.O. Box 206, Old Wasnington, Ohio 43768. Applicant's representative: E. H. Van Deusen, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, except in bulk, from the facilities of Quaker State Oil Refining Corporation at or near Emlenton, Pa.; Buffalo, N.Y.; and Congo and St. Marys, W. Va., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, for 180 days. Supporting Shipper: Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, Pa. 16301. Send Protests To: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143391TA, filed June 14, 1977. Applicant: CICIO TRUCKING CO., INC., P.O. Box 661, Woodridge, N.Y. 12789. Applicant's representative: Roy D. Pinsky, 345 So. Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ice*, from Sullivan ounty, N.Y., to points in New York, New Jersey and Pennsylvania, (2) *materials and supplies* used in the production of egg cartons, from Westboro, Mass., to Sullivan County, N.Y., (3) *materials and supplies* used in packaging and distribution of eggs, from Palmer, Mass., to Sullivan County, N.Y.; from Sullivan County, N.Y., to points in New York, New Jersey, Pennsylvania, Connecticut and Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: There are approximately six (6) 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: Robert A. Radler, District Supervisor, 518 Federal Building, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 143435TA, filed June 27, 1977. Applicant: MONDAY'S EXPRESS, INC., 201 Johnson Street, Covington, Ky. 41101. Applicant's representative: Charles P. Gore, 107 Church Street, Lexington, Ky. 40507. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-mixed clay;* (2) *raw castings*; and (3) *empty metal containers*, (1) Cincinnati, Ohio to and from McMinnville, Tenn.; (2) McMinnville, Tenn., to Akron, N.Y.; (3) McMinnville, Tenn., to and from Detroit, Mich.; (4) McMinnville, Tenn., to Lake City, Minn.; and (5) McMinnville, Tenn., to Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Powermatic Houdaille, Inc., P.O. Box 70, McMinnville, Tenn. 37110. Send protests to: Linda H. Sypher, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 143448TA, filed June 30, 1977. Applicant: DOONAN TRUCK AND EQUIPMENT, INC., P.O. Box 1286, Great Bend, Kans. 67530. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacement vehicles and trailers for such wrecked or disabled vehicles*. Between points and places in Kansas, on the one hand, and, points and places in the United States (except Alaska and Hawaii), on the other hand, Restricted, however to transport no trailers designed to be drawn by passenger automobiles, nor mobile homes, nor buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked, for 180 days. Supporting shippers: There are approximately eighteen (18) 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 ata the field office named below. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 143449TA, filed June 30, 1977. Applicant: RED BALL WRECKER SERVICE, INC., 235 West 10th, Wichita, Kans. 67203. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacements* vehicles and trailers for such wrecked or disabled vehicles, between points and places in Kansas, on the one hand, and, points and places in the United States (except Alaska and Hawaii), on the other hand. Restricted however, to transport no trailers designed to be drawn by passenger automobiles, nor mobile homes, nor buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked, for 180 days. Supporting shippers: There are approximately seventeen (17) 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: M.E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-21005 Filed 7-20-77;8:45 am]

sunshine act meetings

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: July 28, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *State of California Petition for Exemption* of its Standard for Children's Wearing Apparel from Preemption under the Flammable Fabrics Act. The California State Fire Marshal requested this exemption in October, 1976. The Commission held hearings on the request, in Washington and in California, in February 1977, following publication of a proposed exemption in the December 27, 1976 FEDERAL REGISTER.

2. *Final Rule Requiring Identification and Warning on Consumer Aerosol Products containing Chlorofluorocarbon Propellants.* On April 29, 1977, the Commission proposed a rule which would require manufacturers (including importers) to label these products to state a warning that they contain a chlorofluorocarbon propellent that may harm the public health and environment by reducing ozone in the upper atmosphere.

3. *EPA Request for Access to Product Ingredient Information.* The Commission is considering furnishing the Environmental Protection Agency with data derived from the chemical information submitted to the Commission under its Special Order of August 18, 1975. EPA has requested the information under section 26(a)(2) of the Toxic Substances Control Act for use in compiling a priority list of chemicals which EPA may test under provisions of that act. By notice in the July 11, 1977, FEDERAL REGISTER, the Commission announced its intention to release the data, and sought public comment.

4. *Policy on Establishing Priorities for Commission Action.* In publishing this regulation, in July 1976, the Commission had sought public comment. This document, if approved by the Commission, amends the policy for setting priorities for Commission action under the five acts which it administers.

5. *Petition on Snowmobiles, CP 76–9.* The Commission will consider this petition from George A. Peters, of Los Angeles, to develop mandatory safety standards for snowmobiles.

6. *Petition on Ventilation Fans, CP 77–3.* The Commission will consider this petition in which Lawrence H. Chapman, Harvey, Louisiana, asked the Commission to require labeling of attic ventilation fans because of possible fire hazards.

7. *Possible Substantial Product Hazard: Milwaukee Electric Tool Corp. circular saws, ID 77–35.* The staff has recommended that the Commission accept the corrective action plan which this company has implemented to deal with a possible hazard associated with certain circular saws which may have defective blade guards.

8. *Petition on Bicycle Reflectors, HP 76–16.* In this petition, Norbert Kirk, of Chicago, has asked the Commission to amend its bicycle reflector requirements to allow use of an in-motion reflector which Mr. Kirk manufactures.

9. *Petition on "Pop-Zit" Toy, HP 76–2.* In this petition, Quentin Steinberg, an attorney in Seattle, Washington, has asked the Commission to take action to remove this propelled-object toy from the marketplace because it poses an unreasonable risk of injury.

10. *Possible Substantial Product Hazard: B. Altman & Co. trolley ride toy, ID 77–14.* The Commission will consider additional information which the staff has obtained relating to this possible hazard. The staff has recommended that the Commission close the case.

11. *Proposed Regulations for section 6(b) of the Consumer Product Safety Act.* These rules would establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products, or to request retraction of inaccuracies in published information. The rules would express the Commission's interpretation of section 6(b) of the CPSA.

12. *Petition on Home Insulation, CP–77–1.* The Commission will consider a petition from Colorado State's Attorneys offices to regulate alleged hazards associated with various types of home insulation.

13. *Electrical Extension Cords.* The Commission will consider a variety of options for action on electric shock and mouth burn hazards associated with extension cords.

14. *Petition from Laminators Safety Glass Association.* This association has made three requests concerning the Commission's standard for architectural glazing materials (which became effective July 6, 1977, a stay of the effective date; a petition to amend the standard; and a request for limited exceptions to and a petition to reconsider the standard.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, Suite 300 1111 18th St., N.W., Washington, D.C. 20207, telephone 202–634–7700.

[S–933–77 Filed 7–18–77;2:50 pm]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

S–909–77, 42 F.R. 36910, July 18, 1977, and S–924–77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., July 20, 1977.

CHANGE IN THE MEETING: The following item, originally announced for the open session, has been deleted from the agenda:

(2) *Guidelines on Employee Selection Procedures*

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows: In favor of change:

Eleanor Holmes Norton, Chair, 7–18–77.
Ethel Bent Walsh, Vice Chair, 7–18–77.
Daniel E. Leach, Commissioner, 7–19–77.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued July 19, 1977.

[S–941–77 Filed 7–19–77;10:28 am]

3

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m. July 25, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy (202–624–7107).

MATTERS TO BE CONSIDERED: Consideration of status report on move to FHLBB new building consideration of CMAC—mortgage insurance company approval.

No. 49, July 18, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S–934–77 Filed 7–18–77;2:51 pm]

4

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: At the conclusion of the open meeting to be held at 2:30 p.m., July 25, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy (202–624–7107).

MATTERS TO BE CONSIDERED: Consideration of appointment of Assistant Secretary.

No. 50, July 18, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S–935–77 Filed 7–18–77;2:51 pm]

5

FEDERAL RESERVE SYSTEM (Board of Governors).

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36588, July 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 20, 1977.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

1. Request from the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee, and the Subcommittee on Government Regulation and Small Business Advocacy of the Select Committee on Small Business, for the Board's comments on S. 1726, the "Small Business Economic Policy and Advocacy Reorganization Act of 1977".

2. Personnel assignments within the Board's staff. (The previously announced meeting included consideration of any agenda items carried forward from a previous meeting; this matter was originally scheduled for a meeting on May 20, 1977.) [1]

[1] 30 days has expired since the initial meeting at which this item was announced and a new vote has been taken.

Previously announced closed items:

1. Appointment of an officer at a Federal Reserve Bank.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202–452–3204).

Dated: July 18, 1977.

THEODORE E. ALLISON.

[S–932–77 Filed 7–18–77; 11:55 am]

6

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Monday, July 25, 1977.

PLACE: 20th St. and Constitution Ave. NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs, regarding H.R. 8094, a bill "to promote the accountability of the Federal Reserve System".

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202–452–3204).

Dated: July 18, 1977.

THEODORE E. ALLISON.

[S–937–77 Filed 7–18–77;4:25 pm]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, July 28, 1977 (NM–77–23).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Regulation*—Part 850, USCG/NTSB Marine Casualty Investigations.

2. *Recommendation* to National Park Service re traffic barriers on the George Washington Memorial Parkway.

3. *Request* for depositions re Continental B–727 accident, Tucson, Ariz., June 3, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–936–77 Filed 7–18–77;3:31 pm]

8

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: July 18, 1977, 11 a.m.

PLACE: Room 825, 500 North Capitol St. Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER TO BE DISCUSSED: Regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JULY 18, 1977.

[S–939–77 Filed 7–18–77;4:25 pm]

9

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: July 15, 1977, 5:25 p.m.

PLACE: Room 825, 500 North Capitol St., Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

JULY 18, 1977.

[S–938–77 Filed 7–18–77;4:25 pm]

10

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: July 28, 1977, 9 a.m.

PLACE: Board Room, Room 2200, Trans Point Bldg., 2100 2nd St., SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public—9 a.m.

1. Consideration of internal personnel matters.

2. Review of Conrail proprietary and financial information for monitoring and investment purposes.

3. Review of Delaware & Hudson Railway Company proprietary and financial information for monitoring and investment purposes.

4. Review of Missouri–Kansas–Texas Railroad Company proprietary and fi-

nancial information for monitoring and investment purposes.

5. Litigation report.

PORTIONS OPEN TO THE PUBLIC—11 a.m.

6. Approval of minutes of the June 30, 1977 Board of Directors meeting.

7. Report on Conrail monitoring.

8. Consideration of Conrail Drawdown requests for August & September.

9. Status report on section 211(h) loans.

10. Consideration of section 211(h) loan to Conrail.

11. Consideration of D&H Drawdown request for $2 million.

12. Discussion of Congressional mandated studies of Conrail.

13. USRA budget and financial reports.

14. Litigation status reports.

15. GAO audit.

16. Contract actions.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow—(202–426–4250).

[S–940–77 Filed 7–19–77;2:25 pm]